

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kerrie Romanow  
Matt Cano

**SUBJECT:** SEE BELOW

**DATE:** October 4, 2021

Approved

Date

*[Signature: Professor St. Maguire]*

10/4/2021

**SUBJECT: REPORT ON BIDS AND AWARD OF CONSTRUCTION CONTRACT  
FOR 7745 – OUTFALL CHANNEL AND INSTRUMENTATION  
IMPROVEMENTS PROJECT AT THE SAN JOSE-SANTA CLARA  
REGIONAL WASTEWATER FACILITY**

## **RECOMMENDATION**

- (a) Report on the bids and award a construction contract for the 7745 – Outfall Channel and Instrumentation Improvements Project to the low bidder, Anvil Builders Inc., for base bid and Add Alternate No. 1, in the amount of \$4,297,570 and approve a 15 percent construction contingency in the amount of \$644,636.
- (b) Adopt a resolution adopting the Mitigated Negative Declaration (MND) and the corresponding Mitigation Monitoring and Reporting Program (MMRP) prepared for the San José-Santa Clara Regional Wastewater Facility Outfall Bridge and Instrumentation Improvements Project (File No. PP19-073) as having been completed in compliance with the California Environmental Quality Act reflecting the City of San José's independent judgment and analysis.

## **OUTCOME**

Award of the construction contract to Anvil Builders Inc., will allow for construction of the Outfall Channel and Instrumentation Improvements Project (Project) at the San José-Santa Clara Regional Wastewater Facility (RWF). The improvements to crucial instrumentation and equipment will enable continued regulatory compliance and improve operational reliability at the final point of compliance for the RWF's final effluent.

**BACKGROUND**

The RWF treats an average flowrate of 110 million gallons per day of wastewater and is the largest tertiary filtration facility in the western United States. RWF's final effluent is the end product of the wastewater treatment process and travels through the outfall channel before it reaches Artesian Slough and South San Francisco Bay. The outfall channel weir structure is the final point of compliance for the RWF's regulatory permit requirements such as the National Pollution Discharge Elimination System permit. The final effluent leaving RWF is monitored by flow meters and other water quality instrumentation located at the outfall channel weir structure, and inside the adjacent sulfur dioxide ("SO<sub>2</sub>") building. A condition assessment evaluation completed in 2018 concluded instrumentation and related infrastructure required replacement, citing age, expected life span, maintainability, settlement, and erosion as threats to the structural integrity of the weir structure and various components. The assessment also recommended site repairs at and adjacent to the SO<sub>2</sub> building and replacement of the existing power transformer.

The Project will replace structural flashboards on the outfall weir; restore rock rip-rap erosion protection to the weir's pile foundation; replace instrumentation required for water quality monitoring; restore and improve overall site grading around the SO<sub>2</sub> building (maneuverability and access); restore protection to the SO<sub>2</sub> building foundation structure; replace the electric transformer; replace the flow meters at the daylight station and construct a vault for installing new flow meter technology; and install underground conduits for a fiber optic cable system to facilitate reliable and secure communication between the SO<sub>2</sub> building, the daylight station, and the process controls systems of the RWF. Additional electrical conduits may be installed alongside the fiber optic cable conduit to provide for future project needs.

Construction is scheduled to begin in December 2021, with substantial completion anticipated by December 2022.

**ANALYSIS**

Bids were opened on August 5, 2021, with the following results:

| <b>Contractor</b>                                   | <b>Base Bid Amount</b> | <b>Bid Alternates #1</b> | <b>Total Bid</b>   | <b>Variance Amount</b> | <b>Over/ (Under) Percent</b> |
|---|------------------------|--------------------------|--------------------|------------------------|------------------------------|
| Anvil Builders Inc.<br>(San Francisco, CA)          | \$4,027,570            | \$270,000                | \$4,297,570        | (\$338,736)            | (7.3)                        |
| Kiewit Infrastructure West Co.<br>(Fairfield, CA)   | \$3,971,200            | \$525,000                | \$4,496,200        | (\$140,106)            | (3.0)                        |
| <b>Engineer's Estimate</b>                          | <b>\$ 4,180,335</b>    | <b>\$455,871</b>         | <b>\$4,636,306</b> | -                      | -                            |
| Power Engineering Construction Co.<br>(Alameda, CA) | \$4,357,541            | \$729,897                | \$5,087,438        | \$451,132              | 9.7                          |

In addition to the base bid scope of work, there is one bid alternate for the installation of three empty conduits for future power supply, including concrete encasing from outfall area gate to SO<sub>2</sub> building.

A total of three bids were received and were within the expected level of variance from Engineer's Estimate. The low bid submitted by Anvil Builders Inc., is seven percent under the Engineer's Estimate. Staff considers this reasonable for the work involved. Staff's review of Anvil Builders Inc.'s previous work and experience finds them a responsible bidder and staff recommends awarding the construction contract to Anvil Builders Inc.

San Jose Municipal Code Section 27.04.050 provides for a standard contingency for all public works contracts (except those involving the renovation of a building or buildings) of ten percent of the total contract amount. However, this project includes special circumstances – the challenge of maintaining continuous operations at the RWF during construction, the possibility of unforeseen regulatory permit conditions or mitigation requirements due to performing work in and adjacent to environmentally sensitive habitat – and staff recommends a 15 percent contingency to account for unforeseen conditions that might arise in the construction..

### **Project Labor Agreement Applicability**

The Director of Public Works determined that a project labor agreement is applicable to this project because the engineer's estimate is over three million dollars, and it does not fall under any of the exemption categories.

### **Local and Small Business Outreach**

Public Works procurement staff used Biddingo to outreach to local and small business enterprises. Chapter 4.12 of the San José Municipal Code defines a "local business enterprise" as one with a legitimate business presence in Santa Clara County and "small business enterprise" as a local business enterprise with 35 or fewer employees. Procurement staff sent bid invitations to 9,138 vendors, and documents were downloaded by 40 vendors, approximately nine of which were located within Santa Clara County and therefore local. The recommended contractor is not a local or a small business enterprise. In addition, none of the listed subcontractors is a local or a small business enterprise.

### **CONCLUSION**

Based on staff's evaluation of the bids, staff recommends awarding the construction contract for the Project to the low bidder, Anvil Builders Inc.

### **EVALUATION AND FOLLOW-UP**

No follow-up action with City Council is expected at this time. Quarterly progress reports of the RWF Capital Improvement Program will also be submitted to the Treatment Plant Advisory Committee (TPAC) and posted on the City's website.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

### **PUBLIC OUTREACH**

This contract was advertised on Biddingo.com on June 16, 2021. This memorandum will be posted on the City's Council Agenda website for the October 26, 2021 City Council Meeting.

### **COORDINATION**

This contract and memorandum have been coordinated with the Departments of Planning, Building and Code Enforcement, Fire, Finance, the City Manager's Budget Office, and the City Attorney's Office. This memorandum will be presented at the October 14, 2021 TPAC meeting for consideration.

### **COMMISSION RECOMMENDATION/INPUT**

This item is scheduled to be heard at the October 14, 2021 TPAC meeting. A supplemental memo with the committee's recommendation will be included in the amended October 26, 2021 City Council meeting agenda.

### **FISCAL/POLICY ALIGNMENT**

This work is consistent with the Council-approved focus on rehabilitating aging RWF infrastructure, improving efficiency, and reducing operating costs. It is also consistent with the budget strategy principle of focusing on protecting our vital core services.

**COST SUMMARY/IMPLICATIONS**

|    |   |                    |
|----|---|--------------------|
| 1. | AMOUNT OF RECOMMENDATION/COST OF PROJECT: | \$4,297,570        |
|    | Project Delivery*                         | \$4,908,800        |
|    | Construction                              | \$4,297,570        |
|    | Contingency (15%)                         | <u>\$644,636</u>   |
|    | Total Project Costs                       | \$9,851,006        |
|    | <u>Prior Year Expenditures</u>            | <u>\$2,271,763</u> |
|    | <b>REMAINING PROJECT COSTS</b>            | <b>\$7,579,243</b> |

*\* Project delivery estimate includes: \$1,016,500 for project management and professional consultant services during feasibility/development; \$1,245,300 for project management and professional consultant services during design; \$119,900 project management and professional consultant services for bid and award; \$960,600 for project management and professional consultant services during construction; \$1,344,900 for construction management (including specialty inspections) during construction; and \$221,600 for project management and professional consultant services during post-construction and project closeout.*

*The estimated project delivery cost is above average when compared to project delivery costs for capital projects at other wastewater facilities. The project delivery cost is above average due to the extensive condition assessment work required and additional environmental support needed due to the environmentally sensitive nature of the project area. Additionally, the project delivery method was changed during design, which required a restructuring of the procurement documents.*

2. COST ELEMENTS OF AGREEMENT/CONTRACT:
 

|                              |             |
|------------------------------|-------------|
| This is a lump sum contract. | \$4,297,570 |
|------------------------------|-------------|
3. SOURCE OF FUNDING: 512 – San José-Santa Clara Treatment Plant Capital Fund.
4. FISCAL IMPACT: The Project will have no additional impact on the San José-Santa Clara Treatment Plant Operating Fund (Fund 513) or the General Fund.
5. PROJECT COST ALLOCATION: In accordance with the recommendations set forth in the Capital Project Cost Allocations Technical Memo (Carollo Engineers, March 2016), this project is allocated 100% flow.

