

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE SAN JOSE-SANTA CLARA REGIONAL WASTEWATER POND A18 SOUTH GATE LEVEE REPAIR 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 San José-Santa Clara Regional Wastewater Pond A18 South Gate Levee Repair Project under Planning File No. PP17-047 (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 San José-Santa Clara Regional Wastewater Pond A18 South Gate Levee Repair Project (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of a repair of failing sections of the levee on each side of the Pond A18 South Gate Structure. The repair involves placing sheet piles into the levee so as to extend from a relatively undamaged portion of the levee, across the eroded/damaged area, and connect to the walls of the existing South Gate Structure. Construction would occur over a period of approximately 30 days. The Project is located at San José-Santa Clara Regional Wastewater Facility at the south gate of Pond A18, north of 700 Los Esteros Road in the City of 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 each of those 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. PP17-047). 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: (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 \_\_\_\_ day of \_\_\_\_\_, 2018 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

**MITIGATION MONITORING AND REPORTING PROGRAM**

**Santa José-Santa Clara Regional Wastewater Facility  
Pond A18 South Gate Levee Repair Project  
Initial Study/Mitigated Negative Declaration**



**September 2017**

**Planning File No. PP17-047**

## 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 Initial Study concluded that implementation of the Project could result in significant effects on the environment and mitigation measures are required as a condition of Project approval. This Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they 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.

The City of San José hereby agrees to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of an Initial Study/Mitigated Negative Declaration for the proposed project. The City understands that these mitigation measures or substantially similar measures will be adopted as conditions of approval to avoid or significantly reduce potential environmental impacts to a less than significant level, where feasible.

MITIGATION MONITORING AND REPORTING PROGRAM POND A18 SOUTH GATE LEVEE REPAIR PROJECT						
Impact No.	Impact Summary	Mitigation Measures	Implementation Actions	Implementation Schedule	Responsible Party/Actions	Reviewing and Approving Party/Actions
<b>AIR QUALITY</b>						
AIR-a	The proposed Project could conflict with or obstruct implementation of the applicable air quality plan.	<p><b>Bay Area Air Quality Management District (BAAQMD) Basic Construction Measures</b></p> <p>During Project construction, the City, through its construction contractor(s), shall ensure that the following BAAQMD construction control measures are implemented.</p> <ol style="list-style-type: none"> <li>All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.</li> <li>All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers or sweeping by hand at least once per day. The use of dry power sweeping is prohibited.</li> <li>All vehicle speeds on unpaved roads shall be limited to 15 mph.</li> <li>Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</li> <li>All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</li> <li>Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.</li> </ol>	1. Ensure that contract documents include a requirement for BAAQMD Basic Construction Measures	1. Design	1. Project Manager	1. Environmental Team
			2. Monitor to ensure that contractor implements measures in contract documents: <ul style="list-style-type: none"> <li>Include in contractor environmental training</li> <li>Post signage</li> <li>Maintain site inspection checklists</li> <li>Review contractor's monthly equipment tuneup and emissions logs</li> <li>Notify PM and ET of non-compliance and ensure corrective action</li> </ul>	2. Construction	2. Construction Management	2. ET
			3. Submit final project compliance report, if applicable	3. Post-construction and prior to operation	3. ET	3. Planning, Building, Code Enforcement
<b>BIOLOGY</b>						
BIO-a	The Project could have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW), U.S. Fish and Wildlife Service (USFWS), or National Marine Fisheries Service (NMFS).	<p><b>Mitigation Measure BIO-1: Special-Status Fish and Aquatic Species Protection Measures.</b></p> <ul style="list-style-type: none"> <li>A biological monitor approved by NMFS, USFWS, and CDFW shall be on-site during pile driving to inspect the work zone and adjacent waters, and monitor the construction contractor's compliance with these mitigation measures and permit conditions.</li> <li>The project proponent and its contractors shall conduct in-water work only during the National Oceanic and Atmospheric Administration (NOAA)-approved work window as described in</li> </ul>	1. Time in-water work activities to occur during the NOAA-approved work window.	1. Design	1. PM	1. USACE
			2. Ensure that requirements for compliance with mitigation measures and permits, if needed, are included in contract documents.	2. Design	2. ET and PM	2. ET
			3. Monitor to ensure that contractor implements measures in contract documents regarding pile driving.	3. Construction	3. ET or biological monitor	3. ET

