



PLANNING & DEVELOPMENT SERVICES

CITY OF
**PALO
ALTO** 250 Hamilton Avenue, 5th Floor
Palo Alto, CA 94301
(650) 329-2441

MITIGATED NEGATIVE DECLARATION

CIRCULATION PERIOD	May 1, 2024 to May 31, 2024
PROJECT NAME	Fiber to the Premises Project
PROJECT LOCATION	The project location is the entire city of Palo Alto and small areas of unincorporated Santa Clara County contiguous to Palo Alto
PROJECT PROPONENT	City of Palo Alto, Utilities 250 Hamilton Avenue Palo Alto, CA 94301
CITY CONTACT	Claire Raybould, AICP, Principal Planner City of Palo Alto, 250 Hamilton Avenue, Ground Floor Palo Alto, CA 94301 Fax: 650.329.2240, Email: Claire.Raybould@cityofpaloalto.org

PROJECT DESCRIPTION

The proposed project consists of the construction of a fiberoptic backbone and fiber-to-the-premises (FTTP) infrastructure to provide communication services throughout the City of Palo Alto. The project involves installing approximately 194 miles of fiberoptic cable, two local aggregation sites, up to approximately 200 underground utility vaults and 147 aboveground utility cabinets, and connections directly to subscribers to the fiber service. Except for the local aggregation sites and connections to subscribers, the fiberoptic cables, vaults, and cabinets would be located within existing public rights-of-way or easements.

DETERMINATION

In accordance with the City of Palo Alto's procedures for compliance with the California Environmental Quality Act (CEQA), the City has conducted an Initial Study to determine whether the proposed project could have a significant effect on the environment. On the basis of that study, the City makes the following determination:

- The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION is hereby adopted.
- Although the project, as proposed, could have a significant effect on the environment, there will not be a significant effect on the environment in this case

because mitigation measures have been added to the project and, therefore, a MITIGATED NEGATIVE DECLARATION is hereby adopted.

The attached initial study incorporates all relevant information regarding the potential environmental effects of the project and confirms the determination that an EIR is not required for the project. In addition, the following mitigation measures have been incorporated into the project:

- AIR-2A** As part of the City's development approval process, the City shall require applicants for future development projects to comply with the current BAAQMD basic control measures for reducing construction emissions of PM10 (Table 8-1, Basic Construction Mitigation Measures Recommended for All Proposed Projects, of the BAAQMD CEQA Guidelines).
- BIO-2** Prior to initiating construction activities west of Interstate 280 that involve ground disturbance off existing roadway surfaces, sidewalks, maintained lawns and landscaping, or existing utility pads, a qualified biologist or botanist shall conduct a protocol-level survey of the proposed disturbance area to confirm the absence of special-status plant species. The survey shall cover the entire area of ground disturbance and shall occur when above ground plant material is evident and when identifying features, such as flowers and fruit, are identifiable. Multiple site visits during the survey season may be necessary to make observations during the appropriate phenological stage of all special-status plant species. *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW 2018) shall be used to develop appropriate protocol-level surveys. If special-status plant species are detected during the survey, the biologist or botanist shall establish a buffer around the plant or plants in which no construction or ground disturbance shall occur. The buffer size or distance shall be at the discretion of the biologist or botanist based upon review of site-specific conditions (e.g. special-status plants located downstream or in lower elevational areas in relation to the impact location, special-status plants being down wind of earth moving activities, and other conditions). Prior construction or issuance of construction permits (whichever occurs first) in the applicable areas west of Interstate 280, the biologist or botanist shall submit a report indicating the results of the survey and designated buffer zones to the satisfaction of the City of Palo Alto. Additionally, prior to construction or issuance of construction permits (whichever occurs first) a review of protocol-level survey results shall be conducted to establish appropriate compensatory mitigation ratios specific to each special-status plant species. Compensatory mitigation ratios shall be developed based on the biological factors specific to each species and should be sufficient to

compensate for the loss of those species. Compensatory mitigation ratios shall be approved by CDFW unless CDFW delegates approval to the City of Palo Alto.

BIO-4

Prior to the issuance of tree removal, tree trimming, or other construction and activities or the issuance of project permits (whichever comes first), the project applicant shall schedule all construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive). Construction activities include site disturbance such as, but not limited to, tree trimming or removal, trenching, boring, and drilling.

If construction activities cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no active nests shall be disturbed during construction activities. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st inclusive). During this survey, the ornithologist/ biologist shall inspect all trees and other possible nesting habitats on-site and within 250 feet of the site for nests.