**BUDGET REFERENCE**

The table below identifies the fund and appropriations to fund the contract recommended as part of this memo and remaining project costs, including project delivery, construction, and contingency cost.

HONORABLE MAYOR AND CITY COUNCIL

October 4, 2021

**Subject: 7745 – Outfall Channel and Instrumentation Improvements Project**

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| Fund #                             | Appn # | Appn. Name                                | Total Appn*        | Amt. for Contract | 2022-2026 Proposed Capital Budget Page | Last Budget Action (Date, Ord. No.) |
|------------------------------------|--------|---|--------------------|-------------------|--|-------------------------------------|
| <b>Remaining Project Costs*</b>    |        |   | <b>\$7,579,243</b> |                   |  |                                     |
| <b>Remaining Funding Available</b> |        |   |                    |                   |  |                                     |
| 512                                | 7678   | Outfall Channel & Instrument Improvements | \$7,061,000        | \$4,297,570       | V-116                                  | 06/22/2021<br>Ord. No.<br>30621     |

\*There is adequate funding available in 2021-2022 to award this contract. Future funding is subject to appropriation and, if needed, will be included in the development of future year budgets during the annual budget process.

**CEQA**

Mitigated Negative Declaration for the 7745 – Outfall Channel and Instrumentation Improvements Project. File No. PP19-073.

/s/

KERRIE ROMANOW  
Director, Environmental Services Department

/s/

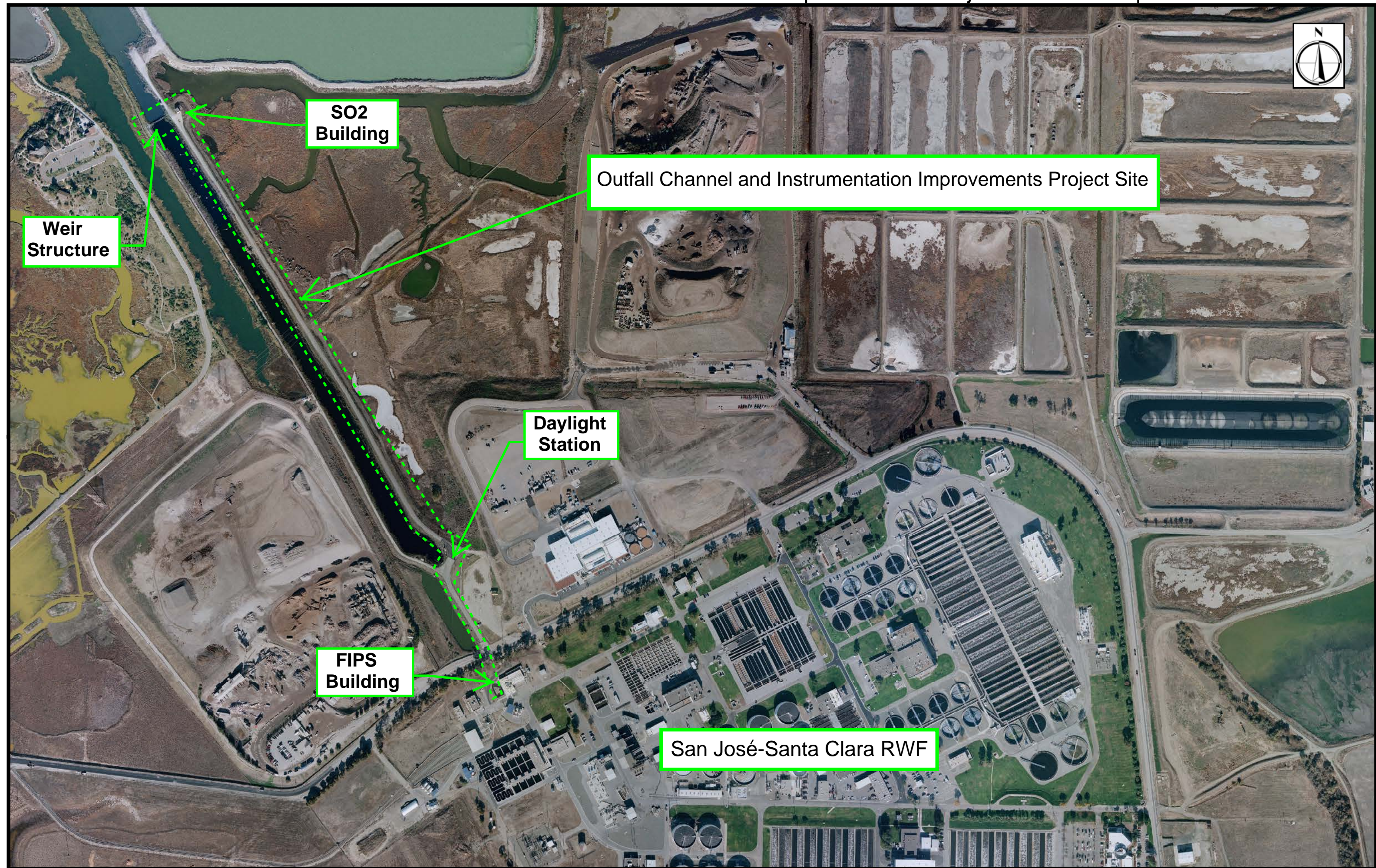
MATT CANO  
Director of Public Works

For questions, please contact Napp Fukuda, Assistant Director, Environmental Services Department at (408) 793-5353.

Attachment A – Outfall Channel and Instrumentation Improvements Project Location Map  
Attachment B – Mitigation Monitoring and Reporting Program



# Attachment A – Outfall Channel and Instrumentation Improvements Project Location Map





**MITIGATION MONITORING AND REPORTING PROGRAM**

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**San José-Santa Clara Regional Wastewater Facility Outfall  
Bridge and Instrumentation Improvements Project**

**File No. PP19-073**

**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 San Jose-Santa Clara Regional Wastewater Facility Outfall Bridge and Instrumentation Improvements Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed 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/Mitigated Negative Declaration 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 Native 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 less than significant levels.

The following abbreviations are used:

BAAQMD = Bay Area Air Quality Management District  
BMPs = Best Management Practices  
CCR = California Code of Regulations  
CDFW = California Department of Fish and Wildlife  
CEQA = California Environmental Quality Act  
CFR = Code of Federal Regulations  
CIP = Capital Improvements Project  
CNDDDB = California Natural Diversity Database  
CM = Construction Management Resources Team  
DO = Dissolved Oxygen  
DPS = District Population Segment  
DTSC = Department of Toxic Substance Control  
ESD = Environmental Services Department  
ESU = Evolutionarily Significant Unit  
ET = Environmental Team Project Lead  
HASP = Health and Safety Plan

