

DOCKETED

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MITIGATION MONITORING AND REPORTING PROGRAM

San José Microsoft Data Center

19-SPPE-04

Planning File No. SP19-066

March 2022

PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) 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 Final Environmental Impact Report prepared for the San Jose Data Center project concluded that the implementation of the project would not result in significant effects on the environment with the incorporation of mitigation measures. This MMRP addresses those measures in terms of how and when they will be implemented.

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

I, _____, the applicant, on the behalf of _____, hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of an EIR for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature _____

Date _____

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
AIR QUALITY					
Impact 4.3-b Would the project 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?					
<p>AQ-1: To incorporate the Bay Area Air Quality Management District (BAAQMD) recommendations for Best Management Practices to control fugitive dust, the project owner shall implement a fugitive dust control plan that has been reviewed and approved by the Director or Director’s designee with the City of San Jose Department of Planning, Building, and Code Enforcement prior to the issuance of any grading or building permits, whichever occurs earliest. The project owner shall implement the following measures during construction:</p> <ul style="list-style-type: none"> • Minimize fugitive dust generation by watering exposed soils two time per day or as needed. • Cover truck loads when transporting soil, sand, or other loose materials to or from the site. • Perform street sweeping to remove all visible mud or dirt track-out onto adjacent public 	Prepare and implement a fugitive dust control plan	Prior to and during construction phase	City of San José Director of Planning, Building or Code Enforcement or Director’s designee	Receive and approve the fugitive dust control measures during construction	Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest)

<p>roads at least once per day. The use of dry power sweeping is prohibited.</p> <ul style="list-style-type: none"> • Limit onsite vehicle speeds on unpaved surfaces to 15 miles per hour. • Pave onsite roads and driveways, and sidewalks as soon as possible in the construction schedule. • Pour foundations for building pads as soon as possible after grading. • Install wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity. • Suspend excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph. • Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent. • Limit construction equipment idling times to a maximum 5 minutes, or shut equipment down when not in use. • Maintain and tune construction equipment in accordance with manufacturer's specifications. • Ensure that construction off-road equipment greater than 25 horsepower (hp) uses engines that meet or exceed Tier 4 final off-road emission standards, and that zero-emission and hybrid-powered equipment is encouraged. • Ensure that all heavy-duty diesel trucks used for material delivery or hauling meet or exceed 					
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<p>California Air Resources Board emissions standards for engine model year 2010.</p> <ul style="list-style-type: none"> • Ensure that all heavy-duty diesel trucks used for material delivery or hauling meet or exceed California Air Resources Board emissions standards for engine model year 2010. • Use grid power where available instead of portable diesel engines. • Employ a certified visible emission evaluator to verify that construction equipment is functioning properly. • Post a publicly visible sign with the telephone number and name of the person to contact regarding dust complaints and the BAAQMD telephone number. The contact person shall implement corrective measures, as needed, within 48 hours, and the BAAQMD shall be informed of any legitimate complaints received to verify compliance with applicable regulations. 					
<p>Impact 4.3-c Would the project expose sensitive receptors to substantial pollutant concentrations?</p>					
<p>AQ-1 (see Impact 4.3-b for mitigation)</p>					
<p>BIOLOGICAL RESOURCES</p>					
<p>Impact 4.4-a Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?</p>					
<p>BIO-1: If initial site disturbance activities, including tree, shrub, or vegetation removal, are to occur during the breeding season February 1st to August 31st inclusive, a qualified biologist shall conduct pre-construction surveys for nesting migratory birds onsite and within 250 feet (for</p>	<p>A qualified biologist shall conduct pre-construction surveys for nesting migratory birds onsite and within 250</p>	<p>Within 7 days of the onset of ground disturbance if disturbances are to commence</p>	<p>City of San José Director of Planning, Building or Code</p>	<p>Submit preconstruction surveys and documentation to Director of Planning, Building or Code</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permit,</p>

<p>raptors) of the site, where accessible. The survey shall occur within 7 days of the onset of ground disturbance if disturbances are to commence between February 1st and June 30th and within 30 days prior to the onset of ground disturbance between July 1st and August 31st. If a nesting migratory bird were to be detected, an appropriate construction-free buffer shall be established in consultation with the California Department of Fish and Wildlife (CDFW) and the Santa Clara Valley Habitat Agency. The actual size of the buffer, which shall be determined by the project's qualified biologist, would depend on species, topography, and type of activity that would occur in the vicinity of the nest. The project buffer would be monitored periodically by the project biologist to verify compliance. After the nest is completed, as determined by the biologist, the buffer would no longer be required. The project owner shall notify the city of San Jose Director of the Department of Planning, Building and Code Enforcement or their designee of a nesting bird within 24 hours of detection, including sharing avoidance (buffer) placement and size.</p>	<p>feet (for raptors) of the site, where accessible.</p>	<p>between February 1st and August 31st</p>	<p>Enforcement or Director's designee</p>	<p>Enforcement or Director's designee</p>	<p>whichever occurs earliest.</p>
	<p>If a nesting bird is detected, an appropriate construction-free buffer shall be established in consultation with the California Department of Fish and Wildlife (CDFW) and the Santa Clara Valley Habitat Agency.</p> <p>Upon request from the California Department of Fish and Wildlife or the Santa Clara Valley Habitat Agency, prepare and submit a report documenting these actions.</p>	<p>Upon detection of a nesting migratory bird.</p>	<p>California Department of Fish and Wildlife and the Santa Clara Valley Habitat Agency and City of San José Director of Planning, Building or Code Enforcement or Director's designee</p>	<p>Submit report to Director of Planning, Building or Code Enforcement or Director's designee of appropriate construction free buffer as determined and with evidence of consultation with the California Department of Fish and Wildlife (CDFW) and the Santa Clara Valley Habitat Agency.</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permit, whichever occurs first</p>
	<p>Project biologist to monitor the buffer to verify compliance bi-weekly.</p>	<p>Bi-weekly</p>	<p>Director of Planning, Building or Code Enforcement or Director's designee</p>	<p>Submit report of bi-weekly monitoring results to Director of Planning, Building or Code Enforcement or Director's designee</p>	<p>Bi-weekly</p>
	<p>Notify the City of San José Director of Planning, Building and</p>	<p>Within 24 hours of detection</p>	<p>City of San José Director of Planning, Building</p>	<p>Provide notification City of San José Director of Planning,</p>	<p>Prior to issuance of any tree removal,</p>

	Code Enforcement or Director's designee of a nesting bird, including sharing avoidance (buffer) placement and size.		and Code Enforcement or Director's designee	Building and Code Enforcement or Director's designee	grading, demolition, or building permit, whichever occurs first
<p>BIO-2: The SCVHP identifies the project site to be within 250 feet of potentially suitable tricolored blackbird nesting habitat occurring along Coyote Creek. The project applicant shall conduct surveys for tricolored blackbirds within 250 feet of this habitat, where visual access is possible, prior to start of construction following protocols in Condition 17 in Chapter 6 of the SCVHP. Such protocols include the following:</p> <ul style="list-style-type: none"> • Prior to any ground disturbance, a qualified biologist shall complete a background assessment to determine if there has been nesting at the site or near 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). • If nesting in the past 5 years is not evident, the 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 and shall document the presence or absence of nesting colonies of tricolored blackbird. Surveys shall conclude no more than 2 calendar days prior to construction, per Condition 17 of Chapter 6 in the SCVHP. 	Conduct surveys for tricolored blackbirds within 250 feet of this habitat, where visual access is possible and following protocols in Condition 17 in Chapter 6 of the SCVHP	Prior to issuance of any tree removal, grading, demolition, or building permit, whichever occurs first	City of San José Director of Planning, Building or Code Enforcement or Director's designee	Submit background assessment and pre-construction surveys to the City of San José Director of Planning, Building or Code Enforcement or Director's designee	Prior to issuance of any tree removal, grading, demolition, or building permit, whichever occurs first
	Notify the City of San José Director of Planning, Building, or Code Enforcement or Director's designee, the CDFW, and the USFWS when tricolored blackbird nests are detected, and identify all avoidance measures taken.	Within 24 hours of detection of tricolored blackbird nests	City of San José Director of Planning, Building or Code Enforcement or Director's designee, the CDFW, and the USFWS	Provide notification City of San José Director of Planning, Building and Code Enforcement or Director's designee	Receive within 24 hours of detection of tricolored blackbird nests