If an active nest is found within 250 feet of the project area to be disturbed by construction, the ornithologist/biologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, (typically 250 feet for raptors and 100 feet for other birds), to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to tree removal, or issuance of construction permits (whichever occurs first), the ornithologist/biologist shall submit a report indicating the results of the survey and designated buffer zones to the satisfaction of the City of Palo Alto.

BIO-5

Prior to the trimming or removal of trees, a bat survey shall be performed by a qualified biologist between March 1 and July 31. If bat roosts are identified, the bats shall be safely flushed from the sites where roosting habitat is planned to be removed prior to roosting season (typically May to August) and prior to the onset of construction activities. If maternity roosts are identified during the maternity roosting season (typically May to September) they shall remain undisturbed until a qualified biologist has determined the young bats are no longer roosting. If roosting is found to occur onsite, replacement

roost habitat (e.g., bat boxes) shall be provided to offset roosting sites removed. If no bat roosts are detected, then no further action is required if the trees are removed prior to the next breeding season. If removal is delayed, an additional survey shall be conducted 30 days prior to removal to ensure that a new colony has not established itself.

If impacts to roosts cannot be avoided or activities may cause roost abandonment, the bats shall be excluded from the roosting site before the roost is removed/impacted. Exclusionary materials, including, but not limited to, expandable foam and steel wool, shall be applied selectively and as needed until bats have relocated. Bats shall be excluded from the directly affected work areas prior to April 15 of the construction year, and exclusionary devices shall be removed between August 31 and April 15. Exclusion shall occur at dusk to allow bats to exit during the darker hours.

BIO-6

If a stream crossing cannot be avoided through colocation with existing infrastructure and requires the use of horizontal directional drilling, the following measures shall be incorporated into drilling procedures to avoid or reduce impacts to receiving waters from bentonite release. In addition, the project applicant shall obtain the necessary agency approvals for horizontal directional drilling activity, which may include additional controls/conditions.

1. Horizontal directional drilling staging areas and mud pits shall be located no closer than 20 feet to riparian zones, wetlands, creeks, and other surface waters.
2. A horizontal directional drilling foreman shall be present at all times during drilling operations, regardless of where the drilling occurs.
3. Geotechnical borings in the horizontal directional drilling affected areas shall be performed as part of the construction scope prior to the start of drilling operations. Geotechnical bore data shall provide information defining proper pipe depth as dictated by the soil strata characterization.
4. All horizontal directional drilling operations for the proposed project shall be guided by a tracking system consistent with best industry practices. The alignment shall be surveyed on foot by a team of personnel. Temporary surveyor stakes shall be placed strategically along the alignment to anchor the tracker wires. The alignment shall be accessed throughout the drilling operation to monitor for bentonite mud loss.
5. The drill rig operator shall monitor the equipment for loss of drilling lubricant pressure and volume. Members of the drill

crew shall also monitor the alignment of the drill and visually inspect for indications of mud loss.

6. The drill rig operator shall monitor the bore hole to keep it free from obstructions that would inhibit the return of drilling lubricant to the rig.
7. Unless drilling operations are within 1 hour of completion, drilling shall be limited to the operation times of dawn to 30 minutes prior to dusk.

CUL-1

An archaeological monitor having either a B.S. or B.A. in archaeology or related field with at least 1 year of field experience shall be present during ground disturbing within the work locations listed below. The monitor shall work under the direct supervision of a qualified archaeologist having either a M.S. or MB.A. in archaeology or related field with at least 10 years of experience and demonstrated competence in archaeological research, fieldwork, reporting, and curation. The qualified archaeologist shall be on-site at the pre-construction meeting to discuss monitoring protocols. The archaeological monitor shall be present full-time during ground disturbance within site locations listed below, including but not limited to grading, trenching, utilities, and off-site easements. If, after excavation begins, the qualified archaeologist determines that the sediments is not likely to produce archaeological resources, monitoring efforts shall be decreased. The monitor shall be empowered to temporarily halt or redirect grading efforts if paleontological resources are discovered. In the event of an archaeological discovery the monitor shall flag the area and notify the construction crew immediately. No further disturbance in the flagged area shall occur until the qualified archaeologist has cleared the area and announced that construction can resume. In consultation with the qualified archaeologist, the monitor shall quickly assess the nature and significance of the find. If the specimen is not significant it shall be quickly mapped, documented, removed, and the area cleared. If the discovery is potentially significant the qualified archaeologist shall notify the construction crew and City of Palo Alto immediately. In consultation with the City the qualified archaeologist shall develop a plan of mitigation which will likely include full-time monitoring, salvage excavation, scientific removal of the find, removal of sediment from around the specimen (in the laboratory), research to identify and categorize the find, curation of the find in a local qualified repository, and preparation of a report summarizing the find. A Native American representative registered with the Native American Heritage Commission for the City of Palo Alto and that is traditionally and culturally affiliated with the project area shall be

invited to work alongside the qualified archaeologist and have the same powers as the qualified archaeologist.