HCP = Santa Clara Valley Habitat Conservation Plan  
MWQO = Marine Water Quality Objectives  
NACH = Native American Heritage Commission  
NOAA = National Oceanic and Atmospheric Administration  
NAHC = Native American Heritage Commission  
NTU = Nephelometric Turbidity Units  
OSHA = Occupational Safety and Health Administration  
PAHs = Polycyclic Aromatic Hydrocarbons  
PM = San José-Santa Clara Regional Wastewater Facility Capital Improvements Program – Project Manager  
PBCE = Planning, Building and Code Enforcement  
RWQCB = Regional Water Quality Control Board  
SCCDEH = Santa Clara County Department of Environmental Health  
SVOCs = semi-volatile organic compounds  
USFWS = U.S. Fish and Wildlife Service  
VOCs = volatile organic compounds

| MITIGATIONS   | MONITORING AND REPORTING PROGRAM  |                                  |   |  |                                     |
|---|---|----------------------------------|---|--|-------------------------------------|
|   | Documentation of Compliance<br>[Project Applicant/Proponent Responsibility]   |                                  | Documentation of Compliance<br>[Lead Agency Responsibility]   |  |                                     |
|   | Method of Compliance<br>Or Mitigation Action  | Timing of<br>Compliance          | Oversight<br>Responsibility   | Actions/Reports  | Monitoring<br>Timing or<br>Schedule |
| <b>AIR QUALITY</b>  |   |                                  |   |  |                                     |
| <b>Impact AIR-1: 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>   |   |                                  |   |  |                                     |
| <b>MM-AIR-1: Bay Area Air Quality Management District (BAAQMD) Basic Construction Mitigation Measures</b><br>Construction contractors shall be required to implement the following BAAQMD recommended basic construction mitigation measures to reduce fugitive dust emissions. <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,</li> </ul> | 1. Add BAAQMD Basic Construction Mitigation Measures to construction design plans and specifications.<br><br>2. Contractor to comply with BAAQMD Basic Construction Mitigation Measures | 1. Design<br><br>2. Construction | 1. Environmental Services Team Project Lead (ET)/Construction Management Resources Team (CM)<br><br>2. CM | 1. Check final design plans and specifications<br><br>2. Monitor to ensure that contractor implements measures in contract documents. CM notifies PM and ET of non-compliance and ensures corrective action. | 1. Design<br><br>2. Construction    |



| MITIGATIONS  | MONITORING AND REPORTING PROGRAM  |   |   |   |   |
|--|---|---|---|---|---|
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| <p>Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <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 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 City 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></ul> |   |   |   |   |   |
| BIOLOGICAL RESOURCES   |   |   |   |   |   |
| Impact BIO-1: Implementation of 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>MM-BIO-1: General Construction Measures.</p> <ul style="list-style-type: none"><li>Prior to construction, all construction workers shall take part in an environmental awareness program conducted by a qualified wildlife biologist.<sup>1</sup> The biologist shall train work crews in standard procedures for identifying and avoiding impacts to all special-status species with the</li></ul>   | <p>1. Qualified wildlife biologist to conduct environmental awareness program.</p> <p>2. Contractor to install covers over or escape ramps in</p> | <p>1. Pre-construction/<br/>construction</p> <p>2. Construction</p> | <p>1. ET/qualified biologist</p> <p>2. ET/CM</p>            | <p>1. Environmental awareness program and worker sign-in sheets</p> <p>2. CM notifies PM and ET of non-</p> | <p>1. Pre-construction/<br/>construction</p> <p>2. Construction</p> |

<sup>1</sup> A qualified wildlife biologist shall have a minimum of four years of academic training and professional experience in biological sciences and related resource management activities with field experience (e.g., conducting surveys or monitoring) with the species that may be present within the project area.

| MITIGATIONS   | MONITORING AND REPORTING PROGRAM  |                         |   |  |                                      |
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|   | Method of Compliance<br>Or Mitigation Action                                      | Timing of<br>Compliance | Oversight<br>Responsibility                                 | Actions/Reports  | Monitoring<br>Timing or<br>Schedule  |
| <p>potential to occur in the work area (steelhead – Central California Coast DPS, Chinook salmon – Central Valley fall-run ESU, longfin smelt, western pond turtle, Ridgway’s rail, black rail, western burrowing owl, birds protected by the Migratory Bird Treaty Act, salt marsh harvest mouse, salt marsh wandering shrew, Congdon’s tarplant and saline clover). The awareness program shall be conducted at the start of construction and thereafter as required for new construction personnel.</p> <ul style="list-style-type: none"> <li>At the end of each work day, all excavations (i.e. holes, construction pits, and trenches) of a depth of 8 inches or greater shall be covered with plywood or other material that can effectively exclude wildlife from a pit, and gaps around the cover shall be filled with dirt, rocks, or other appropriate material to prevent entry by wildlife. Alternatively, a barrier such as a fence can be installed around excavations that prevents wildlife from entering the hole, pit or trench. If excavations cannot be covered or there is no fence installed, then they shall include escape ramps constructed of either dirt fill, wood planking, or other appropriate material installed at a 3:1 grade (i.e., an angle no greater than 30 degrees) to allow wildlife that fall in a means to escape.</li> </ul> | excavations greater than 8 inches in depth.                                       |                         |   | compliance and ensures corrective action..                               |                                      |
| <p><b>MM BIO-2: Seasonal Avoidance of Sensitive Aquatic Species</b></p> <p>In-water construction work with the potential to result in short-term impacts to sensitive aquatic species, including project activities that are expected to create turbidity or disturb the streambed, shall be conducted only from June 1</p>   | 1. Add construction window dates to construction design plans and specifications. | 1. Design               | 1. PM/ET  | 1. In-water work shall be conducted only from June 1 through November 30 | 1. Confirm work window during design |

| MITIGATIONS   | MONITORING AND REPORTING PROGRAM  |   |   |  |                                     |
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|   | Method of Compliance<br>Or Mitigation Action  | Timing of<br>Compliance                           | Oversight<br>Responsibility                                 | Actions/Reports  | Monitoring<br>Timing or<br>Schedule |
| through November 30 (the approved National Oceanic and Atmospheric Administration (NOAA) work window).  |   |   |   |  |                                     |
| <b>MM BIO-3: Western Pond Turtle Protection Measures</b> <ul style="list-style-type: none"> <li>Prior to the start of construction activities, the project proponent shall retain a qualified biologist to conduct preconstruction surveys for western 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 no western pond turtles are observed during the preconstruction surveys, no further action is required.</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 orange 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 coordination with the California Department of Fish and Wildlife (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>If western pond turtle is identified during preconstruction surveys, or during construction, a</li> </ul> | 1. Ensure that requirements for compliance with any biological resources buffer zones and species protection are included in contract documents.  | 1. Design   | 1. PM/ET  | 1. Confirm requirements are included in contract documents | 1. Design                           |
|   | 2. Retain a qualified biologist to perform preconstruction surveys. If active nests are located during the survey, establish buffer zones with fencing in consultation with CDFW.   | 2. Within 72 hours prior to onset of construction | 2. ET and qualified biologist                               | 2. Agency coordination                                     | 2. Pre-construction                 |
|   | 3. Monitor to ensure that exclusion fencing and buffer zones are implemented: <ul style="list-style-type: none"> <li>Include in environmental training.</li> <li>Relocate turtles to suitable habitat, if encountered.</li> <li>Maintain site inspection and monitoring logs, results of any</li> </ul> | 3. Construction                                   | 3. CM and qualified biologist                               | 3. Ongoing monitoring during construction if necessary     | 3. Construction                     |



| MITIGATIONS  | MONITORING AND REPORTING PROGRAM   |                             |   |   |                                     |
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|  | Method of Compliance<br>Or Mitigation Action   | Timing of<br>Compliance     | Oversight<br>Responsibility                                 | Actions/Reports                         | Monitoring<br>Timing or<br>Schedule |
| <p>qualified biologist shall monitor construction activities in the Project site within 50 feet of suitable western pond turtle habitat, 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. Relocation sites shall be subject to CDFW approval.</p>  | <p>consultation with CDFW.</p> <ul style="list-style-type: none"> <li>Notify Project Manager (PM) and ET of non-compliance and ensure corrective action</li> </ul> |                             |   |   |                                     |
| <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. Construction activities can continue, or commence, more than 50 feet from the western pond turtle individual; however, the qualified biologist shall still be notified. If the biologist determines the turtle is a western pond turtle, the qualified biologist shall relocate the western pond turtle into nearby suitable habitat consistent with CDFW protocols and handling permits.</li> </ul> | <p>4. Submit reports, if applicable, to CDFW per consultation requirements. Submit final compliance monitoring report.</p>   | <p>4. Post-construction</p> | <p>4. ET</p>  | <p>4. Compliance monitoring reports</p> | <p>4. Post-construction</p>         |

