

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE TRIMBLE AND AGNEWS MUNICIPAL GROUNDWATER WELLS PROJECT MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING THE PROJECT SCOPE TO CONSTRUCT FOUR NEW MUNICIPAL GROUNDWATER PRODUCTION WELLS AND ASSOCIATED CONNECTIONS TO THE EXISTING POTABLE WATER DISTRIBUTION SYSTEM AT 491 WEST TRIMBLE ROAD AND ON A PORTION OF THE PROPOSED 22-ACRE AGNEWS EAST PARKLANDS PROJECT AREA LOCATED OFF ZANKER ROAD, NEAR THE CORNER OF CABRILLO ROAD AND CENTER ROAD, AT THE FORMER AGNEWS HOSPITAL SITE**

**FILE NO. ER20-015**

**WHEREAS**, prior to the adoption of this Resolution, the Director of Planning, Building and Code Enforcement of the City of San José prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for the Trimble and Agnews Municipal Groundwater Wells Project under Planning File No. ER20-015 (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 Trimble and Agnews Municipal Groundwater Wells Project (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of a Public project to construct four new municipal groundwater production wells, along with associated connections to the existing potable water distribution system, at two separate locations to secure additional sources of potable water supplies for the North San José/Alviso Service Area, located north of Trimble Road and west of Cabrillo Road,

in the City of San José (Assessor's Parcel Numbers: 101-18-004, 097-04-042), 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, Building and Code Enforcement, 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 on the Department of Planning, Building and Code Enforcement website ([www.sanjoseca.gov](http://www.sanjoseca.gov)) and are, by this reference, incorporated into this Resolution as if fully set forth herein; and

**WHEREAS**, the Project as described in detail in the Initial Study Trimble and Agnews and Municipal Groundwater Wells, Chapter 3 would construct four new municipal groundwater production wells (one well at the Trimble site and three wells at the Agnews site) along with associated connections to the existing potable water distribution system to secure additional potable groundwater water supplies for SJMWS' North San José/Alviso service area, and which would be used to provide additional water supply to the service area in both normal and dry-year (drought) conditions; and

**WHEREAS**, the Project will consist of two phases, with the first phase to include the drilling of boreholes up to 800 feet in depth and installing steel casings, gravel packs, and contamination sealants/screenings, and the second phase to include the installation of submersible pumps and motors, and the additional necessary infrastructure to operate the groundwater well and connect the groundwater source to the existing distribution system; and

**WHEREAS**, both sites are located on existing City property, with the Trimble site is located at 491 West Trimble Road and the Agnews site is a portion of the proposed 22-acre Agnews East Parklands Project area located off Zanker Road, near the corner of Cabrillo Road and Center Road, at the former Agnews Hospital site;

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

1. City Council makes the following factual determinations and finds as true:
  - a. 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; and
  - b. 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
  - c. The Initial Study/Mitigated Negative Declaration represents the independent judgment and analysis of the City of San José, as lead agency for the Project, and the Director of Planning, Building and Code Enforcement is designated the custodian of records and documents upon which this decision is based; and
  - d. The Initial Study/ Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are: (a) on file in the Office of the Director of Planning, Building and Code Enforcement, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and on the Department of Planning, Building and Code Enforcement website, and (b) available for inspection by any interested person; and
2. City Council concludes based upon the entire record of proceedings before it and all information received, including but not limited to the staff report, any testimony by staff and the public, and all other materials submitted, that with the incorporation of the identified mitigation measures there is no substantial evidence that the Project will have a significant effect on the environment and, now therefore;

3. City Council adopts the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File No. ER20-015), attached hereto as Exhibit "A" and fully incorporated herein; and
4. City Council further finds the scope of the Project as described in the Initial Study including the construction of up to four new municipal groundwater production wells, one at the Trimble site and three others at the Agnews site, along with the associated equipment and infrastructure necessary to connect to the potable water distribution system, is consistent with the Initial Study/Mitigated Negative Declaration, and further approves the Project scope.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2021, 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**

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## **Trimble and Agnews Municipal Groundwater Wells** **File No. ER20-015** **June 2021**

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## **PREFACE**

Section 21081.6 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 and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Initial Study/Mitigated Negative Declaration prepared for the proposed Trimble and Agnews Municipal Groundwater Wells Project (Project) concluded that the implementation of the Project could result in significant effects on the environment and mitigation measures were incorporated into the Project or 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 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 less than significant levels.