<ul style="list-style-type: none"> • Should a nesting colony of tricolored blackbirds be located, a 250-foot construction-free buffer shall be established from the edge of all hydric vegetation associated with the nest site and the buffer shall be avoided, and the CDFW and USFWS shall be notified immediately. • If construction occurs in the project site during the nesting season and when the 250-foot buffer is in place around active nesting habitat, a qualified biologist shall conduct periodic monitoring of the site to confirm that the 250-foot buffer is enforced. The biologist shall have the authority to increase the buffer size if needed based on tricolored blackbird behavior at the active nesting area. • If active tricolored blackbird nesting occurs within 250 feet of the project site and offsite utility alignment areas and construction occurs during the active nesting period resulting in the need for a buffer, the qualified biologist shall conduct training for construction personnel in avoidance procedures, buffer zones, and safety protocols to verify no impacts to the nest. <p>The project owner shall notify the city of San Jose Director or their designee, the CDFW, and the USFWS within 24 hours of detection of tricolored blackbird nests and all avoidance measures taken.</p>					
<p>BIO-3: If necessary, to mitigate impacts to mapped occupied burrowing owl habitat, the project applicant shall pay the applicable burrowing owl fee as specified in the SCVHP for each acre of burrowing owl habitat impacted as a result of project buildout. Pursuant to the SCVHP</p>	<p>Remit payment of the Burrowing Owl fee to the City of San José Planning, Building and Code Enforcement as specified in the SCVHP</p>	<p>Prior to the issuance of any grading permits.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director’s designee.</p>	<p>Verify receipt of full payment, as required</p>	<p>Prior to the issuance of any grading permits.</p>

<p>(2012), impacts to both temporary and permanent burrowing owl nesting habitat are to be mitigated, via the project owner paying the most up-to-date fees as reported by the Santa Clara Valley Habitat Agency. Fees are to be paid to the Director or Director's designee with the City of San Jose Department of Planning, Building and Code enforcement, before or at the time that the grading permit for the project is issued.</p>	<p>for each acre of occupied burrowing owl nesting habitat impacted as a result of project buildout.</p>				
<p>BIO-4: The project applicant shall conduct preconstruction surveys to ascertain whether burrowing owls occupy burrows on the site and along the utility alignments offsite prior to construction. The preconstruction surveys shall be performed by a qualified biologist and shall consist of a minimum of two surveys, with the first survey no more than 14 days prior to initial construction activities (i.e. vegetation removal, grading, excavation, etc.) and the second survey conducted no more than 2 days prior to initial construction activities. If no burrowing owls or fresh sign of burrowing owls are observed during preconstruction surveys, construction may continue. However, if a burrowing owl is observed during these surveys, occupied burrows shall be identified by the monitoring biologist and a buffer shall be established, as follows:</p> <ul style="list-style-type: none"> If an active nest is found, a qualified biologist shall study nesting behavior and shall establish at a minimum a 250-foot non-disturbance buffer around all nest sites, based on stress response of the birds and the 2012 Staff Report (CDFW 2012). If the biologist determines that the nest is vacant, the non-disturbance buffer zone may be removed, in 	<p>Conduct preconstruction surveys by a qualified biologist to ascertain whether burrowing owls occupy burrows on the site and along the utility alignments offsite</p>	<p>First survey no more than 14 days prior to initial construction activities (i.e. vegetation removal, grading, excavation, etc.) and the second survey conducted no more than 2 days prior to initial construction activities.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Submit results of preconstruction surveys by a qualified biologist to City of San José Director of Planning, Building and Code Enforcement or Director's designee and the San Jose Valley Habitat Agency.</p>	<p>Submit results of preconstruction survey no more than 14 days prior to issuance of any tree removal, grading, demolition or building permit issuance</p>
	<p>If a burrowing owl is observed during these surveys, occupied burrows shall be identified by the monitoring biologist and a buffer shall be established</p>	<p>During surveys</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee and the Santa Clara Valley Habitat Agency</p>	<p>Provide evidence to City of San José Director of Planning, Building and Code Enforcement or Director's designee as well as to the Santa Clara Valley Habitat Agency of buffer established</p>	<p>Within 24 hours of detecting an occupied burrow.</p>

<p>accordance with measures described in the SCVHP. The biologist shall supervise hand excavation of the burrow to prevent reoccupation only after receiving approval from the wildlife agencies (CDFW and USFWS) in accordance with Chapter 6, Condition 15 of the SCVHP.</p> <ul style="list-style-type: none"> For permission to encroach within the nest buffer, (February 1st through August 31st), an Avoidance, Minimization, and Monitoring Plan shall be prepared and approved by the City and the wildlife agencies prior to such encroachment in accordance with Chapter 6 of the SCVHP. <p>An Avoidance, Minimization, and Monitoring Plan shall be prepared, provided to the agencies, and approved by the City Director or their designee and the wildlife agencies prior to nest encroachment in accordance with Chapter 6 of the SCVHP.</p>	<p>An Avoidance, Minimization, and Monitoring Plan shall be prepared and provided to the Santa Clara Valley Habitat Agency</p>	<p>Prior to nest encroachment in accordance with Chapter 6 of the SCVHP.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director’s designee and the Santa Clara Valley Habitat Agency</p>	<p>Approve Avoidance, Minimization and Monitoring Plan.</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permit that results in nest encroachment in accordance with Chapter 6 of the SCVHP.</p>
<p>BIO-5: Should a burrowing owl be located during the non-breeding season (September through January), a 250-foot buffer shall be established, and construction activities shall not be allowed within the 250-foot buffer of the active burrow(s) used by any burrowing owl unless the following avoidance measures are adhered to:</p> <ul style="list-style-type: none"> A qualified biologist shall monitor the owls for at least 3 days prior to construction to determine baseline foraging behavior (i.e., behavior without construction). The same qualified biologist shall monitor the owls during construction. If the biologist determines there is a change in owl nesting 	<p>Establish a 250-foot buffer if a burrowing owl is located during the non-breeding season (September through January).</p>	<p>During construction</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director’s designee and the Santa Clara Valley Habitat Agency</p>	<p>Provide buffer and construction contracts to City of San José Director of Planning, Building and Code Enforcement or Director’s designee of buffer established, and construction activities prohibited within buffer unless measures adhered to.</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permit.</p>