| MITIGATIONS  | MONITORING AND REPORTING PROGRAM  |   |   |   |  |
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|  | Method of Compliance<br>Or Mitigation Action  | Timing of<br>Compliance   | Oversight<br>Responsibility   | Actions/Reports   | Monitoring<br>Timing or<br>Schedule  |
| <b>MM BIO-4: Special-status Bird Species Protection Measures</b> <ul style="list-style-type: none"> <li>The project proponent and its contractors shall avoid conducting vegetation removal or ground disturbing activities during the nesting season (February 1–August 31, inclusive).</li> <li>If avoidance of the nesting season is not possible, the ET or its contractor shall retain a qualified wildlife biologist to conduct a survey for nesting raptors and migratory bird nests within 7 days of the start of construction or after any construction breaks of 14 days or more, within 7 days prior to the resumption of construction. Surveys shall be performed for the Project areas and for suitable habitat within 300 feet. If an active nest is discovered, a no-disturbance buffer zone around the nest tree (or, for ground-nesting species, or nests identified on Facility buildings, the nest itself) shall be established. The no-disturbance zone shall be marked with flags or fencing that is easily identified by the construction crew and will not affect the nesting birds. In general, minimum buffer zone widths shall be as follows: 100 feet (radius) for non-raptor species and 300 feet (radius) for raptor species; however, the buffer zone widths may be adjusted if an obstruction, such as a building, is within line-of-sight</li> </ul> | 1. Avoid vegetation removal or ground disturbing activities between February 1–August 31.<br><br>2. Retain a qualified wildlife biologist to conduct a pre-construction nesting bird survey for raptors and migratory birds.<br><br>3. If an active nest is discovered, a no-disturbance buffer zone around the nest shall be established; buffer zone widths and other avoidance measures may be modified based on consultation with CDFW and the USFWS.<br><br>4. Retain a qualified wildlife biologist and conduct surveys for California Ridgway's rail and California black rail | 1. Construction<br><br><br>2. Pre-construction; within 7 days of start of construction or after construction breaks of 14 days or more.<br><br>3. Construction<br><br><br>4. Pre-construction/ construction | 1. ET<br><br><br>2. Biologist<br><br><br>3. ET/biologist/ USFWS/CDFW<br><br><br>4. ET/biologist | 1. Construction avoidance window<br><br><br>2. Document survey results.<br><br><br>3. Document survey results.<br><br><br>4. Document survey results. | 1. February 1–August 31<br><br><br>2. February 1–August 31<br><br><br>3. February 1–August 31<br><br><br>4. Pre-construction |

| MITIGATIONS   | MONITORING AND REPORTING PROGRAM   |                                      |   |                               |                                     |
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|   | Documentation of Compliance<br>[Project Applicant/Proponent Responsibility]  |                                      | Documentation of Compliance<br>[Lead Agency Responsibility] |                               |                                     |
|   | Method of Compliance<br>Or Mitigation Action   | Timing of<br>Compliance              | Oversight<br>Responsibility                                 | Actions/Reports               | Monitoring<br>Timing or<br>Schedule |
| <p>between the nest and construction. Buffer zone widths and other avoidance measures may be modified based on consultation with CDFW and the U.S. Fish and Wildlife Service (USFWS). Buffer widths 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>The project proponent and its contractors shall retain a qualified wildlife biologist and conduct surveys for California Ridgway's rail and California black rail prior to initiation of construction activities. These surveys are required for construction activities conducted at any time of the year.</li> <li>If either of these species is detected within 700 feet of the project site during their nesting season (February 1–August 31, inclusive), all construction activities within 700 feet of suitable nesting or forage habitat for this species will be delayed until after the nesting season is over.</li> <li>If either of these species is detected within 700 feet of the project site during the non-nesting season (September 1–January 31), construction activities can commence, but all vegetation within suitable habitat for the species shall be cleared by hand or with hand tools and a biologist will be retained on site during vegetation clearing activities to ensure that no birds are injured. Once the construction site is devoid of vegetation providing suitable habitat for the species, regular construction can commence.</li> </ul> | <p>5. If either of these species is detected within 700 feet of the project site during their nesting season (February 1–August 31), all construction activities within 700 feet of suitable nesting or forage habitat for this species will be delayed until after the nesting season is over.</p>                    | 5. Pre-construction/<br>construction | 5. ET/USFWS and<br>CDFW                                     | 5. Consult with<br>agencies.  | 5. During<br>construction           |
|   | <p>6. If either of these species is detected within 700 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 will be retained on site during vegetation clearing.</p> | 6. Construction                      | 6. Biologist  | 6. Document actions<br>taken. | 6. During<br>construction           |



| MITIGATIONS  | MONITORING AND REPORTING PROGRAM   |  |   |                                      |                                     |
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| <ul style="list-style-type: none"> <li>If any birds initiate nests within the established buffer distances while construction is occurring, 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.</li> </ul>  |  |  |   |                                      |                                     |
| <b>MM BIO-5: Western Burrowing Owl Protection Measures</b><br>To avoid or minimize direct impacts of project activities on western burrowing owls, the City shall ensure the following Capital Improvements Program (CIP) specifications for western burrowing owl are implemented<br>1. The contractor shall not disturb western burrowing owls and any occupied burrows or nests.<br>2. If western burrowing owls are encountered during construction, work must stop, and the Engineer should be notified immediately. A survey must be performed by the qualified biologist before construction work can proceed.<br>3. If surveys identify evidence of western burrowing owls within 250 feet of the project area, the contractor shall: <ul style="list-style-type: none"> <li>a. Establish a 250-foot exclusion zone around the occupied burrow or nest, as directed by the qualified biologist</li> <li>b. Avoid the exclusion zone and all nests that could be disturbed by project construction activities during the</li> </ul> | 1. Contractor shall not disturb owls, burrows or nests.  | 1. During construction                       | 1. CM   | 1. None                              | 1. During construction              |
|  | 2. Stop work; notify engineer; qualified biologist shall perform a survey for western burrowing owls   | 2. If western burrowing owls are encountered | 2. CM/biologist   | 2. Document survey results.          | 2. During construction              |
|  | 3. Biologist will establish 250-foot exclusion zone around occupied burrow and contractor will avoid exclusion zone  | 3. During construction                       | 3. ET/CM/biologist  | 3. Establish 250-foot exclusion zone | 3. During construction              |
|  | 4. If avoidance of occupied burrows is not feasible and construction occurs in breeding season, construction may occur within 250-feet of burrows if burrows are not | 4. February 1–August 31                      | 4. ET/biologist   | 4. Prepare Monitoring Plan           | 4. February 1–August 31             |

| MITIGATIONS   | MONITORING AND REPORTING PROGRAM   |                           |   |                           |   |
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|   | Method of Compliance<br>Or Mitigation Action   | Timing of<br>Compliance   | Oversight<br>Responsibility                                 | Actions/Reports           | Monitoring<br>Timing or<br>Schedule                             |
| remainder of the breeding season or while the burrow is occupied by adults or young   | disturbed and biologist prepares a Monitoring Plan.  |                           |   |                           |   |
| c. Not resume construction activities within the 250-foot zone until the Engineer provides written Notice to Proceed based on the recommendation of the qualified biologist   | 5. If avoidance of occupied burrows is not feasible during September 1 to January 31, biologist will monitor owls for at least 3 days prior to construction and during construction. If monitoring results show a change in owl foraging behavior then construction activities shall cease within the 250-foot exclusion zone. | 5. September 1–January 31 | 5. Biologist  | 5. Prepare survey results | 5. Pre-construction/ Construction during September 1–January 31 |
| 4. If avoidance of occupied burrows is not feasible during February 1 to August 31 breeding season, construction may occur within 250 feet of the occupied burrows if the burrows are not disturbed and the qualified biologist prepares and implements a Monitoring Plan approved by the California Department of Fish and Wildlife.   |  |                           |   |                           |   |
| 5. If avoidance of occupied burrows is not feasible during September 1 to January 31 non-breeding season, construction may occur within 250 feet of the overwintering burrows as long as the contractor's qualified biologist monitors the owls for at least 3 days prior to Project construction and during construction and finds no change in owl foraging behavior in response to construction activities. If there is any change in owl foraging behavior as a result of construction activities, activities shall cease within the 250-foot exclusion zone. |  |                           |   |                           |   |