The following abbreviations are used:

BAAQMD = Bay Area Air Quality Management District  
CCR = California Code of Regulations  
CDFW = California Department of Fish and Wildlife  
CEQA = California Environmental Quality Act  
CFR = Code of Federal Regulations  
CM = Construction Management Resources Team  
ESD = Environmental Services Department

NAHC = Native American Heritage Commission  
PBCE = Planning, Building and Code Enforcement  
USFWS = U.S. Fish and Wildlife Service

MITIGATIONS	MONITORING AND REPORTING PROGRAM					
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]			
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule	
<b>Air Quality</b>						
<b>Impact a)</b> The Project could conflict with or obstruct implementation of the applicable air quality plan.						
<b>Impact b)</b> The Project could result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.						
<b>Mitigation Measure AQ-4.5-1: Implement BAAQMD Basic Control Mitigation Measures.</b>  The Project proponent shall implement the following measures during construction. <ul 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 offsite 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 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>• All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</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> </ul>	Municipal Water or its contractor shall ensure that contract documents include a requirement for BAAQMD Basic Control Measures.	Design	PM/Municipal Water	Review contract documents	Prior to contract approval	
		Construction Management Resources Team (CM) shall monitor to ensure that contractor implements measures in contract documents: <ul style="list-style-type: none"> <li>• Include discussion of this mitigation measure in contractor environmental training sessions.</li> <li>• Post signage.</li> </ul>	Monitor, during construction	CM	Monitor to ensure that contractor implements measures in contract documents. CM notifies PM of non-compliance and ensures corrective action.	Construction
		<ul style="list-style-type: none"> <li>• Maintain site inspection checklists.</li> <li>• Review contractor's equipment tune-up and emissions logs.</li> <li>• Notify PM of non-compliance and ensure corrective action</li> </ul>				



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<ul style="list-style-type: none"> <li>All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.</li> <li>Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours.</li> </ul>					
<b>BIOLOGICAL RESOURCES</b>					
<b>Impact a)</b> 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 Game or U.S. Fish and Wildlife Service.					
<p><b>Mitigation Measure BIO-1: Avoidance and Minimization Measures for Nesting Birds.</b></p> <p>The Project proponent shall implement the following measures to reduce or avoid construction-related impacts to nesting raptors, other migratory birds, and their nests:</p> <ul style="list-style-type: none"> <li><b>Avoidance:</b> Construction activities shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive). If possible, the necessary tree and any vegetation removal shall be conducted before the start of breeding bird season to minimize the opportunity for birds to nest at the Project sites and conflict with Project construction activities.</li> </ul> <p>If construction cannot be scheduled to occur between September 1st and January 31st (inclusive) to avoid the nesting season, Municipal Water or its contractor shall retain a qualified wildlife biologist to conduct a survey for nesting raptors and migratory birds no more than 14 days prior to the initiation of demolition/construction activities</p>	<p>Schedule construction activities to avoid the nesting season (February 1st through August 31st (inclusive)).</p> <p>Schedule the necessary tree and any vegetation removal before the start of breeding bird season.</p>	<p>Prior to, and during construction, if possible</p>	<p>Director of PBCE or Director's Designee</p>	<p>None</p>	<p>Pre-construction</p>
	<p>If construction cannot be scheduled to occur outside of nesting season, a qualified wildlife biologist shall conduct a survey for nesting raptors and migratory birds.</p>	<p>Conduct pre-construction surveys no more than 14 days prior to the initiation of demolition/construction activities during the breeding season (February 1st through August 31st, inclusive) and no more than 30 days prior to the initiation of these activities during the late</p>	<p>Municipal Water and Director of PBCE or Director's Designee</p>	<p>Monitor implementation</p> <p>Receive survey report</p>	<p>Pre-construction</p>

