



COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION

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MITIGATED NEGATIVE DECLARATION

I. DESCRIPTION OF PROJECT:

Project Title: Sewer Relief Trunk – from Renz Lane to Highland Avenue Project

Project Location: The 6.6-mile sewer trunk line extends from Renz Lane in the City of Gilroy to Highland Avenue within the unincorporated San Martin planning area of the Santa Clara County.

Project Proponent: City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037

Project Description: The Sewer Relief Trunk – from Renz Lane to Highland Avenue Project (“Project”) proposes the installation of approximately 6.6 miles of sewer pipeline that would extend from the termination of the previously constructed Harding Avenue segment of the sewer relief trunk located at the intersection of Harding Avenue and Highland Avenue in San Martin, southeast to the previously constructed City of Gilroy segment of the sewer relief trunk located on Renz Lane in Gilroy. The proposed sewer relief trunk alignment would be located mostly within the existing roadway right-of-way, plus a few new utility easements. Generally, the trunk line would be located in the paved roadway, unimproved private roadway, two highway crossings, one railroad crossing, and two waterway crossings.

II. DETERMINATION

In accordance with the City of Morgan Hill procedures for compliance with the California Environmental Quality Act (CEQA), the City has completed an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, the City makes the following determination:

- Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures are included in the project, and, therefore, this **MITIGATED NEGATIVE DECLARATION** has been prepared.

III. CONDITIONS (Mitigation and Conditions of Approval):

A. Air Quality

Impact AIR-2: Construction activities associated with the project could result in emissions of NOx in excess of Bay Area Air Quality Management District (BAAQMD) thresholds, potentially resulting in a considerable net increase of ground level ozone, a criteria pollutant for which the project region is considered a non-attainment area.

Mitigation Measures: Implementation of the following mitigation measures would reduce the NOx emissions below the significance threshold:

MM AIR-2.1: During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less than significant level. Additional measures are identified to reduce construction equipment exhaust emissions. The contractor shall implement the following best management practices that are required of all projects:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- 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.
- All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
- 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.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- 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.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

MM AIR-2.2: The project shall develop a plan demonstrating that the off-road equipment to be used in the construction project and hauling truck traffic would achieve a 20-percent NOx reduction compared to the CalEEMod modeled emissions used in this report. In addition, the plan would reduce diesel particulate matter exhaust emissions from microtunneling activities by 75 percent. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available. One feasible plan to achieve this reduction would include the following:

- During all Open Trenching Pavement and No Pavement portions, all diesel-powered off-road equipment, larger than 25 horsepower operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA emissions standards for Tier 3 engines or equivalent.
- During all Microtunneling portions, all diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 interim engines or equivalent.
- Alternatively, for all portions of construction, the use of equipment meeting U.S. EPA Tier 3 standards for particulate matter that are equipped with CARB-certified Verifiable Diesel Emission Control Devices (VDECs) that altogether achieve an 85 percent reduction in particulate matter exhaust or the use of equipment that includes electric or alternatively-fueled equipment (i.e., non-diesel) would meet this requirement.

B. Biological Resources

Conditions of Approval BIO-1: To avoid and minimize the potential impacts to nesting birds and burrowing owls and maintain compliance with the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (CFG), the following conditions of approval are recommended:

- If construction activities are initiated during the nesting season (February 1 – August 31), a nesting bird survey (including for burrowing owl) shall be conducted by a qualified biologist within 14 days prior to the start of construction. In areas of potential burrowing owl habitat, an additional survey shall be completed within 48 hours of the start of construction. If nests are present, exclusion buffers appropriate to the species shall be established by the qualified biologist to prevent impacts to nesting birds. No work shall be completed within the buffers until the biologist determines that young have fledged or the nest becomes inactive.
- If construction activities are initiated outside of the nesting season (September 1 – January 31), pre-construction surveys for over-wintering burrowing owl shall be conducted at the portion of the alignment along West Las Animas Avenue between Monterey Highway and Murray Avenue in the City of Gilroy where ground squirrels were observed to be active. Surveys shall be conducted within 14 days of the start of construction and assess the immediate vicinity of the project area as well as a 250-foot buffer. Surveys shall be conducted by a qualified biologist, and assess extant ground squirrel burrows of suitable size for the presence of burrowing owls or signs of burrowing owl occupancy (i.e. whitewash, pellets, feathers). If burrowing owl are discovered within 250 feet

of areas of construction disturbance, exclusion buffers appropriate to the conditions present shall be established by the qualified biologist. No work shall be completed within the buffers until the burrow has been determined abandoned by a qualified biologist.