| MITIGATIONS   | MONITORING AND REPORTING PROGRAM  |  |   |  |   |
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|   | Method of Compliance<br>Or Mitigation Action  | Timing of<br>Compliance  | Oversight<br>Responsibility   | Actions/Reports  | Monitoring<br>Timing or<br>Schedule   |
| <b>MM BIO-6: Salt Marsh Harvest Mouse and Salt Marsh Wandering Shrew Protection Measures</b> <ul style="list-style-type: none"> <li>Prior to initiation of work in suitable habitat, an agency-approved<sup>2</sup> 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> <li>Prior to construction on the east side of the outfall channel or Artesian Slough, silt exclusion fencing with wire-mesh backing shall be installed by hand between the eastern edge of the project area and the non-tidal seasonal marsh, to prevent the mouse/shrew from entering the active work area, protect habitat within the marsh from earthmoving activities or accidental spills, and to exclude workers from the marsh. The fence should have a minimum above-ground height of 30 inches, and the bottom should be buried to a depth of at least 6 inches so that mice cannot crawl under the fence. Any supports for the salt marsh harvest mouse exclusion fencing (e.g., t-posts) will be placed on the inside of the project area. The last 5 feet of the fence shall be angled away from the road to direct wildlife away from the road. Installation of the exclusion fence shall be overseen by an agency-approved biologist.</li> </ul> | 1. Retain agency-approved biologist to conduct preconstruction surveys<br><br>2. Install exclusion fence overseen by an agency-approved biologist.<br><br>3. Biologist to conduct weekly monitoring of exclusion fence.<br><br>4. Biologist shall supervise the hand removal of any vegetation in mouse/shrew habitat (including, but not limited to pickleweed, and emergent salt marsh vegetation including bulrush and cattails).<br><br>5. If mouse/shrew individuals are observed, contact USFWS and CDFW to determine | 1. No more than 24 hours prior to vegetation removal or ground-disturbing activities<br><br>2. Prior to construction on east side of outfall channel or Artesian Slough<br><br>3. Weekly during construction<br><br>4. Construction<br><br>5. Construction | 1. ET/biologist<br><br>2. ET/biologist<br><br>3. Biologist<br><br>4. Biologist<br><br>5. Biologist/USFWS and CDFW | 1. Survey results<br><br>2. Add fence specifications to design plans.<br><br>3. Document fence conditions in weekly biomonitoring report<br><br>4. Document monitoring results in weekly biomonitoring report<br><br>5. Document agency consultation results and proposed action | 1. Pre-construction<br><br>2. Pre-construction<br><br>3. Construction<br><br>4. Construction<br><br>5. Construction |

<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.



| MITIGATIONS   | MONITORING AND REPORTING PROGRAM  |                         |   |                 |                                     |
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|   | Method of Compliance<br>Or Mitigation Action                                | Timing of<br>Compliance | Oversight<br>Responsibility                                 | Actions/Reports | Monitoring<br>Timing or<br>Schedule |
| <ul style="list-style-type: none"> <li>An agency-approved biologist shall be present to monitor the fence weekly to assure it remains functional to exclude the mouse/shrew from the work area and will recommend needed fence repairs to the project proponent.</li> <li>Ground disturbance to suitable mouse/shrew habitat (including, but not limited to pickleweed, and emergent salt marsh vegetation such as bulrush and cattails) will be avoided to the extent feasible. Where mouse/shrew habitat cannot be avoided, an agency-approved biologist shall supervise the hand removal of any vegetation in mouse/shrew habitat to avoid impacts on the mouse/shrew. Such monitoring will occur for the duration of all clearing work within suitable habitat.</li> <li>If mouse/shrew 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 on the specific location and agency guidance, these measures may include relocation or buffer distances.</li> </ul> | avoidance, protection, or relocation measures.                              |                         |   |                 |                                     |

| MITIGATIONS   | MONITORING AND REPORTING PROGRAM   |   |   |  |  |
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|   | Documentation of Compliance<br>[Project Applicant/Proponent Responsibility]  |   | Documentation of Compliance<br>[Lead Agency Responsibility] |  |  |
|   | Method of Compliance<br>Or Mitigation Action   | Timing of<br>Compliance   | Oversight<br>Responsibility                                 | Actions/Reports  | Monitoring<br>Timing or<br>Schedule  |
| <p><b>MM BIO-7: Survey for Rare Plants</b></p> <ul style="list-style-type: none"> <li>Prior to the start of construction, a rare plant survey shall be conducted by a qualified biologist in accordance with CDFW's 2009 <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</i>.</li> <li>If a special status plant species is encountered on the project site, it shall be documented and submitted to the California Natural Diversity Database (CNDDB). The project shall avoid impacts during construction by clearly marking and delineating the location in the field and encircling the species with protective silt exclusion fencing. Visible signage shall be attached to the silt fencing to instruct workers to stay out of the sensitive rare plant area. If direct impacts cannot be avoided, then the District shall consult with CDFW to devise a plan for minimizing the impacts by one or more of the following methods: (1) salvage and replanting of plants at the same location following construction; (2) salvage and relocation of the plants to a suitable off-site location with long-term assurance of site protection; (3) collection of seeds or other propagules for reintroduction at the site or elsewhere; and (4) payment of fees in lieu of preservation of individual plants, to be used for conservation efforts elsewhere.</li> </ul> | <p>1. Retain qualified biologist to conduct rare plant survey.</p> <p>2. If special status plant species is encountered, the location shall be clearly marked and delineated by encircling the species with protective silt exclusion fencing.</p> <p>3. If direct impacts cannot be avoided, then the District shall consult with CDFW to devise a plan for minimizing the impacts.</p> | <p>1. Prior to start of construction.</p> <p>2. Prior to start of construction.</p> <p>3. Prior to start of construction.</p> | <p>1. PM/ET</p> <p>2. ET/biologist</p> <p>3. ET/CDFW</p>    | <p>1. Document survey results and submit to CDFW</p> <p>2. Document survey results and submit to CDFW</p> <p>3. Prepare Avoidance Plan</p> | <p>1. Prior to construction; confirm flowering period for potential species to be monitored.</p> <p>2. Prior to construction</p> <p>3. Prior to construction</p> |

| MITIGATIONS  | MONITORING AND REPORTING PROGRAM  |                         |   |   |                                     |
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|  | Method of Compliance<br>Or Mitigation Action  | Timing of<br>Compliance | Oversight<br>Responsibility                                 | Actions/Reports                             | Monitoring<br>Timing or<br>Schedule |
| <b>Impact BIO-2: Implementation of the Project could have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means</b>  |   |                         |   |   |                                     |
| Implement <b>MM BIO-1: General Construction Measures</b> , <b>MM BIO-2: Seasonal Avoidance of Sensitive Aquatic Species</b> , and <b>MM HAZ-1b: Health and Safety Plan</b><br>See Hazards and Hazardous Materials below.   |   |                         |   |   |                                     |
| <b>Impact BIO-3: Implementation of the Project could have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.</b>  |   |                         |   |   |                                     |
| Implement <b>MM HAZ-1b: Health and Safety Plan</b> , <b>MM HYD-1: Water Quality Best Management Practices During In-water and Near Water Work Activities</b> , and <b>MM HYD-2: Water Quality Monitoring</b><br>See Hazards and Hazardous Materials below.<br>See Hydrology and Water Quality below.   |   |                         |   |   |                                     |
| <b>MM BIO-8: Contain Bridge Deconstruction Debris.</b><br>ET or its contractor shall install measures to prevent debris associated with the deconstruction from entering Artesian Slough.<br><ul style="list-style-type: none"><li>No bridge demolition debris shall be allowed to enter Artesian Slough or be placed where it would be subject to erosion by rain, wind, or waves and enter into jurisdictional waters. Demolition debris and any other construction materials with the potential to be</li></ul> | 1. Cover demolition debris and any other construction materials every night and during rainfall events                | 1. Construction         | 1. CM/ET  | 1. Confirm protective measures are in place | 1. Construction                     |
|  | 2. Use floating boom to contain accidental debris discharged into Artesian Slough and retrieve any debris immediately | 2. Construction         | 2. CM/ET  | 2. Confirm protective measures are in place | 2. Construction                     |

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|  | Method of Compliance<br>Or Mitigation Action  | Timing of<br>Compliance                 | Oversight<br>Responsibility                                 | Actions/Reports   | Monitoring<br>Timing or<br>Schedule     |
| <p>eroded/entrained during a rainfall event will be covered every night and during any rainfall event.</p> <ul style="list-style-type: none"> <li>Floating booms shall be used to contain any accidental debris discharged into Artesian Slough, and any debris shall be removed as soon as possible, and no later than the end of each workday. If feasible, personnel in workboats within the work area will immediately retrieve such debris for proper handling and disposal. Non-buoyant debris discharged into waters shall be recovered as soon as possible after discharge.</li> <li>Accidental debris discharged into the outfall channel will be collected at the weir at the downstream terminus of the channel. No debris discharged into the outfall channel will be allowed to enter Artesian Slough.</li> </ul> |   |   |   |   |   |
| <b>CULTURAL RESOURCES</b>  |   |   |   |   |   |
| <b>Impact CUL-1: Implementation of the Project could cause a substantial adverse change in the significance of an archaeological resource pursuant to Section §15064.5</b>   |   |   |   |   |   |
| <p><b>MM-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 the ET personnel and Planning, Building and Code Enforcement (PBCE) Supervising Environmental Planner. Prehistoric archaeological materials might include obsidian and chert</p>   | <p>1. Ensure that measures related to archaeological discoveries are included in contract documents</p> <p>2. Ensure that all personnel complete environmental training prior to beginning work. Monitor to ensure that the contractors implement</p> | <p>1. Design</p> <p>2. Construction</p> | <p>1. ET/PM</p> <p>2. ET/CM</p>                             | <p>1. Document any archaeological discoveries</p> <p>2. Document any archaeological discoveries</p> | <p>1. Design</p> <p>2. Construction</p> |