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<p>during the breeding season (February 1st through August 31st, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). The retained qualified wildlife biologist would also conduct a survey for nesting raptors and migratory birds after any construction breaks of 14 days or more, within 7 days prior to the resumption of construction. Pre-construction surveys for nesting raptors and other migratory nesting birds shall be conducted for the Project area and for suitable habitat within 300 feet of the site. Construction activities that are scheduled to begin outside the breeding season (September 1st through January 31st, inclusive) can proceed without surveys.</p> <ul style="list-style-type: none"> <li><b>Buffer Zone:</b> If an active nest is found in or close enough to the Project area to be disturbed by construction activities, a construction free buffer zone shall be established around the nest. Buffer zones are typically 300 feet (radius) for raptors and 100 feet (radius) for other birds; however, the buffer zone widths may be adjusted if an obstruction, such as a building, is within line-of-sight between the nest and construction. The construction free buffer zone shall be marked with flagging or fencing that is easily identified and avoided by the construction crew, and shall not affect the nesting birds. Buffer zone widths and other avoidance measures may be modified based on consultation with California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS). The construction-free buffer zones shall be maintained until after the nesting season has ended, or as long as the nest is active or young remain in the area and are dependent on the nest.</li> </ul>		part of the breeding season (May 1st through August 31st, inclusive). Conduct survey after any construction breaks of 14 days or more, within 7 days prior to the resumption of construction, during the breeding season (February 1st through August 31st, inclusive).			
	Ensure measures in contract documents are implemented regarding buffer zones and avoidance measures established by biologist and/or USFWS/CDFW.	Training, prior to construction.  Monitor, during-construction.	Municipal Water and biologist	Monitor implementation	Pre-construction/ Construction
	Conduct environmental awareness program for all project workers.	Prior to construction	Municipal Water and biologist	Maintain sign-in sheet	Pre-construction
	Submit reports, if applicable, to USFWS/CDFW per consultation requirements.	During construction	Municipal Water and biologist	Submit Reports to USFWS/ CDFW	Construction, Post-Construction
	Notify the Director of PBCE or Director's Designee when the mitigation actions will occur for approval.	Prior to construction	Municipal Water and Director of PBCE or Director's Designee	Compliance Report	Pre-construction, Construction

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<p><b>Environmental Awareness Program:</b> Prior to construction during the nesting bird season, all workers shall take part in an environmental awareness program conducted by an agency-approved biologist. The biologist shall 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. The awareness program shall be conducted at the start of construction and thereafter as required for new construction personnel. A sign-in sheet for crew receiving the training shall be maintained on file by the Project proponent.</p> <ul style="list-style-type: none"> <li><b>Reporting:</b> Municipal Water shall notify the Director of Planning Building and Code Enforcement or Director's Designee when the mitigation actions will occur for approval prior to the start of construction.</li> </ul>					
<p><b>Mitigation Measure BIO-2: Avoidance and Minimization Measures for Tricolored Blackbirds.</b></p> <p>To avoid or minimize direct impacts of Project activities on Tricolored blackbirds, the Project proponent shall ensure the following procedures are implemented consistent with the Habitat Plan. This survey methodology is consistent with accepted survey protocols for this species under Habitat Plan.</p> <p><b>Preconstruction Survey:</b> If the Project cannot avoid potential nesting habitat and establish a 250-foot buffer, a nesting survey shall be conducted. Prior to any construction activities, a qualified biologist shall:</p> <ol style="list-style-type: none"> <li>Determine if there has been nesting at the site in the past 5 years. This includes checking the CNDDDB, contacting local experts, and looking for evidence of historical nesting (i.e., old nests).</li> </ol>	<p>Municipal Water or its contractor shall contract a qualified biologist to conduct nesting surveys in all Santa Clara Valley Habitat Plan modeled occupied habitat areas.</p>	<p>No more than two calendar days prior to construction.</p>	<p>Municipal Water and Director of PBCE or Director's Designee</p>	<p>Monitor implementation</p>	<p>Pre-construction</p>
	<p>Municipal Water or its contractor shall employ avoidance measures and contract a qualified biologist to monitor to ensure that contractor implements measures in contract documents regarding buffer zones and avoidance</p>	<p>Establish buffer zone(s), prior to construction.</p> <p>Monitor during construction</p>	<p>Municipal Water and biologist</p>	<p>Monitor Implementation Receive survey results</p>	<p>Pre-construction/ Construction</p>