<p>and foraging behavior as a result of construction activities, these activities shall cease within the 250-foot buffer.</p> <ul style="list-style-type: none"> If the owls are gone from the burrows for at least 1 week, the project applicant may request approval from the habitat agency to excavate all usable burrows within the construction area to prevent owls from reoccupying the site. After all usable burrows are excavated, the buffer zone shall be removed, and construction may continue. 	<p>Construction activities shall not be permitted within the buffer unless avoidance measures in BIO-5 are adhered to, and approval is received from the Santa Clara Valley Habitat Agency.</p>	<p>Prior to construction</p>	<p>Approval from Santa Clara Valley Habitat Agency with submission of approval to City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Submit Santa Clara Valley Habitat Agency approval of BIO-5 measures if avoidance is not possible to City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permit</p>
<p>The project owner shall request approval from the Santa Clara Valley Habitat agency to excavate usable, unoccupied burrows within the project site during the non-breeding season.</p>	<p>A qualified biologist shall monitor the owls to determine baseline foraging behavior (i.e., behavior without construction).</p>	<p>At least 3 days prior to construction</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director’s designee and the Santa Clara Valley Habitat Agency</p>	<p>Submit report of baseline foraging behavior to City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Three days prior to issuance of any tree removal, grading, demolition, or building permit that would result in any construction in buffer areas</p>
	<p>The same qualified biologist shall monitor the owls during construction.</p>	<p>During construction within the non-breeding season.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Submit monitoring reports to City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Ongoing, during construction</p>
	<p>If there is a change in nesting and foraging behavior as a result of construction, cease</p>	<p>During construction within the non-breeding season</p>	<p>City of San José Director of Planning, Building and Code</p>	<p>Submit notification for approval by City of San José Director of Planning, Building and Code Enforcement or</p>	<p>Within two days of change in nesting and foraging.</p>

	activities within the 250-foot buffer		Enforcement or Director's designee	Director's designee of construction activity cessation	
	Request approval from the Santa Clara Valley Habitat Agency to excavate all usable burrows within the construction area to prevent owls from reoccupying the site. After all usable burrows are excavated, remove the buffer zone and continue construction.	If the owls are gone from the burrows for at least 1 week during construction	Santa Clara Valley Habitat Agency and City of San José Director of Planning, Building and Code Enforcement or Director's designee	Submit approval to the City of San José Director of Planning, Building and Code Enforcement or Director's designee	Prior to issuance of any tree removal, grading, demolition, or building permit that would result in any construction in buffer areas
	Request approval from the Santa Clara Valley Habitat Agency to excavate usable, unoccupied burrows within the project site during the non-breeding season.	During non-breeding season	Santa Clara Valley Habitat Agency and City of San José Director of Planning, Building and Code Enforcement or Director's designee	Submit Santa Clara Valley Habitat Agency approval to City of San José Director of Planning, Building and Code Enforcement or Director's designee	Prior to issuance of any tree removal, grading, demolition, or building permit that would result in evacuation of usable unoccupied burrows.
BIO-11: The project applicant shall comply with all applicable laws and regulations regarding requirements of the California Department of Fish and Wildlife, United States Army Corps of Engineers, and the Regional Water Quality Control Board for aspects of the project, if any, which fall within those agencies' respective purview, including obtaining any permits required for the	Prepare and submit necessary reports. Include any necessary permits and monitoring requirements.	Prior to issuance of any tree removal, grading, demolition, or building permit, whichever occurs first, and updated	Santa Clara Valley Habitat Agency and City of San José Director of Planning, Building and Code	Submit approved report(s) and permit(s) to City of San José Director of Planning, Building, and Code Enforcement or Director's designee,	Prior to issuance of any tree removal, grading, demolition, or building permit

<p>construction of the utility lines in the offsite infrastructure alignment areas, as well as compliance with any additional conditions attached to any required permits and monitoring requirements (if any). Copies of the permits, along with an updated Worker Environmental Awareness Program (if necessary per BIO-13) shall be available to the Director or their designee with the City of San Jose Department of Planning, Building and Code Enforcement and the Santa Clara Valley Habitat Agency upon request.</p>		<p>as necessary per BIO-13</p>	<p>Enforcement or Director's designee</p>	<p>as well as the Santa Clara Valley Habitat Agency</p>	
<p>BIO-13: A worker environmental awareness program biological resources module will be conducted for onsite construction personnel prior to the start of construction activities. The module will explain the measure and any other measures developed to prevent impacts on special-status species, including marsh species (saltmarsh common yellowthroat and salt marsh harvest mouse) and nesting birds. The module will also include a description of special-status species and their habitat needs, as well as an explanation of the status of these species and their protection under Endangered Species Act, California Endangered Species Act, and other statutes. A brochure will be provided with color photos of sensitive species, as well as a discussion of any permit measures. A copy of the program and brochure shall be provided for review and approval to Director or Director's designee with the City of San Jose Department of Planning, Building and Code Enforcement and the Santa Clara Valley Habitat Agency at least 30 days prior to the start of construction, and updated as necessary per BIO-11. This includes the following measures:</p>	<p>Prepare the worker environmental awareness program and brochure and submit for review and approval to City of San José Director of Planning, Building and Code Enforcement or Director's designee and the Santa Clara Valley Habitat Agency</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permit, whichever occurs first, and updated as necessary per BIO-11</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee and the Santa Clara Valley Habitat Agency</p>	<p>Review and approve worker environmental awareness program and brochure</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permit, whichever occurs first, and updated as necessary per BIO-11</p>

<ul style="list-style-type: none">• Environmental Inspector: A qualified Environmental Inspector shall verify implementation and compliance with all mitigation measures. The Environmental Inspector shall have the authority to stop work or determine alternative work practices• where safe to do so, as appropriate, if construction activities are likely to affect sensitive biological resources.• Litter and Trash Management: Food scraps, wrappers, food containers, cans, bottles, and other trash from the project area shall be deposited into closed trash containers. Trash containers shall be removed from the project work areas at the end of each working day unless located in an existing substation, potential staging area, or the switching station site.• Parking: Vehicles and equipment shall be parked on pavement, existing roads, and previously disturbed or developed areas, or work areas as identified in this document.• Work Areas, Staging Areas: Work, staging, vehicle parking, and equipment parking areas shall be contained within the final areas that are negotiated with the relevant property owners, or as noted above.• Wetland and Waters Avoidance: Wetlands and waters as identified in the Aquatic Resources Delineation Report shall be avoided during all work activities.• Pets and Firearms: No pets or firearms shall be permitted at the project site.					
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<p>BIO-15: Prior to any disturbance of the onsite wetland(s), the authorized biologist shall perform protocol-level surveys for the Congdon's tarplant, during appropriate blooming season. A report shall be prepared and provided to California Department of Fish and Wildlife, the Santa Clara Valley Habitat Agency, and the Director or Director's designee with the City of San Jose Department of Planning, Building and Code Enforcement 30 days prior to any disturbance.</p>	<p>Authorized biologist shall perform protocol-level surveys for the Congdon's tarplant, during appropriate blooming season and prepare and provide a report to California Department of Fish and Wildlife, the Santa Clara Valley Habitat Agency, and the City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>30 days prior to any disturbance</p>	<p>California Department of Fish and Wildlife, the Santa Clara Valley Habitat Agency, and the City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Review and approve report</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permit that results in any disturbance</p>
<p>BIO-16: Pre-construction survey for San Francisco dusky-footed woodrats and ringtail avoidance.</p> <p>1. A qualified biologist shall conduct a preconstruction survey for San Francisco dusky-footed woodrat nests and ringtail individuals no more than 30 days prior to the onset of construction activities within 50 feet of construction zones. This survey shall be conducted prior to vegetation removal or initial grading activities.</p>	<p>A qualified biologist shall conduct a preconstruction survey for San Francisco dusky-footed woodrat nests and ringtail individuals within 50 feet of construction zones.</p>	<p>No more than 30 days prior to the onset of construction activities and prior to vegetation removal or initial grading activities.</p>	<p>CDFW, the Santa Clara Valley Habitat Agency, and the City of San José Director of Planning, Building, and Code Enforcement or Director's designee</p>	<p>Review and approve preconstruction survey report of San Francisco dusky-footed woodrats and ringtails</p>	<p>Prior to issuance of any tree removal, grading, or demolition permits</p>
<p>a. Non-breeding season nest deconstruction for San Francisco dusky-footed woodrat: Identified nests of the San Francisco dusky-footed woodrat shall be avoided, where possible. If avoidance is not possible, the nest(s) shall be manually deconstructed under supervision of a qualified biologist when helpless young</p>	<p>Prepare and provide a report of surveys to California Department of Fish and Wildlife, the Santa Clara Valley Habitat Agency, and the City of San José Director of Planning, Building, and Code</p>	<p>30 days prior to any disturbance</p>	<p>California Department of Fish and Wildlife and the City of San José Director of Planning, Building, and Code Enforcement or Director's designee</p>	<p>Review and approve; submit approved report to City of San José Director of Planning, Building, and Code Enforcement or Director's designee</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permits, whichever occurs first</p>