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|   | Method of Compliance<br>Or Mitigation Action   | Timing of<br>Compliance | Oversight<br>Responsibility                                 | Actions/Reports   | Monitoring<br>Timing or<br>Schedule |
| <p>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>The City’s ET 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, who will be identified by the Native American Heritage Commission [NAHC]). If the Native American representative identifies the find as a tribal resource, ET 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> <p>The mitigation for archaeological resources shall include preservation in place, or, if preservation in place is not feasible, data recovery through excavation. If preservation</p> | measures in contract document.   |                         |   |   |                                     |
|   | 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:   | 3. Construction         | 3. ET/qualified archaeologist                               | 3. Document any archaeological discoveries                | 3. Construction                     |
|   | <ul style="list-style-type: none"> <li>a. On-site preservation of resource;</li> <li>b. Archaeological monitoring program with prior review/approval of ET; or</li> <li>c. Archaeological testing program with prior review/approval of ET.</li> </ul> |                         |   |   |                                     |
|   | 4. Prepare a Final Archaeological Resources Report if warranted. Submit to ET for review and approval.   | 4. Construction         | 4. ET/qualified archaeologist                               | 4. Prepare a Final Archaeological Resources Report        | 4. Construction                     |
|   | 5. Ensure that contract documents include measures   | 5. Design               | 5. ET/PM  | 5. Confirm contract documents include measures related to | 5. Design                           |

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|   | Method of Compliance<br>Or Mitigation Action   | Timing of<br>Compliance | Oversight<br>Responsibility                                 | Actions/Reports                                | Monitoring<br>Timing or<br>Schedule |
| 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 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 would not necessarily be not limited to) sample excavation, artifact collection, site 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. | related to discovery of human remains  |                         |   | discovery of human remains                     |                                     |
| <b>MM CUL-1.2: Inadvertent Discovery of Tribal Cultural Resources.</b><br>The Native American representative shall make recommendations to the City of San José for the appropriate measures to treat the tribal cultural resource, which will be implemented in accordance with Section 15064.5 of the CEQA Guidelines.  | 1. Evaluate the potential discovery and advise the ET as to the significance of the discovery. | 1. Construction         | 1. ET/PBCE  | 1. Consult with Native American representative | 1. Construction                     |

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|  | Method of Compliance<br>Or Mitigation Action   | Timing of<br>Compliance          | Oversight<br>Responsibility                                 | Actions/Reports                                  | Monitoring<br>Timing or<br>Schedule |
| <b>Impact CUL-2: Implementation of the Project could disturb human remains, including those interred outside of formal cemeteries</b>  |  |                                  |   |  |                                     |
| <b>MM-CUL-2: Inadvertent Discovery of Human Remains</b><br>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 PBCE Supervising Environmental Planner. The ET shall contact the Santa Clara County Coroner to determine 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 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 shall be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines as summarized below:<br><br>In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:<br>(1) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:<br>(A) The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and | 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. | 1. Preconstruction/ Construction | 1. PBCE/ET/CM   | 1. Environmental training                        | 1. Construction                     |
|  | 2. Confirm identification of human remains, if needed. If human remains are confirmed, perform required coordination and notifications.  | 2. Construction                  | 2. PBCE/Coroner/ NAHC                                       | 2. Contact NAHC                                  | 2. Construction                     |
|  | 3. Monitor to ensure the appropriate disposition of human remains.   | 3. Construction                  | 3. PBCE   | 3. Monitoring                                    | 3. Construction                     |
|  | 4. Submit final compliance report, if applicable.  | 4. Construction                  | 4. PBCE/NAHC  | 4. Submit final compliance report, if applicable | 4. Construction                     |

| MITIGATIONS  | MONITORING AND REPORTING PROGRAM  |                         |   |                 |                                     |
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|  | Method of Compliance<br>Or Mitigation Action                                | Timing of<br>Compliance | Oversight<br>Responsibility                                 | Actions/Reports | Monitoring<br>Timing or<br>Schedule |
| <p>(B) If the coroner determines the remains to be Native American:</p> <ol style="list-style-type: none"> <li>1. The coroner shall contact the Native American Heritage Commission within 24 hours.</li> <li>2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.</li> <li>3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code section 5097.98, or</li> </ol> <p>(2) Where the following conditions occur, the landowner or his authorized representative shall reburial the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.</p> <p>(A) The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.</p> <p>(B) The descendant identified fails to make a recommendation; or</p> |   |                         |   |                 |                                     |



| MITIGATIONS  |  | MONITORING AND REPORTING PROGRAM  |                         |   |  |
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|  |  | Method of Compliance<br>Or Mitigation Action                                | Timing of<br>Compliance | Oversight<br>Responsibility                                 | Monitoring<br>Timing or<br>Schedule                                      |
| (C) The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.   |  |   |                         |   |  |
| <b>GREENHOUSE GAS EMISSIONS</b>  |  |   |                         |   |  |
| <b>Impact GHG-1: The Project could conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.</b>   |  |   |                         |   |  |
| <b>MM-GHG-1:</b> Construction specifications for the Project shall require contractors to implement the following measures: <ul style="list-style-type: none"> <li>To comply with the City's Construction and Demolition Debris program, construction contractors shall use an authorized hauler to haul all construction and demolition debris from the Project to a certified waste diversion facility.</li> <li>Construction contractors shall use locally extracted, manufactured or recycled and reused materials including construction material to the extent feasible.</li> <li>Cut and fill from the Project site shall be balanced to the extent feasible</li> </ul> |  | 1. Ensure that contract documents include these measures.                   | 1. Design               | 1. ET/PM  | 1. Confirm design specifications include these measures<br><br>1. Design |

| MITIGATIONS  | MONITORING AND REPORTING PROGRAM  |   |  |  |   |
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|  | Method of Compliance<br>Or Mitigation Action  | Timing of<br>Compliance   | Oversight<br>Responsibility  | Actions/Reports  | Monitoring<br>Timing or<br>Schedule   |
| <b>HAZARDS AND HAZARDOUS MATERIALS</b>   |   |   |  |  |   |
| <b>Impact HAZ-1: Implementation of the Project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment and be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5</b>  |   |   |  |  |   |
| <b>MM-HAZ-1a: Pre-Construction Hazardous Materials Assessment</b><br>Prior to construction, ET or ESD's contractor shall ensure that a limited soil and/or groundwater investigation is performed at proposed construction work areas to characterize soil and groundwater quality. If the results reveal soil and/or groundwater contamination exist in excess of applicable regulatory screening levels (Environmental Screening Levels or California human health screening levels) for the proposed site use, the City shall contact the appropriate regulatory agency (the Santa Clara County Department of Environmental Health [SCCDEH], the Regional Water Quality Control Board [RWQCB], and/or Department of Toxic Substances Control [DTSC]) as appropriate. The ET or ESD's contractor shall complete subsequent site investigations and/or remedial activities required by the regulatory agency to ensure that residual impact, if any, shall not pose a continuing significant threat to groundwater resources, human health, or the environment.<br>The results of the pre-construction hazardous materials assessment shall be incorporated into the Site Health and Safety Plan prepared in accordance with <b>Mitigation Measure HAZ-1b</b> , below, and if a soil sample exceeds | 1. Ensure that contract documents include a limited soil and/or groundwater investigation meeting the requirements of the mitigation measure<br><br>2. The ET or its contractor shall complete subsequent site investigations and/or remedial activities required by the regulatory agency to ensure that residual impact, if any, shall not pose a continuing significant threat to groundwater resources, human health, or the environment.<br><br>3. Incorporate results of pre-construction hazardous materials assessment into the Site Health and Safety Plan | 1. Design<br><br><br><br><br><br><br><br><br><br><br>2. Pre-construction<br><br><br><br><br><br><br><br><br><br><br>3. Pre-construction | 1. ET/PM/PBCE<br><br><br><br><br><br><br><br><br><br><br>2. ET/CM<br><br><br><br><br><br><br><br><br><br><br>3. CM/ET/PBCE | 1. Results shall be incorporated into the Site Health and Safety Plan and the Soil and Groundwater Management Plan<br><br>2. Site Health and Safety Plan and Soil and Groundwater Management Plan<br><br>3. Site Health and Safety Plan and Soil and Groundwater Management Plan | 1. Design<br><br><br><br><br><br><br><br><br><br><br>2. Pre-construction<br><br><br><br><br><br><br><br><br><br><br>3. Pre-construction |



