

MALECH ROAD PUBLIC ACCESS IMPROVEMENT PROJECT

MITIGATION MONITORING AND REPORTING PROGRAM

INTRODUCTION

The California Environmental Quality Act (CEQA) and the State CEQA Guidelines (PRC Section 21081.6 and State CEQA Guidelines Sections 15091[d] and 15097) require public agencies “to adopt a reporting and monitoring program for changes to the project which it has adopted or made a condition of project approval to mitigate or avoid significant effects on the environment.” A Mitigation Monitoring and Reporting Program (MMRP) is required for the Malech Road Public Access Improvement Project (proposed project or project) because the Initial Study/Mitigated Negative Declaration (IS/MND) identifies potential significant adverse impacts and all feasible mitigation measures have been adopted. Environmental Protection Measures (EPMs) and Santa Clara Valley Habitat Plan Conditions on Covered Activities (Habitat Plan Conditions), which are part of the project description, have also been incorporated to avoid or minimize adverse environmental effects. While only mitigation measures are required to be included in an MMRP, EPMs, Habitat Plan Conditions, and mitigation measures are included in this MMRP to assist in implementation of all environmental protection features of the project.

PURPOSE OF MITIGATION MONITORING AND REPORTING PROGRAM

This MMRP has been prepared to facilitate the implementation of EPMs, Habitat Plan Conditions, and mitigation measures. The attached table presents the text of each EPM, Habitat Plan Condition, and mitigation measure. The table also includes the timing of each measure’s planned implementation, the implementing entity, and the entity with monitoring responsibility. The numbering of Habitat Plan Conditions follows the numbering used in the Santa Clara Valley Habitat Plan. EPMs, Habitat Plan Conditions, and mitigation measures that are referenced more than once in the IS/MND are not duplicated in the MMRP. Instructions for project-specific implementation of certain Habitat Plan Conditions have been added to tailor the specific impact avoidance and minimization actions relevant to the project and the conditions and resources present within the project area. In all cases, the additional project-specific implementation instruction to measures maintain the Habitat Plan Conditions as equivalent or more effective than those presented in the Habitat Plan EIR/EIS.

ROLES AND RESPONSIBILITIES

Unless otherwise specified herein, the Santa Clara Valley Open Space Authority (Authority) is responsible for taking all actions necessary to implement the EPMs, Habitat Plan Conditions, and mitigation measures under its jurisdiction according to the specifications provided for each measure, and for demonstrating that the action has been successfully completed. The Authority will be responsible for implementation of EPMs, Habitat Plan Conditions, and mitigation measures pursuant to Section 15097 of the State CEQA Guidelines, and for ensuring that Authority staff members and contractors have completed the necessary actions for each measure.

REPORTING

The Authority shall document and describe the compliance of the project with the required EPMs, Habitat Plan Conditions, and mitigation measures either within the attached table or using a separate post-project implementation report.

MITIGATION MONITORING AND REPORTING PROGRAM TABLE

The categories identified in the attached MMRP table are described below.

- ▶ **EPMs, Habitat Plan Conditions, and Mitigation Measures** – This column provides the text of the applicable EPM, Habitat Plan Condition, or mitigation measure.
- ▶ **Implementation Responsibility** – This column identifies the party responsible for implementing the EPM, Habitat Plan Condition, or mitigation measure.
- ▶ **Timing** – This column identifies the time frame in which the EPM, Habitat Plan Condition, or mitigation measure will be implemented.
- ▶ **Verification/Monitoring Entity** – This column identifies the party responsible for verifying and monitoring implementation of the EPM, Habitat Plan Condition, or mitigation measure. If this table is to be used for reporting, this column should be dated and signed by the person (Authority project manager or their designee) responsible for verifying compliance with the requirements of the measure once completed.

Mitigation Monitoring and Reporting Program: Environmental Protection Measures (EPMs)

Environmental Protection Measures	Implementation Responsibility	Timing	Verification/Monitoring Entity
Aesthetics and Visual Resource			
EPM AES-1 Minimize the Visibility of Construction: The Authority will stage and store construction-related materials and equipment to minimize its visibility from public view points.	Authority and contractors	During construction	Authority
Air Quality			
EPM AQ-1 Minimize Air Pollutant Emissions: The Authority will implement applicable measures from the Bay Area Air Quality Management District’s Basic Construction Mitigation Measures for project related construction activities, including: <ul style="list-style-type: none"> ▶ 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 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 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 will be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 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 Authority regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number will also be visible to ensure compliance with applicable regulations. 	Authority and contractors	During construction	Authority

