

RESOLUTION NO. 77758

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE WASTEWATER DIGESTER AND THICKENER FACILITIES UPGRADE PROJECT MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of San José prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for the Wastewater Digester and Thickener Facilities Upgrade Project under Planning File No. PP15-055 (the "Initial Study/Mitigated Negative Declaration"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively "CEQA"); and

WHEREAS, the Wastewater Digester and Thickener Facilities Upgrade Project (the "Project") analyzed under the Initial Study/Mitigated Negative Declaration consists of upgrades and improvements to the anaerobic digesters, dissolved air flotation thickeners, and digester gas system; conversion of the current mesophilic digestion process to a temperature (thermophilic/mesophilic) phased anaerobic digestion process, located at the San José-Santa Clara Regional Wastewater Facility (700 Los Esteros Road) in San José, California; and

WHEREAS, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in certain significant effects on the environment and identified mitigation measures that would reduce the significant effects to a less-than-significant level; and

WHEREAS, in connection with the approval of a project involving the preparation of an initial study/mitigated negative declaration that identifies one or more significant environmental effects, CEQA requires the decision-making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environmental effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during project implementation, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of San José as lead agency for the Project (the "Mitigation Monitoring and Reporting Program"); and

WHEREAS, the City of San José is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to undertake the Project; and

WHEREAS, the City Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project are on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California 95113, are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Initial Study/ Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Initial Study/ Mitigated Negative Declaration represents the independent judgment and analysis of the City of San José, as lead agency for the Project. The City Council designates the Director of Planning at the Director's Office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File No. PP15-055). The Mitigation Monitoring and Reporting Program for the Project is attached hereto as Exhibit "A" and fully incorporated herein. The Initial Study/ Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are also: (1) on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113 and (2) available for inspection by any interested person.

ADOPTED this 24th day of May, 2016, by the following vote:

AYES: CARRASCO, HERRERA, JONES, KALRA, M. NGUYEN, T. NGUYEN, OLIVERIO, PERALEZ, ROCHA; LICCARDO.

NOES: KHAMIS.

ABSENT: NONE.

DISQUALIFIED: NONE.



SAM LICCARDO
Mayor

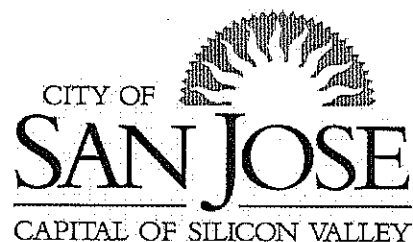
ATTEST



TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

**San José/Santa Clara Regional Wastewater Facility
DIGESTER AND THICKENER FACILITIES UPGRADE
PROJECT**



AUGUST 2015

Planning File No. PP15-055

P R E F A C E

Section 21081 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring or reporting program is to ensure compliance with the mitigation measures during project implementation.

The Project is the backbone of a major anaerobic digestion process conversion at the San José/Santa Clara Regional Wastewater Facility. Components of the project include upgrades and improvements to the anaerobic digesters, dissolved air flotation thickeners (DAFTs), and digester gas system, conversion of the current mesophilic digestion process to a temperature phased anaerobic digestion (TPAD) system, an odor control system, and replacement of existing flares.

The Initial Study concluded that the implementation of the project could result in a significant effect on the environment and a mitigation measure is required as a condition of project approval. This Mitigation Monitoring and Reporting Program addresses that measure in terms of how and when it will be implemented.

This document does *not* discuss those subjects for which the Initial Study concluded that the impacts from implementation of the project would be less than significant.

MITIGATION MONITORING AND REPORTING PROGRAM DIGESTER AND THICKENER FACILITIES UPGRADE PROJECT				
Potential Impact	Mitigation Measure	Oversight of Implementation	Method of Compliance	Timing of Compliance
D. Biological Resources				
<p>Impact D-1. Construction activities may result in abandonment of a nest in active use and loss of any eggs or young in the nest, resulting in violation of the federal Migratory Bird Treaty Act and State Fish and Game sections.</p>	<p>MM D-1. The following precautions shall be taken to avoid inadvertent take of bird nests protected under the federal Migratory Bird Treaty Act and the State Fish and Game Code:</p> <ul style="list-style-type: none"> • If initial construction is proposed during the nesting season (February 1 to August 31), a focused survey for nesting raptors and other migratory birds shall be conducted by a qualified biologist within 7 days prior to the onset of construction in order to determine whether any active nests are present in the Area of Potential Effects (APE) and surrounding area within 100 feet of proposed construction. The survey shall be reconducted any time construction has been delayed or curtailed for more than 7 days during the nesting season. • If no active nests are identified during the construction survey period, or development is initiated during the non-breeding season (September 1 to January 31), construction may proceed without a survey required. 	<p>Department of Planning, Building and Code Enforcement</p>	<p>City to retain biologist, conduct preconstruction survey, monitor compliance if necessary. Preconstruction surveys will be submitted to the Senior Environmental Planner at the Department of Planning, Building and Code Enforcement prior to ground disturbance.</p>	<p>Prior to any removal of trees or grading, whichever comes first</p>

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D. Biological Resources, Impact D-1 (continued)	<ul style="list-style-type: none"> If bird nests are found, an adequate setback shall be established around the nest location and construction activities restricted within this no-disturbance zone until the qualified biologist has confirmed that any young birds have fledged and are able to function outside the nest location. Required setback distances for the no-disturbance zone shall be based on input received from the CDFW, and may vary depending on species and sensitivity to disturbance. As necessary, the no-disturbance zone shall be fenced with temporary orange construction fencing if construction is to be initiated elsewhere in the APE. A report of findings shall be prepared by the qualified biologist and submitted to the City for review and approval prior to initiation of construction during the nesting season (February 1 to August 31). The report shall either confirm absence of any active nests or should confirm that any young are located within a designated no-disturbance zone and construction can proceed. No report of findings is required if construction is initiated during the non-nesting season (September 1 to January 31) and continues uninterrupted according to the above criteria. 			

MITIGATION MONITORING AND REPORTING PROGRAM DIGESTER AND THICKENER FACILITIES UPGRADE PROJECT				
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E. Cultural Resources				
<p>Impact E-1. Excavation activities for the sludge equalization tanks in Process Area 73 and for structural reinforcement of digesters 5-8 walls will be to depth where native soils will be encountered, raising the potential that archaeological materials that are either intact or displaced from another site may be encountered.</p>	<p>MM E-1. The following measures shall be followed for the protection of archaeological resources:</p> <ul style="list-style-type: none"> • Full-time monitoring of the sludge equalization tank excavation shall be conducted by a qualified archaeologist for the first week. Based on the initial observations regarding the depth of fill or any previous disturbance, the archaeologist shall determine the necessity for and frequency of remaining monitoring. • Should archaeological materials be encountered, work in the immediate find shall halt and an archaeologist shall assess the potential significance of the find. If significant, the archaeologist shall develop a treatment plan in consultation with the City, the State Water Resources Control Board, and the State Historic Preservation Officer. This plan could include, but is not limited to, a program of systematic data recovery in which cultural materials are documented and removed. 	<p>Department of Planning, Building and Code Enforcement</p>	<p>City to retain archaeologist, conduct survey, develop and implement recovery plan, if necessary. Any necessary surveys will be submitted to the Senior Environmental Planner at the Department of Planning, Building and Code Enforcement.</p>	<p>Prior to and during construction</p>

SOURCE: City of San José, **RWF Digester and Thickener Facilities Upgrade Project Initial Study**, August 2015.