| MITIGATIONS   | MONITORING AND REPORTING PROGRAM  |  |   |                               |  |
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| <p>personal protective equipment shall be required for workers in accordance with state and federal regulations.</p> <ul style="list-style-type: none"> <li>Required worker health and safety provisions for all workers potentially exposed to contaminated materials, in accordance with state and federal worker safety regulations, and designated qualified individual personnel responsible for implementation of the HASP.</li> <li>The contractor shall have a site health and safety supervisor fully trained pursuant to hazardous materials regulations be present during excavation, trenching, or cut and fill operations to monitor for evidence of potential soil contamination, including soil staining, noxious odors, debris or buried storage containers. The site health and safety supervisor must be capable of evaluating whether hazardous materials encountered constitute an incidental release of a hazardous substance or an emergency spill. The site health and safety supervisor shall implement procedures to be followed in the event of an unanticipated hazardous materials release that may impact health and safety. These procedures shall be in accordance with hazardous waste operations and regulations and specifically include, but are not limited to: 1) immediately stopping work in the vicinity of the unknown hazardous materials release; 2) notifying SCCDEH, RWQCB, and/or DTSC; and 3) retaining a qualified environmental firm to perform sampling, remediation, and/or disposal.</li> </ul> | <p>3. A copy of the HASP shall be submitted to the PBCE Supervising Environmental Planner for review.</p> <p>4. Monitor compliance by the contractor, report non-compliance or discovery of suspect hazardous materials to PM and ET. Ensure corrective action, sampling, remediation and/or disposal as warranted. (Note contractor is solely responsible for health and safety of its employees).</p> | <p>3. Design/Pre-construction</p> <p>4. Construction</p> | <p>3. CM/ET/PBCE</p> <p>4. ET/CM</p>                        | <p>3. HASP</p> <p>4. HASP</p> | <p>3. Prior to construction</p> <p>4. Construction</p> |



| MITIGATIONS  | MONITORING AND REPORTING PROGRAM   |  |   |  |   |
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| <ul style="list-style-type: none"> <li>Documentation that HASP measures have been implemented during construction.</li> <li>Provision that submittal of the HASP to ET, or any review of the contractor's HASP, shall not be construed as approval of the adequacy of the contractor as a health and safety professional, the contractor's HASP, or any safety measure taken in or near the construction site. The contractor shall be solely and fully responsible for compliance with all laws, rules, and regulations applicable to health and safety during the performance of the construction work.</li> </ul>   |  |  |   |  |   |
| <p><b>MM HAZ-1c: Soil and Groundwater Management Plan</b></p> <p>If hazardous materials or contaminated soil and groundwater above regulatory screening levels are identified under the pre-construction hazardous materials assessment, done in accordance with Mitigation Measure HAZ-1a, ET shall require the construction contractor to prepare and implement a Soil and Groundwater Management Plan that specifies the method for handling and disposal of contaminated soil and groundwater prior to construction.</p> <p>The Soil and Groundwater Management Plan will establish the sampling and laboratory analysis program which may include the following: analysis of subsurface soil samples within the Project site for total petroleum hydrocarbons (as gasoline, diesel, and waste oil), Title 22 metals, and volatile organic compounds (VOCs) or any other chemicals of concern to evaluate the potential presence of contamination; groundwater samples if subsurface excavations are</p> | <p>1. Ensure that contract documents include a Soil and Groundwater Management Plan meeting the requirements of the mitigation measure and requirement for submittal of final compliance report documenting disposal of materials.</p> <p>2. Review contractor's Soil and Groundwater Management Plan.</p> <p>3. Monitor compliance by the contractor, report non-compliance or discovery of suspect hazardous materials to PM and ET. Ensure corrective</p> | <p>1. Design</p> <p>2. Design/<br/>construction</p> <p>3. Construction</p> | <p>1. ET/PM</p> <p>2. PM/CM/ESD's Hazardous Material Specialist</p> <p>3. ET/CM</p> | <p>1. Soil and Groundwater Management Plan</p> <p>2. Soil and Groundwater Management Plan</p> <p>3. Review contractor's final compliance report and retain all manifests for</p> | <p>1. Design</p> <p>2. Construction</p> <p>3. Construction/<br/>post-construction</p> |

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|   | Method of Compliance<br>Or Mitigation Action                                | Timing of<br>Compliance | Oversight<br>Responsibility                                 | Actions/Reports                 | Monitoring<br>Timing or<br>Schedule |
| <p>anticipated to require dewatering; and additional analyses for VOCs and semi-volatile organic compounds (SVOCs) for groundwater samples collected at construction locations within 1,000 feet of adjacent landfills.</p> <p>The Soil and Groundwater Management Plan shall include all necessary procedures to ensure that excavated materials and fluids generated during construction are stored, managed, and disposed of in a manner that is protective of human health and in accordance with applicable laws and regulations. The Plan shall include the following information.</p> <ul style="list-style-type: none"> <li>Step-by-step procedures for evaluation, handling, stockpiling, storage, testing, and disposal of excavated material, including criteria for reuse and offsite disposal. All excavated materials shall be inspected prior to initial stockpiling, and spoils that are visibly stained and/or have a noticeable odor shall be stockpiled separately to minimize the amount of material that may require special handling. In addition, excavated materials shall be inspected for buried building materials, debris, and evidence of underground storage tanks; if identified, these materials shall be stockpiled separately and characterized in accordance with landfill disposal requirements. If some of the spoils do not meet the reuse criteria and/or debris is identified, these materials shall be disposed of at an appropriately permitted landfill facility.</li> </ul> | <p>action, sampling, remediation and/or disposal as warranted.</p>          |                         |   | <p>hazardous waste disposal</p> |                                     |

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|   |  | Method of Compliance<br>Or Mitigation Action   | Timing of<br>Compliance                 | Oversight<br>Responsibility                                 | Monitoring<br>Timing or<br>Schedule            |
| <ul style="list-style-type: none"> <li>Procedures to be implemented if unknown subsurface conditions or contamination are encountered, such as previously unreported tanks, wells, or contaminated soils.</li> <li>Procedures for containment, handling and disposal of groundwater generated from construction dewatering, the method to be used to analyze groundwater for hazardous materials likely to be encountered and the appropriate treatment and/or disposal methods.</li> </ul>   |  |  |   |   |  |
| <b>HYDROLOGY AND WATER QUALITY</b>  |  |  |   |   |  |
| <b>Impact HYD-1: Implementation of the Project could violate water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality.</b>  |  |  |   |   |  |
| <b>MM-HYD-1: Water Quality Best Management Practices During In-water and Near Water Work Activities</b><br>In order to avoid and/or minimize potential impacts to water quality (and jurisdictional waters) during Project activities that would be conducted in or over waters, the following construction BMPs would be implemented by the contractor, and overseen by a water quality specialist, to prevent releases of construction materials or hazardous materials and to avoid other potential environmental impacts: <ul style="list-style-type: none"> <li>In-water work with the potential to harm fish and aquatic resources (e.g., grouting and rip-rap placement) will be conducted at low tide to the extent feasible.</li> <li>All project components will be designed using materials that follow local, California, and national environmental regulations; this includes the use of</li> </ul> |  | 1. If requested by regulatory agencies, prepare intrusion prevention plan plan.  | 1. Pre-construction                     | 1. PM/ET/water quality specialist                           | 1. Oversight of intrusion prevention plan plan |
|   |  | 2. Conduct rip –rap placement and grouting during low tide   | 2. During Construction of in-water work | 2. ET/CM/water quality specialist                           | 2. Monitor for compliance                      |
|   |  | 3. Conduct weir flashboard replacement at high tide  | 3. Construction                         | 3. ET/contractor/ water quality specialist                  | 3. Monitor for compliance                      |
|   |  | 4. Staged construction materials with the potential to be eroded/entrained during a rainfall event will be covered every night and during any rainfall event | 4. Construction                         | 4. ET/CM/water quality specialist                           | 4. Monitor for compliance                      |

