



**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Citywide Utility Undergrounding Program and City-issued Excavation/Encroachment Permits (File No. PP08-257) to allow Citywide utility undergrounding projects and related public improvements within public rights-of-way including, but not limited to, the installation of underground utility facilities and related trenching, installation/replacement/removal of overhead equipment on utility poles, installation/replacement of wheelchair ramps, aboveground utility cabinets/structures/rock utility box covers, utility poles, subsurface vaults, driveways, the installation/relocation of city street lights and foundations, signal loops, and sidewalk and roadway restorations. Specific proposed project areas associated with the utility underground program are described on the attached Table 1.

In riparian areas where Santa Clara Valley Water District easements may be affected or permits from California Department of Fish and Game or U.S. Army Corps of Engineers are required, additional CEQA review will be required. Improvement plans for areas within 100 feet of riparian corridors or federally protected wetlands or adjacent to CalTrans State Highway rights-of-way or high pressure gas lines are not covered by this Initial Study/Mitigated Negative Declaration and will require detailed plans and subsequent environmental review. Applications for any future similar infrastructure improvement projects should be submitted to the City Department of PBCE to determine whether they are covered by this Negative Declaration or if subsequent environmental review will be required.

Council District: Citywide

California State Law requires the City of San José to conduct environmental review for all pending projects. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. Based on an initial study, the Director of Planning, Building & Code Enforcement has concluded that the project described above will not have a significant effect on the environment. The project location **does not** contain a listed toxic site.

The purpose of this notice is to inform the public of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on January 14, 2009, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on December 19 2008 and ends on January 14, 2009. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance.

The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp>.

For additional information, please call Janis Moore at (408) 535-7815.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: December 19, 2008

Deputy

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Citywide Utility Undergrounding Program and City-issued Excavation/ Encroachment Permits

PROJECT FILE NUMBER: PP08-257

PROJECT DESCRIPTION: Citywide Utility Undergrounding Program and City-issued Excavation/Encroachment Permits (File No. PP08-257) to allow Citywide utility undergrounding projects and related public improvements within public rights-of-way including, but not limited to, the installation of underground utility facilities and related trenching, installation/replacement/removal of overhead equipment on utility poles, installation/replacement of wheelchair ramps, aboveground utility cabinets/structures/rock utility box covers, utility poles, subsurface vaults, driveways, the installation/relocation of city street lights and foundations, signal loops, and sidewalk and roadway restorations. Specific proposed project areas associated with the utility underground program are described on the attached Table 1.

In riparian areas where Santa Clara Valley Water District easements may be affected or permits from California Department of Fish and Game or U.S. Army Corps of Engineers are required, additional CEQA review will be required. Improvement plans for areas within 100 feet of riparian corridors or federally protected wetlands or adjacent to CalTrans State Highway rights-of-way or high pressure gas lines are not covered by this Initial Study/Mitigated Negative Declaration and will require detailed plans and subsequent environmental review. Applications for any future similar infrastructure improvement projects should be submitted to the City Department of PBCE to determine whether they are covered by this Negative Declaration or if subsequent environmental review will be required.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Public Right-of-Way

COUNCIL DISTRICT: Citywide

APPLICANT CONTACT INFORMATION: Leo Ruiz, Engineer II, City of San Jose Department of Public Works, 1661 Senter Road, Building A, First Floor, San Jose, CA 95112

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- I. AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- II. AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- III. AIR QUALITY** – The proposed project includes construction practices as mitigation measures to reduce potential temporary air quality impacts to a less than significant level. In order to minimize PM10 emissions the following dust control construction practices shall be implemented during all phases of construction for the proposed project to prevent visible dust emissions from leaving the site.
1. Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
 2. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
 3. Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 4. Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality; and
 5. Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- IV. BIOLOGICAL RESOURCES** – The proposed project includes the following mitigation measures to reduce potential impacts to biological resources to a less than significant level.

Trees

Pre-construction treatments:

1. The contractor shall meet the tree replacement requirements of the City arborist for any street trees proposed for removal. The construction superintendent shall meet with the City arborist before beginning work to discuss work procedures and street tree protections for those street trees to be retained.
2. Fence all trees to be retained to completely enclose the TREE PROTECTION ZONE prior to construction activities, grubbing or trenching. Fences shall be 6 ft. chain link or equivalent as approved by City arborist. Fences are to remain until all construction work is completed.
3. Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.

During construction:

1. No excavation, trenching or other construction activities shall occur within the TREE PROTECTION ZONE. Any modifications must be approved and monitored by the City arborist.
2. Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the City arborist.
3. Supplemental irrigation shall be applied as determined by the City arborist.