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<p>2. If no nesting in the past 5 years is evident, a qualified biologist shall conduct a preconstruction survey in areas identified in the habitat survey as supporting potential tricolored blackbird nesting habitat. Surveys shall be made at the appropriate times of year when nesting use is expected to occur. The nesting season for most birds in the San Francisco Bay area extends from February 1st through August 31st (inclusive). The surveys shall document the presence or absence of nesting colonies of tricolored blackbird. Surveys shall conclude no more than two calendar days prior to construction.</p> <p>If a tricolored blackbird nesting colony is present (through step 1 or 2 above), a 250-foot buffer shall be applied from the outer edge of all riparian vegetation associated with the Project site; the site plus the buffer shall be avoided (see below for additional avoidance and minimization details). CDFW shall be notified immediately of nest locations. Municipal Water shall also notify the Director of Planning Building and Code Enforcement or Director's Designee when the mitigation actions will occur for approval prior to the start of construction.</p> <p><b>Avoidance and Minimization:</b> The Project proponent shall avoid tricolored blackbird nesting habitat that is currently occupied or has been used in the past 5 years. If tricolored blackbird colonies are identified during the breeding season, the Project proponent shall be prohibited within a 250-foot no-activity buffer zone around the outer edge of all hydric vegetation associated with the colony. This buffer may be reduced in areas with dense forest, buildings, or other habitat features between the construction activities and the active nest colony, or where there is sufficient topographic relief to protect the colony from excessive noise or visual disturbance.</p>	measures established by biologist and/or CDFW.				

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<p>Depending on site characteristics, the sensitivity of the colony, and surrounding land uses, the buffer zone may be increased. Construction activities potentially affecting a colony shall be observed by a qualified biologist to verify that the activity is not disrupting the colony. If it is, the buffer shall be increased. The qualified biologist shall coordinate with CDFW and evaluate exceptions to the minimum no-activity buffer distance on a case-by-case basis.</p> <p><b>Construction Monitoring:</b> If construction takes place during the breeding/nesting season (February 1st through August 31<sup>st</sup>, inclusive) when an active colony is present, a qualified biologist shall monitor construction to ensure that the 250-foot buffer zone is enforced. If monitoring indicates that construction outside of the buffer is affecting a breeding colony, the buffer shall be increased if space allows (e.g., move staging areas farther away). If space does not allow, construction shall cease until the colony abandons the site or until the end of the breeding/nesting season, whichever occurs first. The qualified biologist shall also conduct training of construction personnel on the avoidance procedures, buffer zones, and protocols in the event that tricolored blackbirds fly into an active construction zone (i.e., outside the buffer zone).</p>					
<b>Impact e)</b> The Project could conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.					
<p><b>Mitigation Measure BIO-3: Avoid or Compensate for Removal of Protected Trees.</b></p> <p>Protected trees to be removed at the Agnews site shall be replaced in accordance with the City of San José Parks, Recreation, and Neighborhood Services Park Tree Removal Policy. The Project proponent shall retain a certified arborist to survey trees proposed for removal and trees potentially</p>	<p>Retain a certified arborist to survey trees proposed for removal and trees potentially exposed to construction disturbance in the proposed project site and identify and evaluate Protected trees that will be removed.</p>	<p>Prior to construction</p>	<p>Municipal Water and certified arborist</p>	<p>Survey Reports</p>	<p>Pre-construction</p>