Mitigation Monitoring and Reporting Program: Environmental Protection Measures (EPMs)

Environmental Protection Measures	Implementation Responsibility	Timing	Verification/Monitoring Entity
Biological Resources			
<p>EPM BIO-1 Implement Applicable Habitat Plan Conditions on Covered Activities: The Authority will implement applicable Habitat Plan Conditions on Covered Activities to avoid and minimize impacts to sensitive biological resources. In addition, the Authority will implement Habitat Plan Condition 1, "Avoid Direct Impacts on Legally Protected Plant and Wildlife Species," to fully protected wildlife species, species protected by the Migratory Bird Treaty Act, and the Bald and Golden Eagle Protection Act that could be negatively affected by the project.</p>	<p>Authority (see Habitat Plan Conditions below for the details of implementation of EPM BIO-1)</p>	<p>Construction and operation</p>	<p>Authority</p>
<p>EPM BIO-2 Pre-Construction Surveys and Flagging for Special-Status Plants: The project area will be surveyed prior to ground disturbance to determine the potential presence of special-status plants. The survey will encompass the area within 50 feet of project features. Special-status plants within the survey area will be flagged and avoided.</p>	<p>Authority and contractors</p>	<p>Prior to and during construction</p>	<p>Authority</p>
<p>EPM BIO-3 Pre-construction Surveys and Flagging for Monarch Butterfly Host Plants: The project area will be surveyed prior to ground disturbance to determine the potential presence of the monarch butterfly host plant milkweed (<i>Asclepias</i> spp.). Milkweed plants within the project area will be mapped and/or flagged and avoided.</p>	<p>Authority and contractors</p>	<p>Prior to and following construction</p>	<p>Authority</p>
Geology, Soils, and Water Quality			
<p>EPM GEO-1 Suspend Disturbance During and After Heavy Precipitation: Ground-disturbing activities will not occur when soils are saturated as defined in 14 CCR 895.1, or within one week following an inch or more of rain, unless the ground is consistently firm and can support the weight of machinery without creating ruts.</p>	<p>Authority and contractors</p>	<p>During construction</p>	<p>Authority</p>
<p>EPM GEO-2 Implement Standard Construction Stormwater Runoff and Erosion Control BMPs: The Authority will implement BMPs consistent with the requirements of the SWPPP for the project prior to ground disturbing construction activities, including but not limited to the use of perimeter siltation fencing and wattles to prevent offsite erosion and sedimentation and use of erosion control mats to prevent exposed soils from being displaced by rain or wind and entering nearby waterbodies.</p>	<p>Authority and contractors</p>	<p>Prior to, during, and following construction</p>	<p>Authority</p>
Hazardous Material and Public Health and Safety			
<p>EPM HAZ-1 Inspect Equipment for Leaks: Before the start of construction activities, the Authority will inspect equipment for leaks and conduct a visual inspection</p>	<p>Authority and contractors</p>	<p>Prior to and during construction</p>	<p>Authority</p>

Mitigation Monitoring and Reporting Program: Environmental Protection Measures (EPMs)

Environmental Protection Measures	Implementation Responsibility	Timing	Verification/Monitoring Entity
everyday thereafter until equipment is removed from the project area. Equipment found leaking will be promptly removed from the site.			
EPM HAZ-2 Prohibit Smoking: Consistent with Authority regulations, smoking will be prohibited within the project area at all times to avoid accidental wildfire ignition.	Authority and contractors	Construction and operation	Authority
EPM HAZ-3 Require Spark Arrestors and Fire Extinguishers: The Authority will require mechanized hand tools to have federal- or state-approved spark arrestors and each construction crew to carry at least one fire extinguisher.	Authority and contractors	During use of mechanized hand tools	Authority

Mitigation Monitoring and Reporting Program: Habitat Plan Conditions on Covered Activities