<p>are not present, typically during the nonbreeding season (October through January).</p> <p>b. Breeding season temporary buffer for San Francisco dusky-footed woodrat: If it is determined that San Francisco dusky-footed woodrat young may be present during the pre-construction survey (e.g. during the breeding season), a suitable buffer shall be established around the nest until the young are independent enough to successfully move from the nest.</p> <p>2. Avoidance of ringtail. If an individual ringtail is identified within the project site during preconstruction surveys, a follow-up survey shall be conducted within 12- hours of project initiation. If a ringtail is identified during the second survey, the project biologist shall continue to monitor the ringtail to ensure that the individual has moved out of any areas of potential danger of its own volition. Project activities can only commence once the project biologist has determined that the identified animal has moved outside of potential danger from project actions.</p> <p>A report shall be prepared and provided to CDFW, the Santa Clara Valley Habitat Agency, and the City Director or their designee 30 days prior to any disturbance.</p>	<p>Enforcement or Director's designee.</p>				
<p>BIO-17: Temporary disturbance to and permanent loss of salt marsh harvest mouse habitat shall be avoided to the maximum extent practicable. Although avoidance of wetland impacts is described, further attempts to avoid</p>	<p>All temporary staging areas and construction access roads shall be located away from suitable salt marsh</p>	<p>Prior to the issuance of any building permits and during</p>	<p>City of San José Director of Planning, Building, and Code</p>	<p>Submit plans showing demarcation from a qualified biologist of staging and</p>	<p>Prior to issuance of any tree removal, grading, demolition, or</p>

<p>impacts to potentially suitable habitat shall be made. Prior to the issuance of building permits, all temporary staging areas and construction access roads shall be located away from suitable habitat for this species and limits of all wetlands that are to be avoided shall be clearly demarcated by a qualified biologist with Environmentally Sensitive Area fencing to avoid inadvertent disturbance of any habitat outside of the designated construction areas during construction activities.</p> <p>Prior to issuance of grading permits and under the supervision of a qualified biological monitor, a barrier to exclude salt marsh harvest mice from impact areas shall be installed at the perimeter of all project construction areas that are located within 50 feet of potential salt marsh harvest mouse, and checked weekly by the qualified biologist for any breaches, rips, or tears.</p> <p>Documentation of this mitigation measure shall be provided to the Director or Director's designee with the City of San Jose Department of Planning, Building and Code enforcement 30 days prior to any disturbance, and made available to the Santa Clara Valley Habitat Agency upon request.</p>	<p>harvest mouse habitat and limits of all wetlands that are to be avoided shall be clearly demarcated by a qualified biologist with Environmentally Sensitive Area fencing to avoid inadvertent disturbance of any habitat outside of the designated construction areas during construction activities.</p>	<p>construction activities</p>	<p>Enforcement or Director's designee.</p>	<p>construction access roads located away from suitable habitat of salt marsh harvest mouse and limits of all wetlands.</p>	<p>building permits, whichever occurs first.</p>
<p>all project construction areas that are located within 50 feet of potential salt marsh harvest mouse, and checked weekly by the qualified biologist for any breaches, rips, or tears. This barrier, which shall be constructed under the guidance of a qualified biologist, shall consist of a 3-foot tall, tight cloth or smooth plastic silt fence toed into the soil at least three inches deep and supported with stakes.</p> <p>Documentation of this mitigation measure shall be provided to the Director or Director's designee with the City of San Jose Department of Planning, Building and Code enforcement 30 days prior to any disturbance, and made available to the Santa Clara Valley Habitat Agency upon request.</p>	<p>Under the supervision of a qualified biological monitor, a barrier to exclude salt marsh harvest mice from impact areas shall be installed at the perimeter of all project construction areas that are located within 50 feet of potential salt marsh harvest mouse and checked for any breaches, rips, or tears.</p>	<p>Installation prior to issuance of grading permits and the barrier shall be checked weekly by the qualified biologist and within 30 days prior disturbance, provide documentation that the barrier has been installed.</p>	<p>City of San José of Planning, Building and Code Enforcement or Director's designee and California Department of Fish and Wildlife</p>	<p>Submit documentation that the barriers have been installed</p>	<p>Prior to issuance of any tree removal, grading, or demolition permits</p>
<p>BIO-18: Pursuant to the 2012 Santa Clara Valley Habitat Plan (SCVHP) (Chapter 6 and Section 9, Table 9-7b), prior to any ground disturbance, a one-time fee payment for new daily vehicle trips shall be paid for mobile emission sources, as based on the appropriate fees and worksheet</p>	<p>A one-time fee payment for new daily vehicle trips shall be paid for mobile emission sources, as based on the</p>	<p>Prior to issuance of any grading permit</p>	<p>Santa Clara Valley Habitat Agency and City of San José Director of Planning, Building, and Code</p>	<p>Provide verification of payment in full to City of San José Director of Planning, Building, and Code</p>	<p>Prior to issuance of any grading permit</p>

(year current to construction) in the Habitat Agency Fee Schedule, or most recent Nitrogen Deposition Fee Worksheet. Fees are paid to the Santa Clara Valley Habitat Agency.	appropriate fees and worksheet (year current to construction) in the Habitat Agency Fee Schedule, or most recent Nitrogen Deposition Fee Worksheet. Fees are paid to the Santa Clara Valley Habitat Agency.		Enforcement or Director's Designee	Enforcement or Director's Designee	
BIO-20: The project owner shall pay, before or at the time that the grading permit for the project is issued, the SCVHA Land Cover Fee and Temporary Impact Fee. The project owner shall pay such fees according the updated SCVHA fee schedule at the time of payment.	Pay the temporary and permanent impact fees for loss of onsite habitat for Fee Zone B.	Prior to issuance of any grading permits are issued.	City of San José Director of Planning, Building and Code Enforcement or Director's designee	Provide verification of payment in full to City of San José Director of Planning, Building, and Code Enforcement or Director's Designee	Prior to the issuance of any grading permits.
Impact 4.4-b Would the project 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 Wildlife or U.S. Fish and Wildlife Service?					
BIO-7: Prior to the start of any grading or other soil disturbing activities, the project applicant shall be required to prepare a Stormwater Pollution Prevention Plan consistent with the City's National Pollutant Discharge Elimination System C3 provisions. The plan shall be submitted to the Director or Director's designee with the City of San Jose Department of Planning, Building and Code Enforcement.	Prepare and submit a Stormwater Pollution Prevention Plan consistent with the City's National Pollutant Discharge Elimination System C3 provisions to the City of San José Director of Planning, Building and Code Enforcement or Director's designee.	Prior to issuance of any tree removal, grading, demolition or building permit	City of San José Director of Planning, Building and Code Enforcement or Director's designee.	Submit for review and approval a Stormwater Pollution Prevention Plan consistent with City provisions and review practices.	Prior to issuance of tree removal, grading, demolition or building permits
BIO-14: An aquatic resources delineation covering the entire project area shall be conducted. All features that are determined to be	Conduct an aquatic resources delineation	Prior to ground disturbance	California Department of Fish and Wildlife, Santa	Submit approved report to the City of San José Director of	Prior to issuance of grading,