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		<p>the project's consultation documents.</p> <ul style="list-style-type: none"> <li>Sheet piles shall be installed using a vibratory pile driver to minimize noise impacts on fish and wildlife. Vibratory pile installation shall be conducted in accordance with the U.S. Army Corps of Engineers' (USACE's) "Proposed Additional Procedures and Criteria for Permitting Projects Under a Programmatic Determination of Not Likely to Adversely Affect Select Listed Species in California."<sup>1</sup> As described in Appendix B of that document, use of the vibratory pile driver would keep underwater sound pressure levels well below the established regulatory levels to protect fish.</li> <li>Piles shall be driven at low tides as often as practicable to reduce noise or other direct impacts on fish and to reduce turbidity that might indirectly affect them.</li> </ul>				
		<p><b>Mitigation Measure BIO-2: Special-Status Bird Protection Measures.</b></p> <ul style="list-style-type: none"> <li>The project proponent and its contractors shall retain a qualified agency approved<sup>2</sup> wildlife biologist and conduct surveys for Ridgway's rail, other special-status, and migratory birds prior to initiation of construction activities. These surveys are required for construction activities conducted during nesting season.</li> <li>If Ridgway's rail or other special-status or migratory bird species are detected in the Project site during surveys, the project proponent shall consult USFWS and CDFW staff to identify the appropriate avoidance measures. The project proponent shall be responsible to ensure that USFWS and/or CDFW requirements are implemented.</li> <li>If a Ridgway's rail is detected within 500 feet of the Project site during their nesting season (February 1 – August 31), all construction activities within 500 feet of suitable nesting or forage habitat for this species shall be delayed until coordinated and approved by USFWS and/or CDFW.</li> </ul>	<p>1. Ensure that requirements for compliance with nesting bird buffer zones, if needed, are included in contract documents.</p>	<p>1. Design</p>	<p>1. PM</p>	<p>1. ET</p>
			<p>2. Contract a qualified biologist to conduct nesting bird surveys within 14 days of beginning of project construction (if construction commences between Feb 1 and Aug 31). If active nests are located during survey, establish buffer zones, consult with USFWS/CDFW as necessary, and monitor regularly.</p>	<p>2. Within 14 days prior to construction</p>	<p>2. ET and qualified biologist</p>	<p>2.PBCE</p>
<b>BIOLOGY (continued)</b>						
BIO-a (cont.)		<ul style="list-style-type: none"> <li>If a Ridgway's is detected within 500 feet of the Project site during the non-nesting season (September 1 – January 31), construction activities can commence, but all vegetation shall be cleared by hand or with hand tools and a biologist shall be retained on site during vegetation clearing activities to ensure that no birds are injured. Once the construction site is devoid of vegetation regular construction can commence.</li> <li>If an active nest of any other bird species is discovered within the Project site during surveys, a no-disturbance buffer zone shall be established. The no-disturbance zone shall be marked with flagging or fencing that is easily identified by the construction crew and does not</li> </ul>	<p>3. Monitor to ensure that contractor implements measures in contract documents regarding buffer zones established by biologist:</p> <ul style="list-style-type: none"> <li>Include in environmental training</li> <li>Notify PM and ET of non-compliance and ensure corrective action</li> </ul>	<p>3. Construction</p>	<p>3. ET or biological monitor</p>	<p>3. ET</p>
			<p>4. Submit reports, if applicable, to USFWS/CDFW per consultation requirements.</p>	<p>4. Post-construction</p>	<p>4. ET</p>	<p>4. USACE, USFWS and/or CDFW</p>
			<p>5. Submit final compliance report, if applicable.</p>	<p>5. Post-construction</p>	<p>5. ET</p>	<p>5. PBCE</p>

<sup>1</sup> U.S. Army Corps of Engineers. 2013. Proposed Additional Procedures and Criteria for Permitting Projects Under a Programmatic Determination of Not Likely to Adversely Affect Select Listed Species in California (the 2013 NLAA Program). August 13, 2013.