4. If injury should occur to any tree during construction, it shall be evaluated as soon as possible by a Certified Arborist so that appropriate treatments can be applied.
5. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the TREE PROTECTION ZONE.
6. Any additional tree pruning needed for clearance during construction must be performed or supervised by a Certified Arborist and not by construction personnel.
7. As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, any pavements on expansive soils near trees shall be designed to withstand differential displacement.

Raptors

If possible, construction activities in proximity to any riparian areas containing mature trees should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City's Environmental Principal Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the issuance of any encroachment permit.

- V. **CULTURAL RESOURCES** – The proposed project includes the following mitigation measures to reduce potential impacts to cultural resources to a less than significant level.

MITIGATION MEASURES FOR PROJECTS THAT ARE LOCATED WITHIN ARCHAEOLOGICALLY SENSITIVE AREAS, AS DETERMINED BY THE CITY OF SAN JOSE ARCHAEOLOGICAL SENSITIVITY MAPS:

There shall be monitoring of site excavation activities to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric resources.

1. If no resources are discovered, the archaeologist shall submit a report to the City's Environmental Principal Planner verifying that the required monitoring occurred and that no further mitigation is necessary.
2. If evidence of any archaeological, cultural, and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the City's Environmental Principal Planner, describing the testing program and subsequent results. These reports shall identify any program mitigation that the project proponent shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources).

3. In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
 - a. 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 Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
 - b. A final report shall be submitted to the City's Environmental Principal Planner which shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the City's Environmental Principal Planner.

STANDARD MEASURES FOR PROJECTS THAT ARE IN AREAS NOT PREVIOUSLY IDENTIFIED AS ARCHAEOLOGICALLY SENSITIVE:

1. Should evidence of prehistoric cultural resources be discovered during construction in areas not previously identified as being located within archaeologically sensitive areas, work within 50 feet of the find shall be stopped to allow adequate time for evaluation and mitigation by a qualified professional archaeologist. The material shall be evaluated and if significant, a mitigation program including collection and analysis of the materials at a recognized storage facility shall be developed and implemented under the direction of the City's Environmental Principal Planner.
2. As required by County ordinance, this project has incorporated the following guidelines. - Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California 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 Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

VI. GEOLOGY AND SOILS – The project will not have a significant impact on this resource, therefore no mitigation is required.

VII. HAZARDS AND HAZARDOUS MATERIALS – The proposed project includes the following mitigation measures to reduce potential impacts from hazardous materials to a less than significant level.

For Sites Located in Areas With Naturally Occurring Chrysotile Asbestos:

1. As a part of any future trenching or minor project grading, the top 2 feet of soil shall be replaced with clean soil, so as to avoid impacts from naturally occurring asbestos (NOA). The contaminated soils shall be removed and disposed of at an appropriate facility, to the satisfaction of the Director of Public Works
2. A dust mitigation plan to minimize exposure to NOA (per the Bay Area Air Quality Management District regulations) shall be submitted to the Environmental Services Department.

VIII. HYDROLOGY AND WATER QUALITY – The proposed project includes the following mitigation measures to reduce potential hydrology and water quality impacts to a less than significant level. Implementation of the following measures, consistent with NPDES Permit and City Policy requirements, will reduce potential construction impacts to surface water quality to less than significant levels.

Construction Measures

1. Prior to the commencement of any clearing, grading or excavation, the project shall comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit, to the satisfaction of the Director of Public Works, as follows:
2. The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities.
3. The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay*. Prior to the issuance of a grading permit, the project may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, 200 E. Santa Clara Street, San Jose, California 95113. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES Permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 535-8300.
4. The project shall comply with the City of San Jose Grading Ordinance, including erosion and dust control during site preparation and with the City of San Jose Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific BMPs will be implemented to prevent stormwater pollution and minimize potential sedimentation during construction:
 - a. Restriction of grading to the dry season (April 15 through October 15) or meet City requirements for grading during the rainy season.
 - b. Utilize on-site sediment control BMPs to retain sediment on the project site;
 - c. Utilize stabilized construction entrances and/or wash racks;
 - d. Implement damp street sweeping;
 - e. Provide temporary cover of disturbed surfaces to help control erosion during construction;
 - f. Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

Post-Construction

1. The project shall comply with Provision C.3 of NPDES permit Number CAS0299718, which provides enhanced performance standards for the management of stormwater of new development.
2. The project shall comply with applicable provisions of the following City Policies – 1) Post-Construction Urban Runoff Management Policy (6-29) which establishes guidelines and minimum BMPs for all projects and 2) Post-Construction Hydromodification Management Policy (8-14) which provides for numerically sized (or hydraulically sized) TCMs.