<p>jurisdictional under the resource agencies shall either be avoided, or the relevant permits shall be obtained for project impacts. Work shall not occur within these jurisdictional features until the relevant permits have been obtained. A delineation report shall be produced and made available to the Santa Clara Valley Habitat Agency and the Director or Director's designee with the City of San Jose Department of Planning, Building and Code Enforcement.</p>	<p>covering the entire project area. Prepare a delineation report and make it available to the Santa Clara Valley Habitat Agency, the Director or Director's designee with the City of San José Department of Planning, Building and Code Enforcement, and the California Department of Fish and Wildlife.</p>		<p>Clara Valley Habitat Agency and the City of San José Director of Planning, Building and Code Enforcement or Director's designee.</p>	<p>Planning, Building and Code Enforcement or Director's designee</p>	<p>demolition or building permits, whichever occurs first.</p>
	<p>Avoid all features that are determined to be jurisdictional under the resource agencies, or obtain the relevant permits for project impacts. Work shall not occur within these jurisdictional features until the relevant permits have been obtained.</p>	<p>Prior to ground disturbance within the jurisdictional features</p>	<p>Habitat Agency and the City of San José Director of Planning, Building and Code Enforcement or Director's designee and California Department of Fish and Wildlife</p>	<p>Review the application for relevant permits for work that occurs within the jurisdictional features. Approve and issue permits, as appropriate.</p>	<p>Prior to issuance of grading permit.</p>
<p>BIO-11, BIO-13, BIO-18. (see Impact 4.4.a for mitigation)</p>					
<p>Impact 4.4-c Would the project 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?</p>					
<p>BIO-8: A qualified biological monitor shall visit the project site daily during utility line construction in the vicinity of the wetland to verify that BIO-7</p>	<p>A qualified biological monitor shall visit the project site daily in the</p>	<p>During utility line construction</p>	<p>City of San José Director of Planning, Building</p>	<p>Submit documentation of monitoring weekly to</p>	<p>Ongoing during utility line construction</p>

<p>through BIO-11 are being fully implemented and are effective. Documentation shall be prepared by the biological monitor and made available to the Director or Director's designee with the City of San Jose Department of Planning, Building and Code Enforcement or the Santa Clara Valley Habitat Agency upon request.</p>	<p>vicinity of the wetland to verify that BIO-7 through BIO-11 are being fully implemented and are effective.</p>		<p>and Code Enforcement or Director's designee</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>and report submittal weekly during utility line construction.</p>
	<p>Documentation shall be prepared by the biological monitor and made available to the City of San José Director of Planning, Building and Code Enforcement or Director's designee or the Santa Clara Valley Habitat Agency upon request.</p>	<p>During utility line construction</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>		<p>During utility line construction</p>
<p>BIO-9: Removal of wetland vegetation and/or trees for the installation of the utility line shall be limited to the minimum extent required. Documentation shall be prepared by the biological monitor and made available to the Director or Director's designee with the City of San Jose Department of Planning, Building and Code Enforcement or the Santa Clara Valley Habitat Agency upon request.</p>	<p>The biological monitor shall provide documentation to the City of San José Director of Planning, Building and Code Enforcement or Director's designee or the Santa Clara Valley Habitat Agency upon request that removal of wetland vegetation and/or trees for the installation of the utility line is limited to the minimum extent required.</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permit for the installation of the utility line.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Submit documentation that removal of wetlands and/or trees for installation of utility line is limited to maximum extent during review of tree removal, grading, demolition, or building permit for the utility line.</p>	<p>Prior to issuance of tree removal, grading, demolition, or building, whichever occurs first for the installation of the utility line</p>

<p>BIO-10: The project applicant shall verify that all seed mixtures used for revegetation of the impacted wetland area shall be locally native or sterile nonnative species only. No invasive non-native plant species shall be used for revegetation. Documentation shall be prepared by the biological monitor and made available to the Director or Director's designee with the City of San Jose Department of Planning, Building and Code Enforcement or the Santa Clara Valley Habitat Agency upon request.</p>	<p>Documentation shall be prepared by the biological monitor and made available to the City of San José Director of Planning, Building and Code Enforcement or Director's designee or the Santa Clara Valley Habitat Agency upon request, showing verification that all seed mixtures used for revegetation of the impacted wetland area shall be locally native or sterile nonnative species only and that no invasive non-native plant species shall be used for revegetation.</p>	<p>Prior to issuance of tree removal, grading, demolition, or building, whichever occurs first.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Prepare and submit for review and approval, landscape and/or revegetation plan.</p>	<p>Prior to issuance of tree removal, grading, demolition, or building, whichever occurs first.</p>
<p>BIO-19: Prior to (and only if) the onsite wetlands are developed or impacted; mitigation fees pursuant to the Santa Clara Valley Habitat Plan Table 9-11 must be paid to the Director or Director's designee with the City of San Jose Department of Planning, Building and Code enforcement.</p>	<p>Only if the onsite wetlands are developed or impacted; mitigation fees pursuant to the Santa Clara Valley Habitat Plan Table 9-11 must be paid to the City of San José Director of Planning, Building and Code Enforcement or Director's designee.</p>	<p>Prior to any development or impact to the onsite wetlands</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee.</p>	<p>Provide verification of payment in full to City of San José Director of Planning, Building, and Code Enforcement or Director's Designee</p>	<p>Prior to issuance of tree removal, grading, demolition, or building, whichever occurs first.</p>
<p>Impact 4.4-e Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</p>					

<p>BIO-12: Prior to ground disturbance, the project applicant shall ensure that the project site, including linear alignments and the bike path have been surveyed by a certified arborist or biologist and prepare a report. The report, a Tree Protection Plan (TPP), shall be submitted to the Director or Director’s designee with the City of San Jose Department of Planning, Building, and Code Enforcement for trees to be preserved, or replaced, if preservation is not possible. The TPP shall include, but is not limited to, the following:</p> <ul style="list-style-type: none"> • Number of trees and location of trees to be protected • Final landscaping proposal • Tree Protection Zone (TPZ) • Size and location of TPZ • Specific recommendation and suggestions or recommendation for each TPZ if applicable • Maintenance methodology for tree protection zones during the entire demolition and construction period • Irrigated schedule • Pruning schedule for preserved trees, if applicable • Herbicides and other products recommended to be used on preserved trees • Tree replacement strategy for removed trees. 	<p>Project applicant shall ensure that the project site, including linear alignments and the bike path have been surveyed by a certified arborist or biologist and prepare a Tree Protection Plan report. This report shall be submitted to the City of San José Director of Planning, Building, and Code Enforcement or Director’s designee for trees to be preserved.</p>	<p>Prior to any tree removal, grading, demolition, or building permits.</p>	<p>City of San José Director of Planning, Building, and Code Enforcement or Director’s designee</p>	<p>Review and approve Tree Protection Plan report</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permits whichever occurs first.</p>
<p>BIO-13 (see Impact 4.4a for mitigation)</p>					
<p>Impact 4.4-f 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>					

BIO-18 (see Impact 4.4a for mitigation)					
CULTURAL RESOURCES					
Impact 4.5-a Would the project cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?					
<p>CUL-1: Prior to the commencement of construction, the applicant will secure the services of qualified archaeological specialists and Native American monitors. These specialists and monitors will prepare a WEAP [workforce environmental awareness program] to instruct construction workers of the obligation to protect and preserve valuable archaeological and Native American resources for review and approval by the Director or Director’s designee of the City of San Jose Department of Planning, Building and Code Enforcement (PBCE). This program will be provided to all construction workers via a recorded presentation and will include a discussion of applicable laws and penalties under the laws; samples or visual aids of resources that could be encountered in the project vicinity; instructions regarding the need to halt work in the vicinity of any potential archaeological and Native American resources encountered; and measures to notify their supervisor, the applicant, and the specialists. Submit the qualifications of archaeological specialists and Native American monitors, as well as an electronic copy of the WEAP to the Director or Director’s designee of the City of San Jose PBCE for review and approval.</p> <p>The applicant will secure the services of a Native American monitor to observe grading of native soil once all pavement is removed from the project site. Preference in selecting Native American monitors shall be given to Native Americans with:</p>	<p>Submit the qualifications of archaeological specialists and Native American monitors to the Director or Director’s designee of the City of San José Department of Planning, Building and Code Enforcement for review and approval</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permits, whichever occurs first.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Review and approve the qualifications of archaeological specialists and Native American monitors</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permits, whichever occurs first.</p>
	<p>The qualified archaeological specialists and Native American monitors shall prepare a WEAP and submit an electronic copy to the City of San José Director of Planning, Building and Code Enforcement or Director’s designee.</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permits, whichever occurs first.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Review and approve the Workforce Environmental Awareness Program</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permits, whichever occurs first</p>