<sup>2</sup> The "agency"-approved biologist would be approved by USFWS and CDFW, the federal and state regulatory agencies responsible for implementing endangered species acts, and/or state regulations applicable to Fully-Protected Species.



MITIGATION MONITORING AND REPORTING PROGRAM POND A18 SOUTH GATE LEVEE REPAIR PROJECT						
Impact No.	Impact Summary	Mitigation Measures	Implementation Actions	Implementation Schedule	Responsible Party/Actions	Reviewing and Approving Party/Actions
		<p>affect the nesting bird. Buffer widths shall be confirmed or adjusted in discussion with USFWS and CDFW. Buffers shall remain in place as long as the nest is active or young remain in the area and are dependent on the nest.</p> <ul style="list-style-type: none"> <li>If any birds or raptors initiate nests within the established buffer distances while construction is happening, then it is assumed that they are habituated to the construction activities, and construction can continue as long as the birds or their nests are not physically harmed, and, if birds or raptors are special status or protected species, consultation with USFWS and/or CDFW occurs.</li> </ul>				
		<p><b>Mitigation Measure BIO-3: Salt Marsh Harvest Mouse Protection Measures.</b></p> <ul style="list-style-type: none"> <li>Construction activities, including site preparation, shall avoid suitable salt marsh harvest mouse habitat to the maximum extent practicable, especially during this species' breeding season (March 1 to November 30, per the Plant Master Plan EIR's Mitigation Measure Bio-2c: Salt marsh harvest mouse and salt marsh wandering shrew measures). As work during the species' breeding seasons will likely be necessary, avoidance and minimization measures shall be developed in consultation with USFWS and CDFW, and then implemented.</li> <li>Measures shall include, but are not limited to, the following:                             <ul style="list-style-type: none"> <li>Prior to initiation of work in suitable habitat, an agency-approved biologist shall be retained to conduct preconstruction surveys areas where disturbance is planned. Surveys shall take place no more than 24 hours before the onset of vegetation removal or ground-disturbing activities.</li> </ul> </li> </ul>	<ol style="list-style-type: none"> <li>Consider timing vegetation removal or ground disturbing activities to occur during the non-breeding season, between December 1 and February 29.</li> <li>Ensure that requirements for compliance with salt marsh harvest mouse buffer zones and silt fencing, if needed, are included in contract documents.</li> <li>Install silt exclusion fencing</li> <li>Contract a qualified biologist to conduct a preconstruction survey no more than 24 hours before the onset of vegetation removal or ground-disturbing activities. If individuals are observed during survey, all construction activities shall cease until appropriate avoidance, protection, or relocation measures can be developed.</li> </ol>	<ol style="list-style-type: none"> <li>Design</li> <li>Design</li> <li>Prior to Construction</li> <li>No more than 24 hours before the onset of vegetation removal or ground-disturbing activities</li> </ol>	<ol style="list-style-type: none"> <li>PM</li> <li>ET and PM</li> <li>Qualified biologist,</li> <li>ET and qualified biologist</li> </ol>	<ol style="list-style-type: none"> <li>USACE</li> <li>ET</li> <li>ET</li> <li>PBCE</li> </ol>
<b>BIOLOGY (continued)</b>						
BIO-a (cont.)		<ul style="list-style-type: none"> <li>Prior to construction, a silt exclusion fencing with wire-mesh backing shall be installed by hand along the northern boundary of Artesian Marsh across the Pond A18 levee; and along the southern and eastern boundary of the Artesian Slough tidal marsh extending 250 feet north and south from the Project footprint, to prevent salt marsh harvest mice from entering the active work area; to protect habitat within the marsh from earthmoving activities or accidental spills, and to exclude workers from the marsh.</li> <li>If required through agency consultation, an agency-approved biologist shall be present during all Project related activities that may impact salt marsh harvest mouse or other sensitive terrestrial wildlife species or their habitats.</li> <li>An agency-approved biologist shall supervise the hand removal of any vegetation, including patches of pickleweed habitat</li> </ul>	<ol style="list-style-type: none"> <li>Monitor to ensure that contractor implements measures in contract documents regarding avoidance measures or potential buffer zones established by biologist:                             <ul style="list-style-type: none"> <li>Include in environmental training</li> <li>Notify PM and ET of non-compliance and ensure corrective action</li> </ul> </li> <li>Submit reports, if applicable, to USFWS/CDFW per consultation requirements.</li> <li>Submit final compliance report, if applicable.</li> </ol>	<ol style="list-style-type: none"> <li>Construction</li> <li>Post-construction</li> <li>Post-construction</li> </ol>	<ol style="list-style-type: none"> <li>ET or biological monitor</li> <li>ET</li> <li>ET</li> </ol>	<ol style="list-style-type: none"> <li>ET</li> <li>USACE, USFWS and/or CDFW</li> <li>PBCE</li> </ol>

