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.

PROJECT NAME: Cambrian Tanks Replacement Project (3033 S. Bascom Avenue)

PROJECT FILE NUMBER: CP23-005

PROJECT DESCRIPTION: The applicant proposes a Conditional Use Permit to allow the demolition of the two existing earthen reservoirs within the project site, and construction of two eight-million-gallon pre-stressed concrete tanks within the approximate footprints of the existing tanks. The two existing earthen reservoirs have a combined capacity of 16 million gallons, and the two proposed pre-stressed concrete tanks would have the same combined capacity. Additional supporting infrastructure would also be constructed. The project also includes a lot line adjustment to combine the parcels.

PROJECT LOCATION: The project site is located at 3033 S. Bascom Avenue on two parcels totaling approximately 5.80-gross acres.

ASSESSORS PARCEL NOS.: 414-03-010 and 414-03-011 **COUNCIL DISTRICT:** 9

APPLICANT CONTACT INFORMATION: San José Water (H. Frank Du), 1265 S. Bascom Avenue, San José, CA 95128, frank.du@sjwater.com

FINDING

The Director of Planning, Building and Code Enforcement finds the project described above would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.

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

A. **AESTHETICS** – The project would not have a significant impact on this resource, therefore no mitigation is required.

B. **AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.

C. **AIR QUALITY** – The project would not have a significant impact on this resource, therefore no mitigation is required.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: Tree removal during the nesting season could impact migratory birds, in violation of the federal Migratory Bird Treaty Act.

MM BIO-1:

Pre-Construction Nesting Birds Surveys. Ground disturbance and vegetation removal activities shall be restricted to the non-breeding season for birds (September 1 to January 31, inclusive), when feasible. For ground disturbance and vegetation-removal activities occurring during the bird nesting season (February 1 to August 31, inclusive), general pre-construction nesting bird surveys shall be conducted by a qualified biologist not more than 14 days prior to construction activities involving ground clearing, vegetation removal/trimming, or building demolition. The surveys shall include the disturbance area plus a 200-foot buffer around the site and a 500- foot buffer for raptors. If active nests are located, an appropriate avoidance buffer shall be established within which no work activity would be allowed that would impact these nests. The avoidance buffer shall be established by the qualified biologist on a case-by-case basis based on the species and site conditions. In no case shall the buffer be smaller than 50 feet for non-raptor bird species, or smaller than 200 feet for raptor species. Larger buffers may be required depending on the status of the nest and the construction activities occurring near the nest. The buffer area(s) shall be closed to all construction personnel and equipment until juveniles have fledged and until the nest is inactive. The qualified biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the buffer. If there are delays in on-site activities for more than 14 days during the breeding season, an additional survey shall be required within 14 days prior to the start of work.

E. CULTURAL RESOURCES – The project would not have a significant impact on this resource, therefore no mitigation is required.

F. ENERGY – The project would not have a significant impact on this resource, therefore no mitigation is required.

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

H. GREENHOUSE GAS EMISSIONS – The project would not have a significant impact on this resource, therefore no mitigation is required.

I. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-1: Construction activities would have potential to release or expose people to hazardous materials based on the project sites inclusion on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5.

MM-HAZ-1(a): SCCDEH Regulatory Agency Submittal. The Santa Clara County Department of Environmental Health (SCCDEH) Case #2018-11s shall continue to be utilized for agency oversight of assessment and remediation of the project site through completion of building demolition, subsurface demolition, and construction. Prior to commencement of demolition and

construction/grading activities at the project site, the project applicant shall submit the following documents to the SCCDEH project manager of the open Cleanup Program Site case:

- Current development plan and any modifications to the development plan
- All environmental documents completed for the project, including this Initial Study document
- All future environmental documents completed for the project

Upon submittal of the information above, SCCDEH may require actions such as: development of subsurface investigation workplans; completion of soil, soil vapor, and/or groundwater subsurface investigations; installation of soil vapor or groundwater monitoring wells; soil excavation and offsite disposal; completion of human health risk assessments; and/or completion of remediation reports or case closure documents. Subsurface soil, soil vapor, and groundwater investigations, if required, shall be conducted in accordance with a sampling plan that shall be reviewed and approved by SCCDEH.