<ol style="list-style-type: none"> 1. Traditional ties to the area being monitored. 2. Knowledge of local historic and prehistoric Native American village sites. 3. Knowledge and understanding of Health and Safety Code, section 7050.5, and Public Resources Code, section 5097.9 et seq. 4. Ability to effectively communicate the requirements of Health and Safety Code, section 7050.5, and Public Resources Code, section 5097.9 et seq. 5. Ability to work with law enforcement officials and the Native American Heritage Commission to ensure the return of all associated grave goods taken from a Native American grave during excavation. 6. Ability to travel to project sites within traditional tribal territory. 7. Knowledge and understanding of Title 14, California Code of Regulations, section 15064.5. 8. Ability to advocate for the preservation in place of Native American cultural features through knowledge and understanding CEQA mitigation provisions. 9. Ability to read a topographical map and be able to locate site and reburial locations for future inclusions in the Native American Heritage Commission's Sacred Lands Inventory. 10. Knowledge and understanding of archaeological practices, including the phases of archaeological investigation. 					
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<p>CUL-2: Prior to the issuance of any grading permit, the project will be required to complete subsurface testing to determine the extent of possible resources onsite. Subsurface testing shall be completed by a qualified archaeologist. Methodologies and procedures for completing the subsurface testing will be developed through completion of a testing plan. The testing plan will identify locations where testing will occur, depth and extent of testing. The testing plan will be submitted to the Director or Director’s designee of the City of San Jose Department of Planning, Building and Code Enforcement for approval prior to the completion of any testing. If the findings of the subsurface testing confirm there are significant cultural resources on-site, an archaeological resources treatment plan shall be prepared by a qualified archaeologist and submitted to Director or Director’s designee of the City of San Jose Department of Planning, Building and Code Enforcement for approval prior to the issuance of grading permits.</p>	<p>Complete subsurface testing by a qualified archaeologist to determine the extent of possible resources onsite</p>	<p>Prior to the issuance of any grading permits.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Review and approve the subsurface testing plan</p>	<p>Prior to the issuance of any grading permits.</p>
	<p>Based on the findings of the subsurface testing, an archaeological resources treatment plan shall be prepared by a qualified archaeologist and submitted to Director or Director’s designee of the City of San José Department of Planning, Building and Code Enforcement for approval.</p>	<p>Prior to the issuance of grading permits.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Review and approve the archaeological resources treatment plan</p>	<p>Prior to the issuance of any grading permits.</p>
<p>CUL-3: Prior to ground disturbance, the project will implement the approved treatment plan prior to the issuance of grading permits. The approved treatment plan will utilize data recovery methods to reduce impacts on subsurface resources.</p>	<p>Implement the approved treatment plan.</p>	<p>Prior to the issuance of any grading permits.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Authorize implementation of the treatment plan</p>	<p>Prior to the issuance of any grading permits.</p>
<p>CUL-4: All prehistoric and historic-era features identified during exploration will be evaluated by a qualified archaeologist based on the California Register of Historical Resources criteria consistent with the archaeological treatment plan. After completion of the field work, all artifacts will be cataloged, and the appropriate</p>	<p>A qualified archaeologist shall evaluate all prehistoric and historic-era features identified during exploration based on the California</p>	<p>Prior to ground disturbance</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Review and approve archaeological treatment report</p>	<p>Prior to the issuance of any occupancy permits (temporary or final)</p>

forms will be completed and filed with the Northwest Information Center of the California Archaeological Inventory at Sonoma State University by the qualified archaeologist in coordination with the Director or Director’s designee of the City of San Jose Department of Planning, Building and Code Enforcement prior to issuance of occupancy permits (temporary or final).	Register of Historical Resources criteria consistent with the archaeological treatment plan.				
	All artifacts will be cataloged, and the appropriate forms will be completed and filed with the Northwest Information Center of the California Archaeological Inventory at Sonoma State University by the qualified archaeologist in coordination with the City of San José Director of Planning, Building and Code Enforcement or Director’s designee prior to issuance of occupancy permits (temporary or final).	After the completion of all field work	City of San José Director of Planning, Building and Code Enforcement or Director’s designee	Review and approve the artifact catalog and forms	Prior to the issuance of any occupancy permits (temporary or final).
CUL-5: In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director or Director’s designee of the City of San Jose Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified archaeologist will examine the find. The archaeologist will evaluate the find(s) to determine if they meet the definition of a	In the event that prehistoric or historic resources are encountered all activity within a 50-foot radius of the find shall be stopped and the Director or Director’s designee of the City of San José Department of	During excavation and/or grading of the site	City of San José Director of Planning, Building and Code Enforcement or Director’s designee	Provide notification(s) of inadvertent archaeology discovery	During excavation and/or grading of the site

<p>historical, archaeological, or tribal cultural resource and make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits for any construction occurring within the above-referenced 50-foot radius. If the finds do not meet the definition of a historical, archaeological, or tribal cultural resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical, archaeological, or tribal cultural resource, then it will be avoided by project activities. If avoidance is not feasible, adverse effects to such resources will be mitigated in accordance with the recommendations of the archaeologist. Recommendations will include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director or Director's designee of the City of San Jose PBCE, NAHC (tribal cultural resources) and the Northwest Information Center.</p> <p>The project applicant will ensure that construction personnel do not collect or move any cultural material and will ensure that any fill soils that may be used for construction purposes does not contain any archaeological materials.</p>	<p>Planning, Building and Code Enforcement shall be notified.</p>				
	<p>The qualified archaeologist shall evaluate the find(s) to determine if they meet the definition of a historical, archaeological, or tribal cultural resource and make appropriate recommendations regarding the disposition of such finds.</p>	<p>During excavation or grading of the site and before resumption of ground disturbance near the find(s)</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Review and approve the archaeologist's recommendations</p>	<p>As needed during construction-related discoveries</p>
	<p>A report of findings documenting any data recovery shall be submitted to the City of San José Director of Planning, Building and Code Enforcement or Director's designee, NAHC (tribal cultural resources) and the Northwest Information Center.</p>	<p>If the find(s) does meet the definition of a historical, archaeological, or tribal cultural resource and avoidance is not feasible, adverse effects to such resources will be mitigated in accordance with the recommendations of the archaeologist</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee, NAHC (tribal cultural resources) and the Northwest Information Center</p>	<p>Review and approve data recovery report</p>	<p>Following the completion of all ground disturbance</p>
	<p>Ensure that construction personnel</p>	<p>During construction</p>	<p>City of San José Director of</p>	<p>Receive construction reports within five</p>	<p>Within five business days</p>

	do not collect or move any cultural material and will ensure that any fill soils that may be used for construction purposes does not contain any archaeological materials.		Planning, Building and Code Enforcement or Director's designee	business days of the end of the month.	of the end of the month
<p>CUL-6: In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner shall be notified immediately and will make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours of the identification. Once the NAHC identifies the most likely descendants (MLD), the descendants will make recommendations regarding proper burial (including the treatment of grave goods), which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines. The archaeologist will recover scientifically-valuable information, as appropriate and in accordance with the recommendations of the MLD. A report of findings documenting any data recovery shall be submitted to the Director or Director's designee of the City of San Jose Department of Planning, Building and Code Enforcement and the Northwest Information Center.</p>	<p>All activity within a 50-foot radius of the find will be stopped and the Santa Clara County Coroner shall be notified immediately and will make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required.</p>	<p>In the event that human remains are discovered during excavation and/or grading of the site</p>	<p>Santa Clara County Coroner</p>	<p>Email or telephone notification to the City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Upon discovery of human remains</p>
	<p>If the remains are determined to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC). Once the NAHC identifies the most likely descendants (MLD), the descendants will make recommendations</p>	<p>Within 24 hours of the identification</p>	<p>Santa Clara County Coroner and NAHC</p>	<p>Email or telephone notification to the City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>After the assessment of any human remains</p>