MITIGATION MONITORING AND REPORTING PROGRAM POND A18 SOUTH GATE LEVEE REPAIR PROJECT						
Impact No.	Impact Summary	Mitigation Measures	Implementation Actions	Implementation Schedule	Responsible Party/Actions	Reviewing and Approving Party/Actions
		detected, to avoid impacts on salt marsh harvest mouse. If salt marsh harvest mouse individuals are observed in or near the Project work area, all construction activities shall cease until the USFWS and CDFW can be contacted and appropriate avoidance, protection, or relocation measures can be developed, approved, and implemented. Depending upon the specific location and agency guidance, these measures may include relocation or buffer distances.				
		<p><b>Mitigation Measure BIO-4: Construction Worker- and Vehicle-related Measures.</b></p> <ul style="list-style-type: none"> <li>Prior to construction, all construction workers shall take part in an environmental awareness program reviewed by an agency-approved biologist. The work crews shall be trained in standard procedures for identifying and avoiding impacts to all special-status species with the potential to occur in the work area. The awareness program shall be conducted at the start of construction and thereafter as required for new construction personnel.</li> <li>The area beneath vehicles or equipment parked in the work area shall be checked for the presence of salt marsh harvest mouse and other wildlife before being moved, during construction in the roadway, and during movement of staging materials within the entire Project site.</li> </ul>	<ol style="list-style-type: none"> <li>Create environmental awareness program.</li> <li>Train work crews in standard procedures for identifying and avoiding impacts to all special-status species with the potential to occur in the work area.</li> <li>Monitor workers to ensure that vehicles and equipment parked in the work area are checked for the presence of salt marsh harvest mouse and other wildlife before being moved.</li> </ol>	<ol style="list-style-type: none"> <li>Design</li> <li>Prior to Construction</li> <li>Construction</li> </ol>	<ol style="list-style-type: none"> <li>ET</li> <li>ET</li> <li>ET or biological monitor</li> </ol>	<ol style="list-style-type: none"> <li>PBCE</li> <li>ET</li> <li>ET</li> </ol>
<b>BIOLOGY (continued)</b>						
BIO-a (cont.)		<p><b>Mitigation Measure BIO-5: Western Pond Turtle Protection Measures.</b></p> <ul style="list-style-type: none"> <li>Prior to the start of construction activities, the project proponent shall retain a qualified agency approved biologist to conduct preconstruction surveys for pond turtles in all suitable habitats (aquatic and upland) in the vicinity of the work site. Surveys shall take place no more than 72 hours prior to the onset of site preparation and construction activities with the potential to disturb turtles or their habitat.</li> <li>If preconstruction surveys identify active western pond turtle nests within the Project site, the biologist shall establish no-disturbance buffer zones around each nest using temporary construction fencing. The demarcation shall be permeable to allow young turtles to move away from the nest following hatching. The radius of the buffer zone and the duration of exclusion shall be determined in consultation with the CDFW. The buffer zones and fencing shall remain in place until the young have left the nest, as determined by the qualified biologist.</li> <li>A qualified biologist shall monitor construction activities in the vicinity of suitable habitat within which western pond turtle is found (either during the survey or observed during construction), and remove and relocate western pond turtles in proposed construction</li> </ul>	<ol style="list-style-type: none"> <li>Ensure that requirements for compliance with CDFW protocols and handling permits, if needed, are included in contract documents.</li> <li>Contract a qualified biologist to conduct a preconstruction survey no more than 72 hours before the onset of site preparation and construction activities. If individuals are observed during survey, the species shall be identified, and relocated into nearby suitable habitat if it is a western pond turtle.</li> <li>Monitor construction activities and remove and relocate western pond turtles in proposed construction areas to suitable habitat outside the project limits, consistent with CDFW protocols and handling permits.</li> <li>Submit reports, if applicable, to USFWS/CDFW per consultation requirements.</li> <li>Submit final compliance report, if applicable.</li> </ol>	<ol style="list-style-type: none"> <li>Design</li> <li>No more than 72 hours before the onset of vegetation removal or ground-disturbing activities</li> <li>Construction</li> <li>Post-construction</li> <li>Post-construction</li> </ol>	<ol style="list-style-type: none"> <li>ET and PM</li> <li>ET and qualified biologist</li> <li>ET or biological monitor</li> <li>ET</li> <li>ET</li> </ol>	<ol style="list-style-type: none"> <li>ET</li> <li>PBCE</li> <li>ET</li> <li>USACE, USFWS and/or CDFW</li> <li>PBCE</li> </ol>