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<p>exposed to construction disturbance in the Project site and identify and evaluate protected trees that will be removed. A tree that has a trunk greater than 18 inches in diameter (56 inches in circumference measured at 2 feet from the ground) should be replaced at a 4:1 ratio, pending a site evaluation and resource review. Below that measurement, tree replacement at a 1:1 ratio should be done. The certified arborist may be consulted to assist with selecting an appropriate replacement species for the site.</p>	Determine tree replacement amounts and final mitigation for impacts to protected trees.	Post-construction/ restoration	Certified Arborist, in consultation with Parks, Recreation, and Neighborhood Services	Submit Reports	Post-construction/ restoration
	Determine suitable locations for replacement trees to be planted, and plant replacement trees.	Post-construction/ restoration	Certified Arborist, in consultation with Parks, Recreation, and Neighborhood Services	Submit reports, Plant trees	Post-construction/ restoration
<p><b>Mitigation Measure BIO-4: Minimize Construction Effects on Protected Trees to be Retained.</b></p> <p>The Project proponent shall implement the following tree-protection measures prior to and during Project construction.</p> <ul style="list-style-type: none"> <li>• Retain a certified arborist to oversee protection of native trees to be retained on the Project site.</li> <li>• Require that any tree or root pruning occurring for construction is first approved by the certified arborist.</li> </ul> <p>Require that the certified arborist evaluate injuries to retained trees as soon as possible for appropriate treatment.</p>	Retain a certified arborist to implement tree-protection measures.	Retain arborist, prior to construction.  Oversee protection of native trees to be retained, during construction	Municipal Water and certified arborist	Supervise protection of trees	Pre-construction/ Construction
<p><b>Impact f)</b> The Project could conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.</p>					
<p><b>Mitigation Measure BIO-5: Santa Clara Valley Habitat Plan</b></p> <p>The Project is subject to applicable Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to the start of construction. The project proponent would be required</p>	Municipal Water shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of PBCE or the Director's Designee.	Prior to the start of construction	Director of PBCE or Director's Designee	Submit the Santa Clara Valley Habitat Plan Coverage Screening Form	Pre-construction



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to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of PBCE or the Director's Designee for approval and payment of the nitrogen deposition fee prior to start of construction.					
<b>CULTURAL RESOURCES</b>					
<b>Impact b)</b> The Project could cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5.					
<b>Mitigation Measure CUL-3a: Inadvertent Discovery of Archaeological Resources.</b>  If archaeological resources, including resources determined to be tribal cultural resources, are encountered by construction personnel during Project implementation, all construction activities within 100 feet shall halt and the contractor shall notify the Municipal Water personnel and the Director of Planning, Building and Code Enforcement or Director's Designee. The work shall not commence again until a qualified archaeologist, defined as one meeting the Secretary of the Interior's Professional Qualification Standards for archaeology, can assess the significance of the find. Municipal Water or its contractor shall retain a Secretary of the Interior-qualified archaeologist to inspect the findings within 24 hours of discovery. 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, hand stones, or milling slabs); battered stone tools, such as hammer stones and pitted stones. Historic-era materials might include stone, concrete, or adobe footings and walls;	Municipal Water or its contractor shall include measures related to archaeological discoveries in contract documents.	Prior to construction	Municipal Water	Review Contract	Design
	Municipal Water or its contractor shall ensure that all personnel complete environmental training prior to beginning work. Monitor to ensure that the contractor implements measures in contract document.	Conduct training, prior to construction.  Monitor, during construction.	Municipal Water	Monitor implementation	Construction
	A qualified archeologist shall evaluate the potential discovery and advise the PM as to the significance of the discovery. If warranted, proceed with measures that may include the following:  a. On-site preservation of resource;	During construction	Municipal; Water and Director of PBCE or Director's Designee, and City's Historic Preservation Officer	Evaluate Discovery	Construction