Habitat Plan Conditions	Implementation Responsibility	Timing	Verification/Monitoring Entity
Condition 1: Avoid direct impacts on legally protected plant and wildlife species Direct impacts to one federally endangered plant species, multiple fully protected wildlife species, species protected by the MBTA, and species protected by the Bald and Golden Eagle Protection Act, must be avoided consistent with applicable legal protections. To avoid and minimize direct impacts to the protected species not covered by the Habitat Plan that could be negatively impacted by the project, the Authority would implement EPMs.	Authority	Construction and operation	Authority
Condition 3: Maintain hydrologic conditions and protect water quality Several measures are included to protect water quality (Table 6-2 in the Habitat Plan) from design through post-construction. Applicable BMPs include, but are not limited to, preventing the accidental release of chemicals, fuels, and lubricants and removing any pollutants from surface runoff prior to reaching local streams; minimizing site erosion and sedimentation during construction; and washing vehicles only at approved sites outside of a project area.	Authority and contractors	Construction and operation	Authority
Condition 7: Rural development Several measures are included to minimize impacts from rural development projects on covered species and sensitive land cover types covered under the Plan. Applicable measures include, but are not limited to, use of existing roads for access and disturbed areas for staging; runoff from impermeable surfaces must be directed to natural or landscaped areas; blend grading into the existing landform as much as possible; at project sites that are adjacent to any drainage, natural or human-made, stabilize exposed soils to prevent erosion and sedimentation; and revegetation of all temporarily disturbed soils with native plants and/or grasses, or	Authority and contractors	Prior to, during, and following construction	Authority

Mitigation Monitoring and Reporting Program: Habitat Plan Conditions on Covered Activities

Habitat Plan Conditions	Implementation Responsibility	Timing	Verification/Monitoring Entity
sterile, nonnative species suitable for the soil conditions upon completion of construction.			
<p>Condition 8: Implement avoidance and minimization measures for rural road maintenance</p> <p>This condition applies to maintenance of unpaved roads including those that serve primarily as recreational trails. This condition includes measures to minimize ground disturbance to the smallest area feasible, use of silt fencing or other sediment control devices when performing maintenance activities that disturb soil within the riparian setback zone as defined by the Habitat Plan, avoiding stockpiling of materials adjacent to stream banks, cleaning of equipment to avoid spread of noxious weeds, and other similar measures.</p>	Authority and contractors	Construction and operation	Authority
<p>Condition 10: Fuel buffer</p> <p>This condition requires that all structures covered under the Habitat Plan be maintained consistent with California Government Code Section 51182 and Public Resources Code 4291 regarding defensible space.</p>	Authority	Construction and operation	Authority
<p>Condition 13: Serpentine and associated covered species avoidance and minimization</p> <p>The project area and construction staging area must be located to avoid or minimize impacts to serpentine. The project must be designed to preserve large patches of serpentine and limit impacts to the smallest patches feasible. Where mapped serpentine cannot be avoided, minimization measures must be implemented, such as conducting surveys of the serpentine vegetation to inventory for covered species and evaluate habitat quality for covered species and locating the project footprint as far from the covered species or the highest-quality serpentine habitat as is feasible.</p>	Authority	Prior to construction	Authority
<p>Condition 15: Western burrowing owl</p> <p>Requires habitat surveys and preconstruction surveys for burrowing owl burrows within 250 feet of construction activity, as well as specific avoidance measures for the breeding and non-breeding season in the event that active burrow nesting sites are present onsite.</p>	Authority and contractors	Prior to construction	Authority
<p>Condition 20: Avoid and minimize impacts to covered plant occurrences</p> <p>To ensure that plants are adequately conserved relative to impacts of covered activities, covered plant surveys are required to identify occurrences of covered plants that may be affected by covered activities. Covered plant surveys are required in specific land cover types and habitats, including serpentine bunchgrass grassland, which is known to occur within the project area, and in suitable habitat with a 0.25 mile radius of a known occurrence of a covered plant. If covered plant</p>	Authority and contractors	Construction and operation	Authority

Exhibit G

Mitigation Monitoring and Reporting Program: Habitat Plan Conditions on Covered Activities

Habitat Plan Conditions	Implementation Responsibility	Timing	Verification/Monitoring Entity
occurrences are located on a project site, specific construction-period avoidance measures and long-term management and monitoring is required.			