MITIGATION MONITORING AND REPORTING PROGRAM POND A18 SOUTH GATE LEVEE REPAIR PROJECT						
Impact No.	Impact Summary	Mitigation Measures	Implementation Actions	Implementation Schedule	Responsible Party/Actions	Reviewing and Approving Party/Actions
		<p>areas to suitable habitat outside the project limits, consistent with CDFW protocols and handling permits. Relocation sites shall be subject to CDFW approval.</p> <ul style="list-style-type: none"> <li>If any turtles are found in the Project site, construction activities shall halt within 50 feet and the qualified biologist shall be notified. If the biologist determines the turtle is a western pond turtle, the turtle shall be relocated into nearby suitable habitat consistent with CDFW protocols and handling permits.</li> </ul>				
BIO-c	The project could have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means.	<p>Implement <b>Mitigation Measure HYD-1: Low Impact Construction Practices.</b></p> <p>See Hydrology and Water Quality section below.</p>	Refer to HYD-1, below	Refer to HYD-1, below	Refer to HYD-1, below	Refer to HYD-1, below
CULTURAL RESOURCES						
CUL-b	Implementation of the project could cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines §15064.5.	<p><b>Mitigation Measure CUL-1.1: Inadvertent Discovery of Archaeological Resources.</b></p> <p>If prehistoric or historic-era archaeological resources are encountered by construction personnel during project implementation, all construction activities within 100 feet shall halt and the contractor shall notify the City's Environmental Services Department (ESD) personnel and Planning, Building and Code Enforcement (PBCE) Supervising Environmental Planner. Prehistoric archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, artifacts, or shellfish remains; and stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); battered stone tools, such as hammerstones and pitted stones. Historic-era materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse.</p> <p>City's ESD or its contractor shall retain a Secretary of the Interior-qualified archaeologist to inspect the resource within 24 hours of discovery. If it is determined that the project could damage a historical resource as defined by CEQA, construction shall cease in an area determined by the archaeologist until a mitigation plan has been prepared, approved by the PBCE Supervising Environmental Planner, and implemented to the satisfaction of the archaeologist (and Native American representative if the resource is prehistoric or tribal, who will be identified by the Native American Heritage Commission [NAHC]). If the Native American representative identifies the finds as a tribal resource, ESD or its contractor shall proceed to Mitigation Measure CUL-1.2. For archaeological resources, the archaeologist, in consultation with the PBCE Supervising Environmental Planner and the City's Historic Preservation Officer, shall determine when construction can commence.</p>	1. Ensure that measures related to archaeological discoveries are included in contract documents.	1. Design	1. ET and PM	1. ET
			2. Ensure that all personnel complete environmental training prior to beginning work. Monitor to ensure that the contractors implement measures in contract document.	2. Construction	2. ET and CM	2. ET
			3. Evaluate the potential discovery and advise the ET as to the significance of the discovery. If warranted, proceed with measures that may include the following: a. On-site preservation of resource; b. Archaeological monitoring program with prior review/approval of ET or c. Archaeological testing program with prior review/approval of ET.	3. Construction	3. CM and qualified archeologist	3. ET PBCE, in consultation with City's Historic Preservation Officer (If there are archeological or tribal resources)
			4. Prepare a Final Archaeological Resources Report if warranted. Submit to ET for review and approval.	4. Post Construction	4. ET and qualified archeologist	4. PBCE
			5. Ensure that contract documents include measures related to discovery of human remains.	5. Design	5. ET and PM	5. ET

