



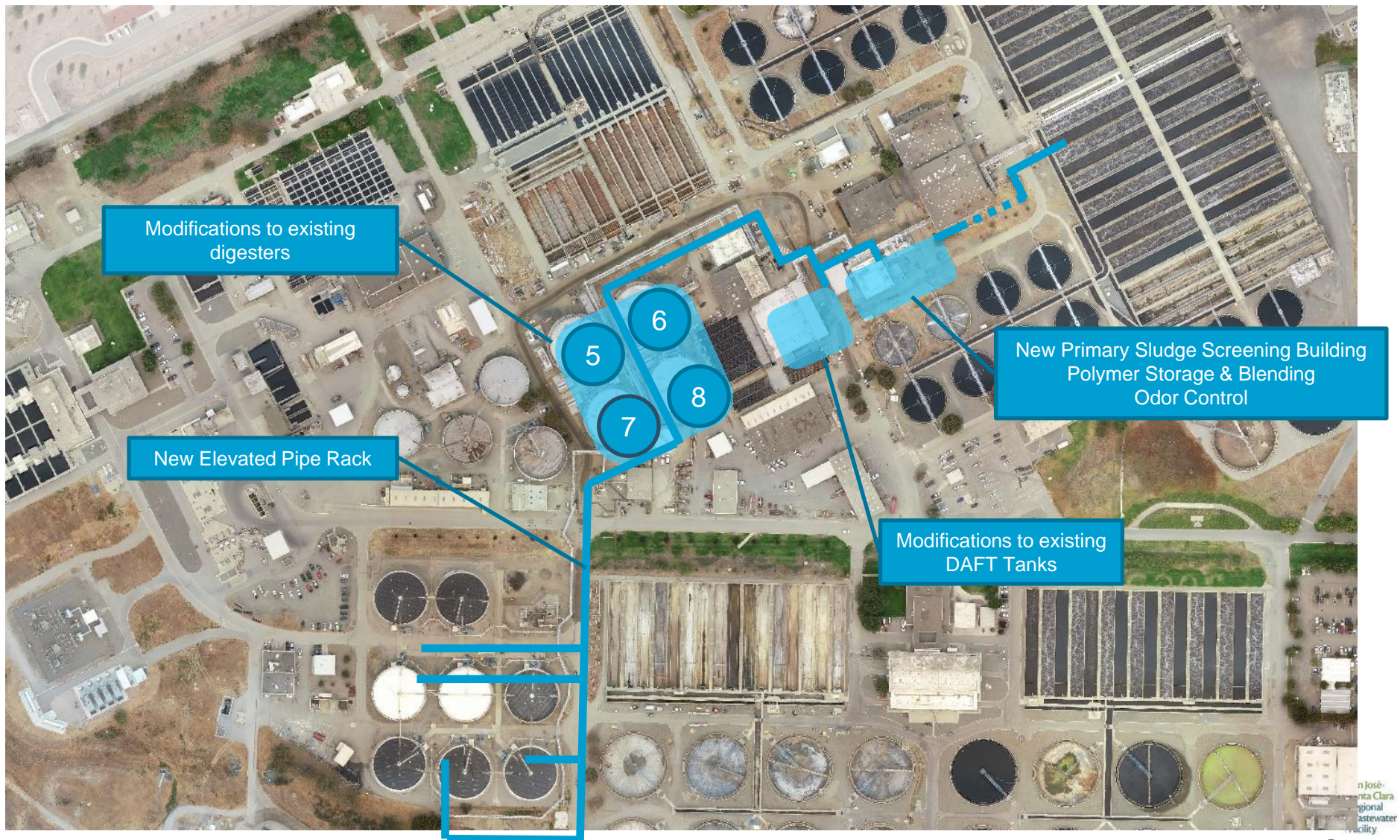
**Digester and Thickener Facilities  
Upgrade Project  
Fourth Construction Contingency Increase  
CITY COUNCIL ITEM 6.1: August 23, 2022**

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San José-  
Santa Clara  
Regional  
Wastewater  
Facility

# Project Site and Scope



# Contract Substantial Completion Achieved in April



# Summary of Contingency Increases

| Description   | Council Date  | Contingency Amount | Total         |
|---|---------------|--------------------|---------------|
| <b>Original Contract – Walsh Construction @107,925,000</b>  | May 2016      | \$13,490,625       | \$121,415,625 |
| <b>First Contingency Increase</b><br><i>deteriorated pipes, regulatory requirement, utility conflicts</i>   | November 2017 | \$15,000,000       | \$136,415,625 |
| <b>Second Contingency Increase</b><br><i>seismic design upgrades, hazardous material remediation, and other changes and delay costs</i>   | June 2018     | \$25,000,000       | \$161,415,625 |
| <b>Third Contingency Increase</b><br><i>additional civil work, changes and re-sequencing of activities, addressing digester leakage, and additional costs and delays associated with the new COVID-19 mandatory compliance requirements</i> | April 2021    | \$14,000,000       | \$175,415,625 |
| <b>Fourth Contingency Increase</b><br><i>loss of productivity, change in process</i>  | August 2022   | \$3,107,049        | \$178,522,674 |

# Fourth Contingency Increase - Loss of Productivity Claim

No change

Contract Work



Some small changes  
(mostly within  
contingency)

Contract Work Changes

Labor & Materials



Many changes  
(up to contingency  
or slightly over)

Contract Work Changes Labor & Materials Time Related Overhead



Excessive changes

Contract Work Changes Changes Changes Changes Changes Changes

Labor, Materials, and Time Related Overhead

Loss of Productivity on contract work



# Fourth Contingency Increase

## - Loss of Productivity Claim

### ■ **Walsh Claim**

- Loss of Productivity - \$5.1M
- Two methods: Ibbs' Curve and Modified Total Cost

### ■ **City Review and Analysis**

- Led by PMA Consulting in coordination with City staff

### ■ **Findings**

- Large number of changes
- Claim has some merit, supported by various studies & court cases
- Light on documentation & data to accurately define loss
- Valid for only certain set of data and projects
- Claim included loss of productivity due to Covid

# Fourth Contingency Increase

## - Loss of Productivity Claim

### ■ Settlement and Contingency Increase

- Discussed findings with Walsh and negotiated cost on May 27, 2022
- Loss of Productivity Settlement - \$2.55M
- Contingency Increase by \$3.1M
  - » *Loss of Productivity – \$2.55M*
  - » *Changes to Control Systems \$0.56K*
- Council date: August 23, 2022

# Recommendation

- Approve a \$3,107,049 increase to the construction contingency amount of \$67,490,625 for a revised total contingency amount of \$70,597,674, increasing the not-to-exceed amount from \$175,415,625 to a total revised contract amount not-to-exceed \$178,522,674 for the 7382 – Digester and Thickener Facilities Upgrade Project
- Funding in the Project appropriation in 2021-2022 is sufficient to increase the contingency.