



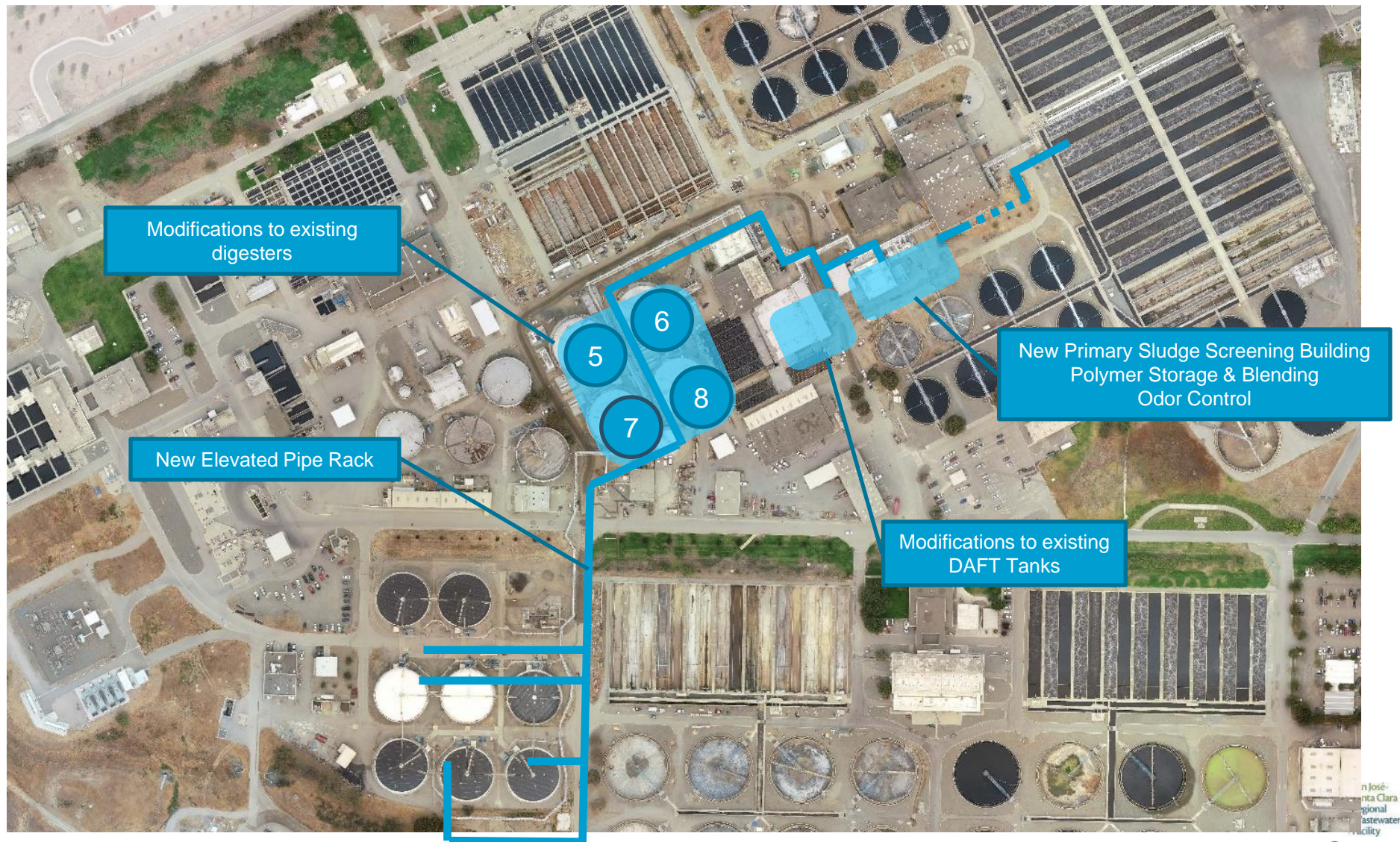
**Digester and Thickener Facilities
Upgrade Project
Fourth Construction Contingency Increase
CITY COUNCIL ITEM 6.1: August 23, 2022**

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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
Original Contract – Walsh Construction @107,925,000	May 2016	\$13,490,625	\$121,415,625
First Contingency Increase <i>deteriorated pipes, regulatory requirement, utility conflicts</i>	November 2017	\$15,000,000	\$136,415,625
Second Contingency Increase <i>seismic design upgrades, hazardous material remediation, and other changes and delay costs</i>	June 2018	\$25,000,000	\$161,415,625
Third Contingency Increase <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
Fourth Contingency Increase <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

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.