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Impact No.	Impact Summary	Mitigation Measures	Implementation Actions	Implementation Schedule	Responsible Party/Actions	Reviewing and Approving Party/Actions
		The mitigation for archaeological resources shall include preservation in place, or, if preservation in place is not feasible, data recovery through excavation. If preservation in place is feasible, this may be accomplished through one of the following means: (1) modifying the construction plan to avoid the resource; (2) incorporating the resource within open space; (3) capping and covering the resource before building appropriate facilities on the resource site; or (4) deeding the resource site into a permanent conservation easement. If preservation in place is not feasible, a qualified archaeologist shall prepare and implement a detailed treatment plan to the satisfaction of the PBCE Supervising Environmental Planner to recover the scientifically consequential information from and about the resource, prior to any excavation at the resource site. Treatment for most resources would consist of (but not necessarily limited to) sample excavation, artifact collection, site				
<b>CULTURAL RESOURCES (continued)</b>						
CUL-b (cont.)		documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource to be impacted by the project. The treatment plan shall include provisions for analysis of data in a regional context, reporting of results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to local and state repositories, libraries, and interested professionals.				
		<p><b>Mitigation Measure CUL-1.2: Inadvertent Discovery of Tribal Cultural Resources.</b></p> <p>The Native American representative shall make recommendations to the City of San José for the appropriate measures to treat the tribal cultural resource which shall be implemented in accordance with Section 15064.5 of the CEQA Guidelines.</p>	1. Evaluate the potential discovery and advise the ET as to the significance of the discovery.	1 Construction	1. Native American representative	1. ET
CUL-d	Implementation of the project could disturb human remains, including those interred outside of formal cemeteries.	<p><b>Mitigation Measure CUL-2: Inadvertent Discovery of Human Remains.</b></p> <p>If human remains are encountered by construction personnel during project implementation, all construction activities within 100 feet shall halt and the contractor shall notify the ESD and PBCE Supervising Environmental Planner. ESD shall contact the Santa Clara County Coroner and make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. The Native American Heritage Commission (NAHC) would be contacted within 24 hours if the Coroner determines that the remains are Native American. The NAHC would then identify the person or persons it believes to be the most likely descendant (MLD) from the deceased Native American, who in turn shall make recommendations to the City of San José for the appropriate means of treating the human remains and any associated funerary objects which</p>	1. Include in environmental training. Monitor to ensure that the contractor implements measures in contract document including reporting human remains if encountered and suspending work in the vicinity. Notify PM and ET of non-compliance or discovery of potential human remains or funerary objects.	1. Construction	1. ET, and CM	1. ET
			2. Confirm identification of human remains, if needed. If human remains are confirmed, perform required coordination and notifications.	2. Construction	2. ET and qualified archaeologist	2. ET
			3. Monitor to ensure the appropriate disposition of human remains.	3. Construction	3. ET and qualified archaeologist	3. ET