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| <p>underwater grout (e.g., cementitious or epoxy specifically chosen for in-water applications).</p> <ul style="list-style-type: none"> <li>No debris, rubbish, soil, silt, sand, cement, concrete, or washings thereof, or other construction-related materials or wastes, oil, or petroleum products shall be allowed to enter into jurisdictional waters or placed where it would be subject to erosion by rain, wind, or waves and enter into jurisdictional waters. Staged construction materials with the potential to be eroded/entrained during a rainfall event will be covered every night and during any rainfall event (as applicable).</li> <li>All construction material, wastes, debris, sediment, rubbish, trash, fencing, etc., will be removed from the project site daily during construction, and thoroughly at completion of the project. Debris will be transported to an authorized upland disposal area.</li> <li>During rip-rap placement and grouting, a silt curtain with floating boom, or another effective technology, will be placed to isolate the construction footprint from Artesian Slough to prevent water quality impacts. The silt curtain will be placed within 500-feet of the in-water construction activity. The exact location will be determined, at the discretion of the contractor in consultation with the water quality specialist, with the goal to maximize functionality of the curtain. The contractor will ensure curtain placement is also upstream of the water quality monitoring location</li> </ul> | 5. Remove construction material, wastes, debris, sediment, rubbish, trash, etc., daily | 5. During construction of in-water work | 5. ET/CM/water quality specialist                           | 5. Monitor for compliance | 5. Construction                     |
|   | 6. Install a silt curtain with floating boom, or another effective technology          | 6. Construction                         | 6. ET/CM/water quality specialist                           | 6. Monitor for compliance | 6. Construction                     |
|   | 7. Service vehicles and equipment used during the course of construction offsite       |   |   |                           |                                     |



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| <p>described below. The silt curtain will accomplish the following:</p> <ul style="list-style-type: none"> <li>○ Isolate construction activities from Artesian Slough</li> <li>○ Contain turbidity and sediment resulting from the construction activity</li> <li>○ Deter fish, and other aquatic species, from accessing the active construction area</li> <li>○ Allow water to pass between Artesian Slough and the outfall channel with the tides</li> <li>• The silt curtain will be at least the height of the outfall weir (approximately 6 feet tall) to maintain a barrier at high tide. The curtain will consist of permeable filter fabric supported by a line of floats (boom) on the water surface and a line of weights/anchors on the bottom to secure the curtain to the channel bed to maintain coverage around the active in-water construction area. The curtain would be secured to land and to the weir with anchors at the channel banks to hold the curtain in place.</li> <li>• If requested by BCDC, CDFW, the Water Board, or USACE, the contractor will prepare a plan that provides a description of methods to be used to direct flow away from the active construction work area in Artesian Slough prior to implementation. Temporary measures will be used to minimize the volume of direct flow from the outfall channel into the active construction</li> </ul> |   |                         |   |                 |                                     |

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|   | Method of Compliance<br>Or Mitigation Action                                | Timing of<br>Compliance | Oversight<br>Responsibility                                 | Actions/Reports | Monitoring<br>Timing or<br>Schedule |
| <p>site to minimize the movement of construction-related turbidity increases into Artesian Slough. .</p> <ul style="list-style-type: none"> <li>Floating booms shall be used to contain any accidental debris discharged into waters, and any debris shall be removed as soon as possible, and no later than the end of each workday. If feasible, personnel in workboats within the work area will immediately retrieve such debris for proper handling and disposal. Non-buoyant debris discharged into waters shall be recovered (by divers) as soon as possible after discharge. Protective measures will be utilized to prevent accidental discharges of oils, gasoline, or other hazardous materials to jurisdictional waters during fueling, cleaning, and maintenance of equipment. Well-maintained equipment will be used to perform construction work, and, except in the case of failure or breakdown, equipment maintenance will be performed off-site. Crews will check heavy equipment daily for leaks, and if leaks are discovered it will be immediately contained and use of the equipment will be suspended until repaired. The source of the leak will be identified, material will be cleaned up, and the cleaning materials will be collected and properly disposed.</li> <li>Vehicles and equipment used during the course of construction will be serviced offsite. On-site fueling of marine equipment (if any) will comply with U.S. Coast Guard requirements. Smaller equipment, such as generators and hand tools will be fueled using fuel</li> </ul> |   |                         |   |                 |                                     |

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|   | Method of Compliance<br>Or Mitigation Action                                | Timing of<br>Compliance | Oversight<br>Responsibility                                 | Actions/Reports | Monitoring<br>Timing or<br>Schedule |
| tanks, hoses, and fuel cans. Fueling locations will be inspected after fueling to document that no spills have occurred. Any spills will be cleaned up immediately. |   |                         |   |                 |                                     |

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| <b>MM-HYD-2: Water Quality Monitoring</b> <ul style="list-style-type: none"> <li>Prior to and during in-water construction, water quality measurements will be collected, and recorded within Artesian Slough. Data will be collected at the City's previously established monitoring location within Artesian Slough, approximately 1,500 feet downstream of the outfall weir.<sup>3</sup></li> <li>Measurement data will be collected prior to the start of in-water construction each day to establish current ambient, baseline conditions. Subsequently, water quality data will be collected every two hours during construction to ensure compliance with the water quality metrics described below. All measurements will be collected at the top of the water column to control for the natural variability in water quality at different depths, and to ensure data are comparable.</li> <li>Exceedance of any of the water quality metrics described below would trigger a stop to in-water work, and adjustment to the water quality BMPs (as described in MM HYD-1) until it can be demonstrated that water quality objectives can be maintained. The water quality monitoring parameters enumerated below represent a consolidation of applicable regulatory requirements as outlined within the Marine</li> </ul> | 1. Conduct water quality monitoring   | 1. During in-water construction | 1. ET/CM  | 1. Document water quality monitoring results | 1. Construction                     |

<sup>3</sup> This station was established in 2005 under the RWQCB's Wastewater Discharge Requirement (WDR, Order No. R2-0003) for the operation of the City's Pond A18 continuous discharge monitoring. Fourteen years of water quality data have been collected at this monitoring location.

|   |  |  |  |  |  |
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| <p>Water Quality Objectives (MWQO) for the San Francisco Bay Basin.</p> <ul style="list-style-type: none"> <li>• Visual: No significant floating particulates, suspended materials, grease, or oil shall be visible. No aesthetically undesirable coloration of the water surface; oils, grease, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water.</li> <li>• Turbidity. Given the wide historic range, and high daily variability, in documented turbidity within Artesian Slough, strict adherence to Basin Plan objectives is infeasible. As a result, the following thresholds are proposed: <ul style="list-style-type: none"> <li>○ No more than 50 Nephelometric Turbidity Units (NTUs) above background when background between 0 and 100 NTUs.</li> <li>○ No more than 50 percent above background turbidity levels when background is greater than 100 NTUs.</li> </ul> </li> <li>• Dissolved oxygen (DO): DO levels will not drop below 5.0 mg/l. If natural factors cause lesser concentrations, construction will cause no further reduction in the concentration of DO.</li> <li>• pH: Construction will cause no more than a 0.5 increase or decrease in pH and pH levels will remain within 6.5 to 8.5.</li> <li>• If requested by natural resource agencies, during work that is associated with the potential to release Polycyclic Aromatic Hydrocarbons (PAHs), pre-construction and post-construction sampling for total PAHs will be conducted as follows: pre-construction sampling for total PAHs prior to construction activity to establish ambient PAH concentration in Artesian Slough, and at the conclusion of project construction,</li> </ul> |  |  |  |  |  |
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|  | Method of Compliance<br>Or Mitigation Action                                | Timing of<br>Compliance | Oversight<br>Responsibility                                 | Actions/Reports | Monitoring<br>Timing or<br>Schedule |
| conduct additional PAH sampling for total PAHs. Post-construction total PAHs are not to exceed 15 µg/l, unless it can be shown that post-construction site concentrations are similar to the ambient levels measured during pre-construction sampling. |   |                         |   |                 |                                     |

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| <b>TRIBAL CULTURAL RESOURCES</b>  |   |                         |   |                 |                                     |
| <b>Impact TRC-1: Implementation of the Project could cause a substantial adverse change in the significance of a tribal cultural resource pursuant to §21074.</b>   |   |                         |   |                 |                                     |
| Implement MM CUL-1.1: Inadvertent Discovery of Archaeological Resources, MM CUL-1.2: Inadvertent Discovery of Tribal Cultural Resources, and MM CUL-2: Inadvertent Discovery of Human Remains<br>See Cultural Resources section, above. |   |                         |   |                 |                                     |

*Source:* San Jose-Santa Clara Regional Wastewater Facility Outfall Bridge and Instrumentation Improvements Project Initial Study, March 2021

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