The SCCDEH approval documents shall be submitted and reviewed by the City's Environmental Services Department and the Director of Planning, Building and Code Enforcement (or the Director's designee) prior to issuance of grading permits.

It should also be noted that SCCDEH may determine that the San Francisco Basin Regional Water Quality Control Board (SFBRWQCB) or the Department of Toxic Substance Control (DTSC) may be best suited to perform the cleanup oversight agency duties for the assessment and/or remediation of the project. Should the cleanup oversight agency be transferred from SCCDEH to SFBRWQCB or DTSC, this and other mitigation measures will still apply.

MM HAZ-2: Subsurface Investigation. Prior to commencement of demolition and construction/grading activities at the project site, the project applicant shall retain a qualified environmental consultant (Professional Geologist [PG] or Professional Engineer [PE]) to conduct a subsurface investigation, if required by the SCCDEH. The subsurface investigations may include sampling of the following suspect or known release areas:

- Areas of the project site previously identified to contain impacted soil
- Areas adjacent to and below the reservoirs on the project site

Additionally, these subsurface investigations may include, but are not limited to, completion of:

- Geophysical surveys
- Soil, soil vapor, and/or groundwater sampling assessments
- Laboratory analysis for Total Petroleum Hydrocarbons (TPH) (full range), Volatile Organic Compounds (VOCs), Semi-volatile Organic Compounds (SVOCs), and metals

As part of the subsurface investigations, analytical results shall be screened against the environmental screening levels (ESLs). These ESLs are risk-based screening levels for direct exposure of construction workers and residential and commercial/industrial land uses. The subsurface investigation reports shall include recommendations to address identified hazards and indicate when to apply those recommended actions in relation to project activities.

If contaminants are detected at the project site, appropriate steps shall be undertaken to protect site workers during project construction. This would include the preparation of a Soil

Management Plan (see Mitigation Measure HAZ-4).

If contaminants are detected at concentrations exceeding hazardous waste screening thresholds for contaminants in soil (CCR Title 22, Section 66261.24), appropriate steps shall be undertaken to protect site workers during project construction and if necessary, the public during project operation (see Mitigation Measures HAZ-3 and HAZ-4).

MM HAZ-3: Remediation. Where soil is known to be impacted or is identified during implementation of Mitigation Measure HAZ-2 (subsurface investigation) to be present within the construction envelope at chemical concentrations exceeding ESLs and/or hazardous waste screening thresholds for contaminants in soil (CCR Title 22, Section 66261.24), the project applicant shall retain a qualified environmental consultant (PG or PE) to properly delineate and dispose of the contaminated soil. The qualified environmental consultant shall utilize the project site analytical results for waste characterization purposes prior to offsite transportation or disposal of potentially impacted soils or other impacted wastes. The qualified consultant shall provide disposal recommendations and arrange for proper disposal of the waste soils or other impacted wastes (as necessary), and/or provide recommendations for remedial engineering controls, if appropriate.

Remediation of impacted soils and/or implementation of remedial engineering controls may require additional delineation of sub-surface impacts; additional analytical testing per landfill or recycling facility requirements; soil excavation; and offsite disposal or recycling.

The SCCDEH shall review and approve the project site disposal recommendations for regulated waste prior to transportation of impacted soils offsite, and review and approve remedial engineering controls, prior to construction. Subsequently, the project applicant shall review and implement the disposal recommendations for regulated waste prior to transportation of impacted soils off-site, and review and implement the remedial engineering controls, prior to construction. Lastly, the City shall review and approve the project site disposal recommendations for regulated waste and remedial engineering controls prior to issuing a grading permit.