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<p>filled wells or privies; and deposits of metal, glass, and/or ceramic refuse.</p> <p>If the City determines, based on recommendations from a qualified archaeologist and a Native American representative (if the resource is Native American-related), that the resource may qualify as a historical resource or unique archaeological resource (as defined in CEQA Guidelines Section 15064.5) or a tribal cultural resource (as defined in PRC Section 21080.3), the resource shall be avoided if feasible. If avoidance is not feasible, the City shall consult with appropriate Native American tribes (if the resource is Native American-related), and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential impacts to the resource pursuant to PRC Section 21083.2 and CEQA Guidelines Section 15126.4. This shall include documentation of the resource and may include data recovery (according to PRC Section 21083.2), if deemed appropriate, or other actions such as treating the resource with culturally appropriate dignity and protecting the cultural character and integrity of the resource (according to PRC Section 21084.3). The documentation shall be submitted the Director of Director of Planning, Building and Code Enforcement or Director's Designee.</p>	<p>b. Archaeological monitoring program with prior review/approval of PM; or</p> <p>c. Archaeological testing program with prior review/approval of PM.</p>				
	<p>A qualified archeologist shall prepare and submit a Final Archaeological Resources Report, if warranted. Submit to Municipal Water and Director of PBCE or Director's Designee for review and approval.</p>	<p>During and post construction</p>	<p>Director of PBCE or Director's Designee</p>	<p>Review/approve Final Archeological Resources Report</p>	<p>Construction, post-construction</p>
<p><b>Impact c)</b> The Project could disturb human remains, including those interred outside of formal cemeteries.</p>					
<p><b>Mitigation Measure CUL-2: Inadvertent Discovery of Human Remains.</b></p> <p>If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered</p>	<p>Project proponent shall ensure that contract documents include measures related to discovery of human remains.</p>	<p>Prior to construction.</p>	<p>Municipal Water</p>	<p>Review contract</p>	<p>Design</p>
	<p>Include in environmental training. Ensure that the contractor implements</p>	<p>Training, prior to construction.</p>	<p>Municipal Water and Director of PBCE or</p>	<p>Environmental training /</p>	<p>Construction</p>



MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<p>during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project proponent shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:</p> <ol style="list-style-type: none"> <li>1. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.</li> <li>2. The MLD identified fails to make a recommendation; or</li> <li>3. The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.</li> </ol>	measures in contract document including reporting human remains if encountered and suspending work in the vicinity.	Monitor, during construction	Director's Designee	Monitor implementation	
	PBCE, in conjunction with a qualified archeologist, shall confirm identification of human remains, if necessary. If human remains are confirmed, perform required coordination and notifications.	During construction	Director of PBCE or Director's Designee/Coroner /NAHC	Confirm identification	Construction
	A qualified archeologist shall monitor to ensure the appropriate disposition of human remains.	During, and post construction	Director of PBCE or Director's Designee	Monitor disposition	Construction
	A qualified archeologist shall prepare and submit final compliance report, if applicable.	During, and post construction	Director of PBCE or Director's Designee	Compliance Report	Construction

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<b>Geology and Soils</b>					
<b>Impact a)</b> The Project could directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: <b>a.ii)</b> Strong seismic ground shaking and; <b>a.iii)</b> Seismic-related ground failure, including liquefaction.					
<b>Mitigation Measure GEO-1: Seismic Safety Design</b> a. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. The design and construction of facilities at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the project review process. The facilities shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City, as applicable. The project facilities shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code. b. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized. c. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting. d. Ditches shall be installed to divert runoff around excavations and graded areas if necessary. e. The project shall be constructed in accordance with the standard engineering practices in the California Building	Municipal Water or its contractor shall ensure that contract documents include measures related to seismic safety design.	Prior to construction	Department of Public Works	Review Contract	Design
	Project proponent shall complete building design and construction at the site in conformance with the recommendations of an approved geotechnical investigation.	Design. prior to construction.  Conformance, during construction	Department of Public Works	Geotechnical Investigation Report	Design
	Project proponent shall ensure that contractor implements measures in contract documents: <ul style="list-style-type: none"> <li>• Include discussion of this mitigation measure in contractor environmental training sessions.</li> <li>• Notify Municipal Water of non-compliance and ensure corrective action</li> </ul>	Monitor, during construction	Department of Public Works	Monitor implementation	Construction

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Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future facilities on the site are designed to properly account for soils-related hazards on the site.					
<b>Impact f)</b> The Project could destroy a unique paleontological resource or site or unique geologic feature.					
<b>Mitigation Measure GEO-2: Inadvertent Discovery of Paleontological Resources</b>  If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.	Municipal Water or its contractor shall ensure that contract documents include measures related to paleontological discoveries in contract documents.  CM shall ensure that contractors implement measures in contract document.	Contract, prior to construction.  Monitor, during construction	Municipal Water	Review Contract	Design
	Municipal Water or its contractor shall contract a qualified professional paleontologist to conduct and complete environmental training for all personnel.	Prior to construction.	Municipal Water and qualified paleontologist	Monitor implementation	Construction
	A qualified paleontologist shall evaluate the potential discovery and advise the PM as to the significance of the discovery. If warranted, proceed with measures.	During construction.	PM, qualified paleontologist and Director of PBCE or Director's Designee	Evaluate Discovery	Construction