Mitigation Monitoring and Reporting Program: Mitigation Measures

Mitigation Measures	Implementation Responsibility	Timing	Verification/Monitoring Entity
Biological Resources			
<p>Mitigation Measure BIO-1 Avoid and Minimize Impacts to Nesting Birds: If construction occurs during the nesting bird season (February 1 – August 31), a nesting bird survey will be conducted within 14 days of construction. The survey will encompass the area within a 250-foot radius for raptors and 50-foot-radius for other birds. If nesting birds are identified, work within these buffer areas will be postponed until the young have fledged or the nest is otherwise abandoned.</p>	Authority and contractors	Prior to and during construction	Authority
<p>Mitigation Measure BIO-2: Avoid and Minimize Impacts to Swainson’s Hawk Nests: If construction occurs during the nesting season for Swainson’s hawk (March 1 – September 15), the Authority will survey for active nests prior to the implementation of any construction activities. If nests are identified, construction activities would be prohibited within 0.25 mile of the active nest during nesting season. This buffer may be adjusted as determined appropriate by a qualified biologist in coordination with CDFW.</p>	Authority and contractors	Prior to and during construction	Authority
<p>Mitigation Measure BIO-3: Avoid and Minimize Impacts to American Badger Dens: No more than 14-days prior to implementation of construction activities that could disturb American badger, a qualified biologist shall conduct pre-construction surveys within 100 feet of ground disturbance for potential American badger dens. If any potentially occupied American badger dens are located during surveys, no work shall be performed within a 50-foot buffer around each den during the non-breeding season or within a 100-foot buffer around dens during the period when pups are potentially in the den (February 15 through July 1).</p>	Authority and contractors	Prior to and during construction	Authority
Cultural Resources, Tribal Cultural Resources, and Geology and Soils			
<p>Mitigation Measure CUL-1: Implement Cultural Report Protective Measures for the Project In compliance with Habitat Plan Requirements, an Archaeological Resources Assessment Report was prepared for the project. The Authority will implement the project-specific protective measures included in the Report and developed during tribal consultation for cultural resource protection, which include the following: A cultural sensitivity training program will be provided to all construction personnel prior to the start of project construction. A representative or representatives from culturally affiliated Native American Tribe(s) will be invited to participate in the development and delivery of the cultural resources awareness and respect training program in coordination with a qualified archaeologist meeting the Secretary of Interior guidelines for professional archaeologists. The program will include</p>	Authority and contractors	Prior to and during construction	Authority

Mitigation Monitoring and Reporting Program: Mitigation Measures

Mitigation Measures	Implementation Responsibility	Timing	Verification/Monitoring Entity
<p>relevant information regarding sensitive cultural and tribal cultural resources, including protocols for resource avoidance, applicable laws regulations, and the consequences of violating them. The program will also underscore the requirement for confidentiality and culturally appropriate treatment of any find of significance to Native Americans and protocols, consistent, to the extent feasible, with Native American Tribal values.</p> <p>In the event that a prehistoric archeological site (including midden soil, chipped stone, bone, or shell), historic-period archaeological site (such as concentrated deposits of bottles, amethyst glass, or historic refuse), or paleontological resource is uncovered during grading or other construction activities, all ground-disturbing activity within 50 feet of the discovery shall be halted until a qualified archaeologist can assess the significance of the find. The Authority will be notified of the potential find and a qualified archeologist shall be retained to investigate its significance. If the find is a prehistoric archeological site, the culturally affiliated Native American tribe shall be immediately notified. The tribal representative(s), in consultation with the archaeologist, shall determine if the find is a significant tribal cultural resource (pursuant to PRC Section 21074). The tribal representative will make recommendations for treatment, as necessary. Culturally appropriate treatment may be, but is not limited to, preservation in place, processing materials for reburial, minimizing handling of cultural objects, leaving objects in place within the landscape, returning objects to a location within the project vicinity where they will not be subject to future impacts. If the find is a paleontological resource, all ground disturbance within 50 feet of the find shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate salvage, treatment, and future monitoring and mitigation.</p> <p>Any previously undiscovered resources found during construction will be recorded on appropriate California Department of Parks and Recreation 523 forms and evaluated for significance under all applicable regulatory criteria. If the archaeologist determines that the find does not meet the CRHR standards of significance for cultural resources, construction may proceed. If the find is determined to be significant by the qualified archaeologist (i.e., because the find is determined to constitute either an historical resource or a unique archaeological resource), the archaeologist shall work with the Authority to follow accepted professional standards such as further testing for evaluation or data recovery, as necessary. If artifacts are recovered from significant historic archaeological resources, they shall be housed at a qualified curation facility. The results of the identification, evaluation, and/or data recovery program for any unanticipated</p>			

Mitigation Monitoring and Reporting Program: Mitigation Measures

Mitigation Measures	Implementation Responsibility	Timing	Verification/Monitoring Entity
<p>discoveries shall be presented in a professional-quality report that details all methods and findings, evaluates the nature and significance of the resources, and analyzes and interprets the results.</p> <p>If any human remains are exposed during construction, they shall be treated in accordance with the California Health and Safety Code and California Public Resources Code (PRC) Sections 5097.94 and 5097.98, in consultation with the Native American Heritage Commission (NAHC).</p>			