The above mitigation activities shall be applied during construction in the following areas:

- Within the rights-of-ways and adjacent to the rights-of-ways of West Charleston Avenue and Park Boulevard between West Charleston Avenue and Edlee Avenue.
- The area between Oregon Expressway south to Moreno Avenue between Ross Road and Middlefield Road.
- Within the right-of-way and adjacent to the right-of-way of Bryant Street within one block north and south of its intersection with University Avenue.
- Within the right-of-way and adjacent to the right-of-way of University Avenue within one block east and west of its intersection with Bryant Street.

If cultural resources are uncovered during construction anywhere in the project area, work shall be halted until the qualified archaeologist can assess the significance of the find and then apply the actions described in this mitigation measure, as applicable.

CUL-2

Prior to the initiation of any site preparation and/or start of construction, the City of Palo Alto Public Works Utilities Division and/or its construction contractor(s) shall ensure that all project construction workers receive training overseen by a qualified archaeologist who is experienced in teaching nonspecialists, to ensure that forepersons and field supervisors can recognize archaeological resources in the event that any are discovered during construction. The City of Palo Alto Public Works Utilities Division and/or its construction contractor(s) shall keep a log or register to document that all construction workers have received the training. If potential archaeological resources are observed or reported by construction workers, the actions described in Mitigation Measure CUL-1 shall be applied to the resource or resources, as applicable.

GEO-1

If vertebrate fossils are discovered during construction, all work within 50 feet of the site shall stop immediately and the construction contract shall immediately notify the City of Palo Alto. Before work resumes, a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall

be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the City.

HAZ-1

A Soil Management and Transportation Plan (SMTP) shall be created for the project to assist construction workers in identifying potentially hazardous materials and guide the handling, storage, and transportation of materials excavated during fiber-optic infrastructure installation. The SMTP will detail the necessary actions to comply with applicable hazardous materials regulations, some of which include Health and Safety Code Section 25100 et seq. and Section 25163 et seq., 22 CCR 66263.10 et seq., 13 CCR 1160 et seq., California Vehicle Code Sections 12804 et seq., and 31300 et seq. The SMTP shall establish criteria for reuse of excavated materials or off-site transport for disposal at appropriate State-approved facilities. The SMTP shall be reviewed and approved by the City prior to the issuance of construction permits. Examples of the types of measures that the plan could include are:

- Requirements for field screening to identify potentially contaminated soil;
- Dust mitigation measures for earth moving activities that may include wetting and other forms of material stabilization;
- Procedures for stockpiling and stockpile management to isolate apparently contaminated materials and minimize migration of those materials from stockpile areas;
- Procedures for stockpile sampling and analysis to characterize the soil for appropriate transport and disposal; and
- Identification of appropriate disposal facilities.

HYD-1

Fuels and other fluids used for the operation of construction equipment, shall not be staged or stored within areas that the Federal Emergency Management Agency have mapped as special flood hazard areas. Likewise, equipment staging and storage shall not occur within areas subject to inundation from tsunami or seiche, as mapped by the California Department of Conservation. Bentonite mud and mud pits used for horizontal directional drilling shall be exempt from this mitigation measure because bentonite is non-toxic. Permanent project features containing fluids, such as the proposed fiber hut at Colorado Substation, but be raised such that they are above inundation elevations.

TRA-1

Prior to project construction, the project applicant or its construction contractors shall coordinate with the applicable traffic regulatory agency (City of Palo Alto, County of Santa Clara, and Caltrans) regarding planned improvements near the fiber-optic facility to limit interference with the implementation of roadway improvements or trenching in

nearly completed facilities. At a minimum, coordination shall include the following:

- Circulation and detour plans shall be developed by the applicant to minimize impacts to local street circulation, including the use of signage and flagging to guide vehicles through and/or around the construction zone. Circulation and detour plans must be approved by the City prior to construction.
- To minimize disturbances to traffic, throughout project construction, the construction staging areas shall be provided by the applicant and its contractors in locations that are not within travel lanes or paved shoulders of existing public roads. Construction staging areas shall not be located at transit stops or facilities.
- A traffic plan shall be prepared by the applicant that incorporates all of the above measures and any additional measures required by the City of Palo Alto. The project applicant shall provide the traffic plan to the City for review as part of the construction permit submittal. Both parties shall ensure that revisions are agreed upon and the final traffic plan is approved by both the applicant and the City of Palo Alto prior to the issuance of construction permits and the start of construction activities.