MITIGATION MONITORING AND REPORTING PROGRAM POND A18 SOUTH GATE LEVEE REPAIR PROJECT						
Impact No.	Impact Summary	Mitigation Measures	Implementation Actions	Implementation Schedule	Responsible Party/Actions	Reviewing and Approving Party/Actions
		shall be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.	4. Submit final compliance report, if applicable.	4. Post Construction	4. ET	4. PBCE
<b>TRIBAL CULTURAL RESOURCES</b>						
TRC-a and TRC-b		Implement <b>Mitigation Measures CUL-1.1: Inadvertent Discovery of Archaeological Resources, CUL-1.2: Inadvertent Discovery of Tribal Cultural Resources, and CUL-2: Inadvertent Discovery of Human Remains.</b> See Cultural Resources section, above.	Refer to CUL-b and CUL-d, above	Refer to CUL-b and CUL-d, above	Refer to CUL-b and CUL-d, above	Refer to CUL-b and CUL-d, above
<b>HYDROLOGY AND WATER QUALITY</b>						
HYD-a and HYD-f	During construction, the project has the potential to release contamination and violate water quality standards or waste discharge requirements established by regulatory agencies, or otherwise substantially degrade water quality.	<b>Mitigation Measure HYD-1: Low Impact Construction Practices.</b> <ul style="list-style-type: none"> <li>Heavy equipment shall be operated from dry areas only; no equipment shall operate in water.</li> <li>Ecological screening criteria for fill: During construction activities, if the contractor suspects a potential for contaminated soil (e.g., odors or stained soil indicative of contamination) from the local material from the project area, all construction activities in the disturbed soil area shall be halted and the ET shall be contacted to evaluate the potential contamination, which may include testing the soil. The ET shall ensure that the existing material or any fill used in conjunction with the proposed Project shall satisfy ecological screening criteria in order to avoid the introduction of contaminants.</li> <li>In the event imported soil is used, ET shall ensure it meets the standards for wetland surface material as defined in the RWQCB's "Draft Staff Report, Beneficial Reuse of Dredge Materials: Sediment Screening and Testing Guidelines."</li> <li>Sheet piles shall be placed at low tides whenever practicable to reduce the amount and duration of increased turbidity.</li> <li>Rock backfill material shall require certification that the material is virgin or has been tested and free of contaminants from a qualified vendor prior to use in construction activities.</li> <li>All construction materials and debris shall be contained by using Best Management Practices (BMPs), including silt fences, straw wattles, and gravel bags, during construction.</li> <li>All BMPs installed during construction shall be removed after construction is completed.</li> </ul>	1. Ensure that contract documents include a requirement for low impact construction practices.	1. Design	1. ET and PM	1. ET
			2. Implement measures in the program	2. Construction	2. ET and CM	2. ET
<b>HAZARDS AND HAZARDOUS MATERIALS</b>						
HAZ-b		Implement <b>Mitigation Measure HYD-1: Low Impact Construction Practices</b> See Hydrology and Water Quality, above.	Refer to HYD-a and HYD-f, above	Refer to HYD-a and HYD-f, above	Refer to HYD-a and HYD-f, above	Refer to HYD-a and HYD-f, above

MITIGATION MONITORING AND REPORTING PROGRAM POND A18 SOUTH GATE LEVEE REPAIR PROJECT						
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SOURCE: San José-Santa Clara Regional Wastewater Facility Pond A18 South Gate Levee Repair Project Initial Study/Mitigated Negative Declaration, August 2017.						
PM = San José-Santa Clara Regional Wastewater Facility Operations and Maintenance Program - Project Manager PBCE = Planning, Building and Code Enforcement Primary Contact CM = Construction Management Resources Team ET= Environmental Team Project Lead			CDFW = California Department of Fish and Wildlife USACE= U.S. Army Corps of Engineers USFWS = U.S. Fish and Wildlife Service			