*Planning, Building and Code Enforcement*

**Trimble and Agnews Municipal  
Groundwater Wells  
File No. ER20-015**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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	A qualified paleontologist shall submit final compliance report.	Post construction, if applicable.	Director of PBCE or Director's Designee	Compliance Report	Construction
<b>Hazards and Hazardous Materials</b>					
<b>Impact d)</b> The Project is located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and would create a significant hazard to the public or the environment.					
<b>Mitigation Measure HAZ-1: Soil Sampling.</b> Prior to the start of construction, the City shall contract with a qualified environmental contractor to obtain and analyze representative surface soil samples for the proposed areas of soil disturbance located at the Trimble site in accordance with the findings of the Phase I Environmental Site Assessment, dated May 20, 2020. The soil sampling results shall be provided to the Director of Planning, Building, and Code Enforcement or the Director's Designee, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.	Municipal Water or its contractor shall contract with a qualified environmental contractor to obtain and analyze representative surface soil samples for the proposed areas of soil disturbance located at the Trimble site.	Prior to construction	Municipal Water	Soil sampling results to Director of PBCE or the Director's Designee, and the Environmental Compliance Officer in ESD	Pre-construction
<b>Mitigation Measure HAZ-2: Site Management Plan</b> A Site Management Plan (SMP) for Agnews shall be prepared by a qualified environmental professional prior to construction. At a minimum, the SMP shall include the following: <ul style="list-style-type: none"> <li>• Stockpile management including dust control, sampling, stormwater pollution prevention and the installation of BMPs</li> <li>• Proper disposal procedures of contaminated materials</li> <li>• Monitoring, reporting, and regulatory oversight notifications</li> </ul>	Municipal Water or its contractor shall contract with a qualified environmental contractor to prepare an SMP for the Agnews Project site limits and document compliance in accordance with the mitigation measure.	Prepare the Plan, prior to construction. Monitor, during construction	Municipal Water	Review contract	Design
	Submit a copy of the SMP to the Director of PBCE or Director's Designee.	Prior to construction	Municipal Water	Submit SMP to the Director of PBCE or Director's Designee	Pre-construction

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<ul style="list-style-type: none"> <li>A health and safety plan for each contractor working at the site that addresses the safety and health hazards of each phase of site operations with the requirements and procedures for employee protection</li> <li>The health and safety plan will also outline proper soil/ and or groundwater handling procedures and health and safety requirements to minimize worker and public exposure to contaminated soil/and or groundwater during construction.</li> </ul>				(Municipal Water also keep for their records)	
	CM shall implement the SMP.	During construction	Department of Public Works	Monitor implementation	Construction
<b>Hydrology and Water Quality</b>					
<p><b>Impact a)</b> The Project could violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality.</p> <p><b>Impact c)</b> The Project could substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:</p> <p><b>cii)</b> result in substantial erosion or siltation on- or off-site.</p>					
<p><b>Mitigation Measure HYD-1: Implement BMPs</b></p> <p>Contract specifications for the construction contractor shall include requirements to implement the following best management practices, as applicable to site specific conditions, and without limitation:</p> <ul style="list-style-type: none"> <li>i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.</li> <li>ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.</li> <li>iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.</li> <li>iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.</li> </ul>	Municipal Water or its contractor shall ensure that contract documents include best management practices.	Prior to construction	Municipal Water	Review Contract	Design
	<ul style="list-style-type: none"> <li>CM shall ensure implementation of the measures in contract documents:</li> <li>• Include discussion of this mitigation measure in contractor environmental training sessions.</li> </ul>	Monitor, during construction.	Municipal Water and CM	Monitor implementation	Construction

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v. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard. vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers). vii. Vegetation in disturbed areas shall be replanted as quickly as possible. viii. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City. ix. The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.	<ul style="list-style-type: none"> <li>Notify PM of non-compliance and ensure corrective action</li> </ul>				

**TRIBAL CULTURAL RESOURCES**

**Impact a)** The project could cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

**a.i)** Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k).

**a.ii)** A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Implement **Mitigation Measure CUL-1: Inadvertent Discovery of Archaeological Resources** and **Mitigation Measure CUL-2: Inadvertent Discovery of Human Remains**, described above under Cultural Resources.