	regarding proper burial (including the treatment of grave goods), which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines				
	A report of findings documenting any data recovery shall be submitted to the City of San José Director of Planning, Building and Code Enforcement or Director’s designee and the Northwest Information Center.	After the assessment of any human remains	City of San José Director of Planning, Building and Code Enforcement or Director’s designee and the Northwest Information Center	Review and approve data recovery report	After the assessment of any human remains
Impact 4.5-b Would the project cause a substantial adverse change in the significance of a unique archaeological resource pursuant to §15064.5?					
CUL-1 through CUL-6 (See impact 4.5-a for mitigation)					
Impact 4.5-c Would the project disturb any human remains, including those interred outside of formal cemeteries?					
CUL-1 through CUL-5 (See impact 4.5-a for mitigation)					
Impact 4.5-e Would the project 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 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 Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?					
CUL-1 through CUL-6 (See impact 4.5-a for mitigation)					
GEOLOGY AND SOILS (PALEONTOLOGY)					

Impact 4.7-f Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?					
<p>GEO-1:</p> <ul style="list-style-type: none"> The applicant will secure the services of a qualified professional paleontologist, as defined by the Society of Vertebrate Paleontology, to be on-call prior to the commencement of construction. The paleontologist will be experienced in teaching non-specialists to recognize fossil materials and how to notify in the event of encountering a suspected fossil. If suspected fossils are encountered during construction, the construction workers will halt construction within 50 feet of any potential fossil find and notify the paleontologist, who will evaluate its significance. If a fossil is encountered and determined to be significant and avoidance is not feasible, the 	<p>Once the services of an on-call qualified professional paleontologist, as defined by the Society of Vertebrate Paleontology have been secured, the qualified paleontological specialist will prepare a Worker Environmental Awareness Program</p>	<p>Prior to issuance of any grading, demolition, or building permit whichever occurs first.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Review and approve the Worker Environmental Awareness Program</p>	<p>Prior to issuance of any grading, demolition, or building permit whichever occurs first.</p>

<p>paleontologist will develop and implement an excavation and salvage plan in accordance with Society of Vertebrate Paleontology standards. Construction work in the immediate area will be halted or diverted to allow recovery of fossil remains in a timely manner. Fossil remains collected will be cleaned, repaired, sorted, and cataloged, along with copies of all pertinent field notes, photos, and maps.</p> <ul style="list-style-type: none"> • The paleontologist will prepare a paleontological resource monitoring report that outlines the results of the monitoring program and any encountered fossils. The report would be submitted to the Director or Director's designee of the City of San Jose Department of Planning, Building and Code Enforcement (PBCE) for review and approval. The report and any fossil remains collected will be submitted to a scientific institution with paleontological collections. • Prior to the commencement of construction, the applicant will secure the services of a qualified paleontological specialist. The specialist will prepare a Worker Environmental Awareness Program to instruct site workers of the obligation to protect and preserve valuable paleontological resources for review by the Director or Director's designee of the City of San Jose PBCE. This program will be provided to all construction workers via a recorded presentation and will include a discussion of applicable laws and penalties under the laws; samples or visual aids of resources that could be encountered in the project vicinity; instructions regarding the need to halt work in 	<p>If suspected fossils are encountered during construction, the construction workers shall halt construction within 50 feet of any potential fossil find and notify the paleontologist, who will evaluate its significance.</p>	<p>As soon as suspected fossils are encountered during construction, then prepare a paleontological resource monitoring report that includes findings and a record of the disposition of significant fossil finds.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Review and approve the paleontological resource monitoring report and confirm disposition of significant fossil finds.</p>	<p>Prior to completion of construction.</p>
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<p>the vicinity of any potential paleontological resources encountered; and measures to notify their supervisor, the applicant, and the specialists.</p>					
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GREENHOUSE GAS EMISSIONS					
Impact 4.8-a Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?					
<p>GHG-1: The project owner shall purchase renewable natural gas in an amount equivalent to the total energy use of and renewable diesel in the natural-gas fired and diesel-fired generators, which may require securing renewable fuel from PG&E and other suppliers. The project owner shall use renewable diesel fuel for the administrative diesel-fired generators to the extent feasible. During an emergency where renewable diesel fuel supplies may be limited, the project owner will document their efforts to secure other vendors of renewable diesel fuel prior to refueling with non-renewable diesel. The project owner shall provide documentation to the Director or Director's designee with the City of San Jose Planning, Building and Code Enforcement (PBCE) to verify the amount of renewable natural gas purchased and the amount renewable diesel fuel used by the administrative diesel-fired generators. The project owner shall submit annual reports demonstrating the use of renewable resources for 100 percent of total energy use by the generators following project commencement.</p>	<p>Provide documentation to the City of San José Director of Planning, Building and Code Enforcement or Director's designee to verify that renewable fuels are used for 100 percent of total energy use by the generators following project commencement.</p>	<p>Following commencement of project operation then annually for the life of the project.</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Review documentation and verify the project is purchasing renewable natural gas and using renewable diesel</p>	<p>Following commencement of project operation then annually for the life of the project</p>
Impact 4.8-b Would the project conflict with an applicable plan, policy or regulation adopted for the purpose or reducing the emissions of greenhouse gasses?					
<p>GHG-2: The project owner shall participate in the San Jose Clean Energy (SJCE) at the Total Green level (i.e., 100 percent carbon-free electricity) for electricity accounts associated with the project, or shall negotiate an electricity contract with SJCE or participate in a clean energy program that accomplishes the same goals as the</p>	<p>Provide documentation to the City of San José Director of Planning, Building and Code Enforcement or Director's designee of enrollment and annual</p>	<p>During operation</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Review documentation and verify that the project is enrolled and continues to participate in SJCE at the Total Green to</p>	<p>Upon commencing project operation and annually for the life of the project</p>

<p>Total Green level, to ensure compliance with the City's 2030 Greenhouse Gas Emissions Reduction Strategy.</p> <p>During operation, the project owner shall provide documentation to the Director or Director's designee with the City of San Jose Planning, Building and Code Enforcement (PBCE) of initial enrollment and shall submit annual reports to the Director or Director's designee with the City of San Jose PCBE documenting either continued participation in SJCE at the Total Green level or documentation that alternative measures continue to provide 100% carbon-free electricity, as verified by an independent third-party auditor specializing in greenhouse gas emissions.</p>	<p>reporting of continued participation in SJCE at the Total Green to use 100 percent carbon free electricity.</p>			<p>use 100 percent carbon free electricity, or alternative measure continue to provide 100 percent carbon-free electricity.</p>	
<p>Hazards and Hazardous Materials</p>					
<p>Impact 4.9-d Would the project be located on a site that is included of a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?</p>					
<p>HAZ-1: A Site Management Plan (SMP) shall be prepared and implemented and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations or the contaminated portions of the site shall be capped beneath the planned development under the regulatory oversight of the Santa Clara County Hazardous Materials Compliance Division (HMCD) or the California Department of Toxic Substances Control (DTSC). The contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.</p>	<p>Prepare and implement a Site Management Plan (SMP) and Health and Safety Plan (HSP) for the site and submit the plans to Santa Clara County Hazardous Materials Compliance Division or the California Department of Toxic Substances Control, City of San José Director of Planning, Building and Code Enforcement or</p>	<p>Prior to start of and during construction</p>	<p>Santa Clara County Hazardous Materials Compliance Division or the California Department of Toxic Substances Control, City of San José Director of Planning, Building and Code Enforcement or Director's designee, and City of San</p>	<p>Provide Santa Clara County Hazardous Materials Compliance Division or the California Department of Toxic Substances Control, City of San José Director of Planning, Building, and Code Enforcement or Director's designee and City of San José Environmental Services Department</p>	<p>Prior to issuance of any grading, demolition, or building permit, whichever occurs first.</p>