MM HAZ-4: Soil Management Plan. Prior to commencement of demolition and construction/grading activities at the project site, the project applicant shall retain a qualified environmental consultant (PG or PE) to revise the existing Soil Management Plan for the project site. The Soil Management Plan shall address:

1. On-site handling and management of impacted soils or other impacted wastes (e.g., stained soil,

and soil or groundwater with solvent or chemical odors) if such soils or impacted wastes are encountered, and

2. Specific actions to reduce hazards to construction workers and offsite receptors during the construction phase.

The plan must establish measures and soil management practices to ensure construction worker safety, the health of future workers and visitors, and the off-site migration of contaminants from the project. These measures and practices shall include, but are not limited to:

- Imported soil management
- Stockpile management, including stormwater pollution prevention and the installation of BMPs
- Proper disposal procedures of impacted soils
- Investigation procedures for encountering known and unexpected odorous or visually stained soils, other indications of hydrocarbon piping or equipment, and/or debris during ground-disturbing activities
- Monitoring and reporting
- A health and safety plan for contractors working at the project site that addresses the safety and health hazards of each phase of site construction activities with the requirements and procedures for employee protection
- The health and safety plan shall outline proper soil handling procedures and health and safety requirements to minimize worker and public exposure to hazardous materials during construction
- If hazardous building materials are identified at the project site reservoirs during the hazardous building materials survey, then the existing RMP must be revised to address the hazardous building materials to minimize worker and public exposure to hazardous materials during construction

The SCCDEH shall review and approve the Soil Management Plan prior to construction (demolition and grading) activities at the project site. The City shall review the SCCDEH-approved Soil Management Plan prior to issuance of grading permits. The project applicant shall implement the Soil Management Plan during demolition, grading, and construction at the project.

J. **HYDROLOGY AND WATER QUALITY –** The project would not have a significant impact on this resource, therefore no mitigation is required.

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

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

M. **NOISE** – The project would not have a significant impact on this resource, therefore no mitigation is required.

N. **POPULATION AND HOUSING** – The project would not have a significant impact on this resource, therefore no mitigation is required.

O. **PUBLIC SERVICES** – The project would not have a significant impact on this resource, therefore

no mitigation is required.

P. **RECREATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.

Q. **TRANSPORTATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.

R. **TRIBAL CULTURAL RESOURCES**.

Impact TCR-1: Construction activities would have the potential to encounter and damage tribal cultural resources.

MM TCR-1: Unanticipated Discovery of Tribal Cultural Resources. In the event that archaeological resources of Native American origin are identified during implementation of the proposed project, ground-disturbing activities within 50 feet of the find shall be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find as a cultural resource and an appropriate local Native American representative is consulted. If the City, in consultation with traditionally and culturally affiliated Native American group(s), determines the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in consultation with traditionally and culturally affiliated Native American group(s). The plan shall include measures to ensure the find is treated in a manner that respectfully retains, to the degree feasible, the qualities that render the resource of significance to the local Native American group(s). Examples of appropriate mitigation for tribal cultural resources include, but are not limited to, avoidance, protecting the cultural character and integrity of the resource, protecting traditional use of the resource, protecting the confidentiality of the resource, or heritage recovery.

S. **UTILITIES AND SERVICE SYSTEMS** – The project would not have a significant impact on this resource, therefore no mitigation is required.

T. **WILDFIRE –** The project would not have a significant impact on this resource, therefore no mitigation is required.

U. **MANDATORY FINDINGS OF SIGNIFICANCE**

Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on biological resources, hazards and hazardous materials, and tribal cultural resources. Therefore, the proposed Project would not contribute to any cumulative impact for these resources. The Project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Sunday, February 11th, 2024,** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

2. Submit written comments regarding the information and analysis 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.

Christopher Burton, Director
Planning, Building and Code Enforcement

1/5/24

Date

Deputy

Cort Hitchens
Environmental Project Manager

Circulation period: January 10, 2024 to February 11, 2024