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<b>NOISE</b>					
<b>Impact c)</b> The Project could result in the generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.					
<b>Mitigation Measure NOI-4.4-1a: Noise Reduction.</b> The following noise reduction measures shall be implemented to reduce the impact of temporary construction-related noise on nearby receptors:  1. Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities shall be permitted on the weekends at sites within 500 feet of a residence.  2. Require construction equipment and trucks used for project construction to utilize the best available noise control techniques (including mufflers, use of intake silencers, ducts, engine enclosures and acoustically attenuating shields or shrouds) that are maintained in good condition and appropriate for the equipment.  3. Prohibit unnecessary idling of internal combustion engines. Turn off construction equipment when not in use, where applicable.  4. Locate stationary equipment such as air compressors and portable power generators, construction staging areas, and construction material areas as far from offsite receptors as possible. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses to minimize noise exposure to receptors.	Municipal Water or its contractor shall include noise reduction measures in contract documents.	Prior to construction	Municipal Water or contractor	Review contract documents	Prior to contract approval
	PM shall ensure that contractor implements measures in contract documents:  <ul style="list-style-type: none"> <li>• Include discussion of this mitigation measure in contractor environmental training sessions.</li> <li>• Notify PM of non-compliance and ensure corrective action</li> </ul>	Monitor, during construction	Municipal Water	Monitor implementation Notify Public Works of schedule	Construction

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<p>5. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.</p> <p>6. Utilize “quiet” equipment for air compressors and other stationary noise sources where technology exists. Require any impact equipment used for project construction to be hydraulically or electrical powered wherever feasible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatically powered tools is unavoidable, the use of an exhaust muffler on the compressed air exhaust is recommended to lower noise levels from the exhaust by up to about 10 dBA. When feasible, external jackets on the impact equipment should also be incorporated to achieve a further reduction of 5 dBA. In the event that external jackets on impact equipment are not feasible, other BMP techniques shall be employed to reduce noise by 5 dBA. Whenever feasible, require the use of quieter procedures.</p> <p>7. When construction takes place within 100 feet of sensitive receptors, use specific techniques such as, but not limited to, use of sound blankets on construction equipment, and the use of temporary plywood walls and noise barriers to block and deflect noise.</p>					
<p><b>Mitigation Measure NOI-4.4-1b: Notification Requirements.</b></p> <p>1. Notify neighbors within 300 feet of the project site of the construction schedule in writing, at least 10-days prior to start of construction. The notification shall provide the start date of construction, construction activities, the duration of construction activity, and construction hours for the project. The same information shall also be conspicuously posted at each project site.</p>	<p>PM or contractor shall notify neighbors.</p> <p>PM shall designate a “disturbance coordinator.”</p>	<p>At least 10-days prior to start of construction</p> <p>Designate, prior to construction.</p> <p>Respond to any complaints regarding construction noise, within 24-hours.</p>	<p>Municipal Water</p> <p>Municipal Water</p>	<p>Monitor implementation</p> <p>Monitor implementation</p>	<p>Pre-construction</p> <p>Pre-construction/ Construction</p>



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<p>2. Designate a “disturbance coordinator” who will be responsible for responding within 24-hours to any complaints regarding construction noise. The coordinator will determine the cause of the complaint and will require that reasonable measures, if warranted to correct the problem, be implemented.</p> <p>3. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding the construction activity(ies) that face the construction sites.</p>					
<p>4. A daytime and nighttime telephone number for the noise disturbance coordinator shall be conspicuously posted at the construction site fence and on the notification sent to neighbors adjacent to the site.</p>	<p>Municipal Water or its contractor shall post signage at the site, and notify neighbors, with a telephone number for the noise disturbance coordinator.</p>	<p>At least 10-days prior to construction</p>	<p>Municipal Water</p>	<p>Post signage, notify neighbors</p>	<p>Pre-construction</p>

*Source: Trimble and Agnews Municipal Groundwater Wells Initial Study, February 2021.*