TCR-1

In the event that cultural resources of Native American origin are identified during implementation of the proposed project, all earth-disturbing work within 50 feet of the find shall be temporarily suspended or redirected until an archaeologist and culturally affiliated Native American representative have evaluated the nature and significance of the find. If the City, in consultation with local Native Americans, determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with local Native American group(s). The plan shall include avoidance of the resource or, if avoidance of the resource is infeasible, the plan shall outline the appropriate treatment of the resource in coordination with the culturally affiliated local Native American tribal representative and, if applicable, a qualified archaeologist. Examples of appropriate mitigation for tribal cultural resources include, but are not limited to, protecting the cultural character and integrity of the resource, protecting traditional use of the resource, protecting the confidentiality of the resource, or heritage recovery. Regardless of the plan developed, the City of Palo Alto shall maintain the confidentiality of the resource.

Additional Applicant Proposed Measures to Reduce Less Than Significant Impacts

BIO-1

If project activities are within 200 feet of rail habitat (tidal and brackish marshes with unrestricted daily tidal flows) during the nesting season (February 1 to August 31), then pre-construction call back rail surveys shall be required prior to initiation of project activities. If rails are detected through surveys, then project activities shall not occur within 100 feet of an identified detection location. If the activity occurs where the project site is across a major channel or slough from the project site greater than 100 feet in distance the activity may continue. If bird activity is surveyed or discovered within the buffer limits immediate consultation with CDFW shall be required. If a rail is observed within the project area during project construction or maintenance work shall be stopped immediately by a qualified biologist and the rail species shall be allowed to leave the area on its own. If the rail species does not leave the area, then no work shall commence until CDFW has determined how to proceed with work activities. Examples of how CDFW may determine work activities proceed include installation of a temporary noise barrier to reduce construction noise or postponing construction in the area until outside of the nesting season. Daily monitoring surveys of project site within 200 feet of rail habitat shall occur for rail until project construction is complete.

BIO-3

Prior to initiating construction activities west of Interstate 280 that involve ground disturbance off existing roadway surfaces, sidewalks, maintained lawns and landscaping, or existing utility pads, a habitat assessment shall be conducted by a qualified entomologist with knowledge of the life history and ecological requirements of Crotch's bumble bee (*Bombus crotchii*). The habitat assessment shall include suitable nesting, overwintering, and foraging habitats within the project area. Potential nest habitat (February through October) could include that of other *Bombus* species such as bare ground, thatched grasses, abandoned rodent burrows or bird nests, brush piles, rock piles, and fallen logs. Overwintering habitat (November through January) could include that of other *Bombus* species such as soft and disturbed soil or under leaf litter or other debris. The habitat assessment shall be conducted during peak bloom period for floral resources on which Crotch's bumble bee feed, and shall be based on guidance provided within Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW 2023).

If the habitat assessment identifies suitable nesting, foraging, or overwintering habitat within the work area, a qualified entomologist familiar with the species behavior and life history shall perform a minimum of three on-site surveys within the identified habitat prior to

vegetation removal and/or grading to determine the presence/absence of Crotch bumble bees. Each survey shall ideally be spaced 2- to 4 weeks apart during the Colony Active Period (April--August) (CDFW 2023). Surveys shall occur during the day (at least an hour after sunrise and at least two hours before sunset, though ideally between 9:00 a.m. to -1:00 p.m.) on warm, but not hot, sunny days (65 to 90 degrees Fahrenheit), with low wind (less than 8 miles per hour). The entomologist shall take photos of bumble bees or bumble bee resources observed during the surveys and during the initial habitat assessment.

Where bumble bees have been identified by the qualified entomologist during the on-site surveys, ground disturbing activities shall be restricted to the period when bumble bees are active (during the flight period of listed bee species). No ground disturbance shall occur from November 1st to February 15th to accommodate the overwintering period. If Crotch's bumble bee nests are observed on site or 'take' could occur, a 50-foot avoidance buffer shall be installed and CDFW shall be notified to determine next steps for relocation and/or avoidance. If no Crotch bumble bees are found during the multiple rounds of focused surveys, but the habitat assessment identified suitable nesting, foraging, or overwintering habitat within the work area, a biological monitor shall be onsite during vegetation removal or ground disturbing activities that take place during the Queen and Gyne Flight Period and Colony Active Period (April--August).

A copy of the Final Mitigated Negative Declaration is available online at:

<https://www.cityofpaloalto.org/Departments/City-Manager/City-Policy-Initiatives/Palo-Alto-Fiber#:~:text=Through%20the%20Palo%20Alto%20Fiber,to%20your%20home%20or%20business.>

DocuSigned by:

7F016B4B2DB74ED...

Principal Planner

6/24/24

Signature (Project Planner)

Title

Date