<p>In addition, all contractors and subcontractors at the project site shall develop a Health and Safety Plan (HSP) specific to their scope of work and based upon the known environmental conditions for the site. The HSP shall be approved by the Director or Director’s designee with the City of San Jose Department of Planning, Building and Code Enforcement (PBCE) and the City of San Jose Environmental Services Department (ESD) and implemented under the direction of a Site Safety and Health Officer.</p> <p>Components of the SMP shall include, but shall not be limited to:</p> <ul style="list-style-type: none"> • A detailed discussion of the site background; • Notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction; • Onsite soil reuse guidelines based on the California Regional Water Quality Control Board (RWQCB), San Francisco Bay Region’s reuse policy; • Sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site waste disposal facility; • Soil stockpiling protocols; and • Protocols to manage groundwater that may be encountered during trenching and/or subsurface excavation activities. <p>Components of the HSP shall include, but shall not be limited to, the following elements, as applicable:</p>	<p>Director’s designee and the City of San José Environmental Services Department Municipal Compliance Officer</p>		<p>José Environmental Services Department Municipal Compliance Officer</p>	<p>Municipal Compliance Officer verification of regulatory compliance for review and approval of SMP and HSP.</p>	
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<ul style="list-style-type: none"> • Provisions for personal protection and monitoring exposure to construction workers; • Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered; • Procedures for the safe storage, stockpiling, and disposal of contaminated soils; • Provisions for the onsite management and/or treatment of contaminated groundwater during extraction or dewatering activities; and • Emergency procedures and responsible personnel. <p>The SMP and HSP shall be submitted to HMCD, DTSC, or equivalent regulatory agency for review and approval. Copies of the approved SMP and HSP shall be provided to the PBCE Supervising Environmental Planner and Environmental Services Department (ESD) prior to issuance of grading permits.</p>					
NOISE					
Impact 4.13-a Would the project result in 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?					
<p>NOI-1: The project shall implement the following measures to reduce temporary construction noise to less than significant levels.</p> <ul style="list-style-type: none"> • Prior to the start of project construction, identify a noise control disturbance coordinator. The disturbance coordinator will be responsible for responding to any local complaints about construction noise. The 	<p>Identify a noise control disturbance coordinator and prepare and submit a logistics plan that includes a schedule of "noisy" construction activities with telephone number of the disturbance</p>	<p>Prior to the start of project construction</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Prior to issuance of any permit, submit for review and approval construction schedule documentation</p>	<p>Prior to issuance of any grading, demolition, or building permit, whichever occurs first.</p>

<p>disturbance coordinator will determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented.</p>	<p>coordinator to the City of San José Director of Planning, Building and Code Enforcement or Director’s designee.</p>				
<ul style="list-style-type: none"> Establish a telephone number for the disturbance coordinator and post it on the construction site. Prior to the start of construction, submit to the Director or Director’s designee with the City of San Jose Planning, Building and Code Enforcement (PCBE), for review and approval, the schedule of “noisy” construction activities with the telephone number of the disturbance coordinator. Prior to the start of construction and after approval by the City of San Jose PCBE, notify the businesses located south of the project site immediately across Highway 237 and the businesses located within 1,000 feet of the project’s southeastern boundary, of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses. Include in the notice, the telephone number for the project’s noise disturbance coordinator. 	<p>Notify, in writing, the businesses located south of the project site immediately across Highway 237 and the businesses located within 1,000 feet of the project’s southeastern boundary, of the construction schedule. Notify the City of San José Director of Planning, Building and Code Enforcement or Director’s designee that this action has been completed.</p>	<p>Prior to the start of construction and after approval of the construction schedule by the City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>City of San José Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Review and approve construction schedule and receive disturbance coordinator contact information.</p>	<p>Prior to issuance of any grading, demolition, or building permit, whichever occurs first.</p>

TRANSPORTATION

Impact 4.17-b Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?

<p>TRA-1 Prior to the issuance of a City of San Jose Public Works occupancy permit, the project shall implement the following:</p>	<p>Request a parking exception to reduce the number of required vehicle parking spaces to 122 spaces.</p>	<p>Prior to the issuance of any City of San José s occupancy permit</p>	<p>Director or Director’s designee with the City of San José Planning Department</p>	<p>Review parking reduction request and approve if the project meets the</p>	<p>Prior to the issuance of any City of San José occupancy permit.</p>
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<ul style="list-style-type: none"> • Increase Roadway Network Connectivity – The project owner shall construct a new street (an extension of Nortech Parkway) that shall extend east from Zanker Road and provide access to the project site. The new intersection created at Zanker Road/Nortech Parkway shall be signalized and shall be located approximately 400 feet north of the Zanker Road/Thomas Foon Chew Way intersection. • Traffic Calming Measures – The project owner shall construct a raised median island along Zanker Road between the new Nortech Parkway extension and the SR 237 westbound off-ramp. • Pedestrian Network Improvements – Pedestrian improvements at the new signalized intersection of Zanker Road and Nortech Parkway shall include striped crosswalks and pedestrian signals and push buttons. Sidewalks shall be included along both sides of Nortech Parkway. • Bike Access Improvements – The project owner shall construct a Class I Bikeway Trail extension along the east side of Zanker Road (within the City’s right-of-way), connecting the existing trail segment with the new Nortech Parkway extension. Bike lanes shall be included along both sides of Nortech Parkway. • Limit Parking Supply – The project owner shall provide 122 vehicle parking spaces, which is 63 fewer spaces than what the City of San Jose Municipal Code requires. The project owner shall request a 			Planning, Building, and Code Enforcement	exemption requirements	
	<p>Prepare and submit plans, specifications and estimates (PS&E) for review and approval for the Nortech Parkway extension, bike extension, median along Zanker Road, pedestrian improvements.</p> <p>Implement the measures identified in TRA-1</p>	<p>Prior to the issuance of a City of San José occupancy permit</p>	<p>City of San José Public Works</p>	<p>Review and approve PS&E.</p>	<p>Prior to the issuance of a City of San José Public Works occupancy permit.</p>
	<p>Preparation of a Transportation Demand Management (TDM) plan that includes a marketing campaign encouraging carpooling and alternative modes of transportation.</p>	<p>Prior to the issuance of any City of San José Public Works occupancy permits.</p>	<p>City of San José Director of Planning Department Planning, Building, and Code Enforcement or Director’s designee</p>	<p>Review and approve Transportation Demand Management plan</p>	<p>Prior to the issuance of any City of San José Public Works occupancy permits.</p>

<p>parking exception from the Director or Director's designee with the City of San Jose Planning Department Planning, Building, and Code Enforcement to qualify for the parking reduction.</p> <ul style="list-style-type: none"> • End of Trip Bike Facilities – The project shall provide and maintain bike facilities for active alternative transportation users of the project. End of trip bike facilities shall include bike parking, bike lockers, showers, and personal lockers. • Commute Trip Reduction Marketing and Education- The project owner shall prepare and submit a Transportation Demand Management (TDM) plan for review and approval to the city of San Jose Public Works Department. As part of the TDM plan the project owner shall implement a marketing campaign targeting all employees that encourages the use of shared rides and active modes of transportation. Marketing strategies shall include new employee orientation on alternative commute options, event promotions, and publications. The project owner shall provide information and encourage the use of public transit, shared ride modes, and active modes to reduce drive-alone commute trips. 					
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Sources: California Energy Commission. Final Environmental Impact Report Part 1 and Part 2 for San Jose Data Center. February 2022 and Addendum to the Final Environmental Impact Report Part 1 for the San Jose Data Center Small Power Plant Exemption Proceeding, March 2022.