C. Cultural Resources

Conditions of Approval CUL-2: I Although it is extremely unlikely that cultural resources, including human remains, would be encountered during construction of the proposed project alignment, the following measures shall be incorporated to ensure potential impacts to cultural resources are avoided:

- If buried or previously unrecognized archaeological deposits or materials of any kind are inadvertently exposed during any construction activity, work within 100 feet/30 m of the find shall cease until a qualified archaeologist can assess the find and provide recommendations for further treatment, as warranted. Construction and potential impacts to the area(s) within a radius determined by the archaeologist should not recommence until the assessment is complete and any mitigation measures warranted are implemented.
- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Santa Clara County Coroner/Medical Examiner's Office. The Coroner will make a determination as to whether the remains are Native American.

If the remains are believed to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.

If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- The Native American Heritage Commission is unable to identify a most likely descendant or the most likely descendant failed to make a recommendation within 48 hours after being notified by the Commission.
- The descendant identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

D. Geology and Soils

Conditions of Approval GEO-6: The following measures shall be incorporated to ensure potential impacts to paleontological resources are avoided:

- **Discovery of Paleontological Resources.** In the event that a fossil is discovered during construction of the project, excavations within 50 feet of the find shall be temporarily halted or delayed until the discovery is examined by a qualified paleontologist, in accordance with Society of Vertebrate Paleontology standards. The City shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. If the find is determined to be significant and if avoidance is not feasible, the paleontologist shall design and carry out a data recovery plan consistent with the Society of Vertebrate Paleontology standards.

E. Hazards and Hazardous Materials

Impact HAZ-2: Construction workers and adjacent residences could be exposed to residual contamination in on-site soils.

Mitigation Measures: The following measures shall be implemented during site clearing and grading to reduce exposure to residual concentrations of agricultural chemicals:

MM HAZ-2.1: Prior to construction activities, the project contractor(s) shall implement a Site Management Plan (SMP) and Health and Safety Plan (HSP) for the proposed sewer construction activities, that establishes management practices for handling contaminated soil, soil vapor, groundwater or other materials during construction. The SMP shall be prepared by an Environmental Professional and shall be submitted to the County Department of Environmental Health (DEH) for review and approval prior to the start of construction. The approved SMP shall also be provided to the City of Morgan Hill prior to ground disturbance.

MM HAZ-2.2: Soil materials removed from the site shall be characterized and disposed of according to the California Hazardous Waste Regulations. Contaminated soil that exceeds regulatory thresholds shall be handled by trained personnel using appropriate protective equipment and engineering and dust controls, in accordance with local, state and federal laws. Any contaminated soils that are removed from the site shall be disposed of at a licensed hazardous materials disposal site.

MM HAZ 2.3: If groundwater dewatering is to be conducted, a Dewatering Plan shall be prepared documenting the dewatering method, groundwater sampling and analyses, groundwater treatment (if required), permitting requirements, and discharge location. This plan shall be submitted to the EPA for review and approval prior to construction.

F. Hydrology and Water Quality

Condition of Approval HYD-1: The project will be required to implement standard measures listed below as a standard condition prior to issuance of a grading permit. Conformance with the measures in the Erosion Control Plan would reduce the potential for substantial adverse impacts to water quality during construction:

- In accordance with the City of Morgan Hill Standard Conditions of Approval and the General National Pollutant Discharge Elimination System Storm Water Permit for Construction Activities,

the project would prepare a Storm Water Pollution Prevention Plan (SWPPP) and an Erosion Control Plan (ECP). The plans will be submitted to the Director of Public Works and Central Coast Regional Water Quality Control Board for review and approval, prior to issuance of a grading permit. The ECP and SWPPP would demonstrate how the project would eliminate or reduce non-stormwater discharges into the stormwater system, how discharges into the stormwater system would be monitored, and what Best Management Practices (BMPs) would be implemented by the project to avoid water quality impacts during construction (e.g., street sweeping, fiber rolls, temporary cover and/or permanent cover) and post-construction periods.

III. FINDING

The City of Morgan Hill Community and Economic Development Director hereby finds that the proposed project could have a significant effect on the environment; however, there would not be a significant effect in this case because mitigation measures summarized above and described in the Initial Study are included in the project.



Jennifer Caiman, Director
Development Services Department
City of Morgan Hill

March 10, 2021

Date