IX. LAND USE AND PLANNING – The project will not have a significant impact on this resource, therefore no mitigation is required.

X. MINERAL RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XI. NOISE – The proposed project includes the following mitigation measures to reduce potential construction noise impacts to a less than significant level.

1. Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any construction

work within 500 feet of any residential unit. Construction outside of these hours may be approved by the Director of Planning, Building and Code Enforcement, based on a site-specific construction noise analysis and mitigation plan, to ensure that the construction noise mitigation is adequate to prevent noise disturbance of affected residential uses..

2. The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components.
3. Locate stationary noise generating equipment as far as possible from sensitive receptors. Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.

- XII. POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIII. PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIV. RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XV. TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVI. UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVII. MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **January 14, 2009**, any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: December 19, 2008

Deputy

Adopted on: _____

Deputy

Revised 10/19/07 JAC

Table 1. Specific Proposed Projects Associated with the Utility Undergrounding Program:

Council District 1

Prospect Rd., from S. De Anza Blvd. to Johnson Ave.
Prospect Rd., from Calabazas Creek to Saratoga Ave.
S. De Anza Blvd., from Coronado Dr. to Prospect Rd.
Stevens Creek Blvd., from Stern Ave. to Calvert Dr.

Council District 2

Snell Ave., from Giuffrida Ave. to Blossom Hill Rd.
Blossom Hill Rd., from Snell Ave. to Judith St.

Council District 3

Coleman Ave., from W. Hedding St. to St. James St.
Almaden Ave., from Viola Ave. to W. Reed St.
Balbach St., from Almaden Blvd. to Market St.
W. William St., from west of Colton Pl. to Market St.
Colton Pl., from W. William St. to Pierce Ave.
Pierce Ave., from Almaden Ave. to Market St.
W. Reed St., from Almaden Ave. to Market St.
E. Taylor St., from N. 1st St. to west of N. 10th St.
N. 6th St., from E. Taylor St. to Empire St.
N. 7th St., from E. Taylor St. to Jackson St.
Jackson St., from west of N. 7th St. to N. 9th St.
W. San Fernando St./Laurel Grove Ln., from west of Wilson Ave. to Diridon Station
W. San Fernando St., from Cahill St. to Rte. 87
Park Ave., from Bird Ave. to Rte. 87
Auzerais Ave., from Bird Ave. to Delmas Ave.
Cahill St., from W. Santa Clara St. to W. San Fernando St.
Delmas Ave., from W. Santa Clara St. to Auzerais Ave.
All streets within Guadalupe Gardens area bounded by Coleman Ave., I-880, and Guadalupe River
Monterey Rd., from Willow St. to Curtner Ave.

Council District 5

S. White Rd., from north of Alum Rock Ave. to Rose Ave.
McKee Rd., from Jose Figueres to N. Jackson Ave.

Council District 6

W. Julian St., from The Alameda to Cinnabar St.
Cinnabar St., from W. Julian St. to N. Morrison Ave.
Minnesota Ave., from Iris Ct. to Lincoln Ave.
Canoas Garden Ave., from Almaden Exp. To Masonic Dr.
Hillsdale Ave., from Pearl Ave. to Summer Creek Dr.
Pearl Ave. from Hillsdale Ave. to Capitol Exp.
Meridian Ave., from Park Ave. to Auzerais Ave.
Westfield Ave., from N. Central Ave. to Hwy. 17
Lincoln Ave., from W. San Carlos St. to Coe Ave.
Naglee Ave., from Bascom Ave. to Park Ave.
Park Ave., from Naglee Ave. to Hanchett Ave.

Council District 7

Tully Rd., from southwest of Fire Station 26 to Kenoga Dr.
Senter Rd., from Parrott St./Quinn Ave. to north of Guerra Dr.

Council District 8

Murillo Ave., from north of Groesbeck Hill Dr. to Norwood Ave.

Aborn Rd., from Pumpherstons Wy. to east of White Rd.
White Rd., from north of Aborn Rd. to south of Aborn Rd.
Yerba Buena Rd., from San Felipe Rd. to north of the terminus of Park Estates
San Felipe Rd., from Giorgi Blauer Park Pl. to Yerba Buena Rd.

Council District 9

Foxworthy Ave., from Yucca Ave. to Briarwood Ave.
Los Gatos-Almaden Rd., from Union Ave. to Warwick Rd.
Camden Ave. from Bascom Ave. to Leigh Ave.

Council District 10

McAbee Rd., from Camden Ave. to south of Juli Lynn Dr.

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