

**From:** [Tu, John](#)  
**To:** [Amanda Wolf](#)  
**Cc:** [sanjoseplan@google.com](mailto:sanjoseplan@google.com); [Downtown West Project](#)  
**Subject:** ESD Memo on Submittal/Resubmittal  
**Date:** Monday, December 21, 2020 5:07:22 PM  
**Attachments:** [DW Resubmittal Comments-ESD122120-FINAL.pdf](#)

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Amanda,

Find attached ESD's memo.

Best,

[Tong \(John\) Tu](#)

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# Memorandum

**TO:** John Tu  
Planning, Building, and  
Code Enforcement

**FROM:** Julie Benabente  
Environmental Services

**SUBJECT: RESPONSE TO  
DEVELOPMENT APPLICATION**

**DATE:** December 21, 2020

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Approved

Date

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**PLANNING NO.:** PDC19-039, PD19-029 and GP19-009

**DESCRIPTION:** The project is proposing a mixed-use development on approximately 81 acres mostly within the boundaries of the Diridon Station Area Plan (DSAP). The project involves a Planned Development Rezoning, Planned Development Permit, General Plan Amendments, amendments to the historic landmark boundaries of the Southern Pacific Depot and San José Water Company, Historic Preservation Permit for the San Jose Water Company site, a Vesting Tentative Map, and a Development Agreement, for the development of up to 5,900 residential units; up to 7,300,000 gross square feet (GSF) of office space; up to 500,000 GSF of active uses such as retail, cultural, arts, etc.; up to 300 hotel rooms; up to 800 rooms of limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 GSF; up to two central utility plants totaling approximately 130,000 GSF; logistics/warehouse(s) totaling approximately 100,000 GSF; and approximately 15 acres of open space, all on approximately 81 acres. The project also proposes infrastructure, transportation, and public realm improvements.

**LOCATION:** 450 W SANTA CLARA ST SAN JOSE  
(The project site is approximately 81 acres, extends approximately one mile from north to south, and is bounded by: Lenzen Avenue and the Union Pacific Railroad tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, State Route 87, South Autumn Street, and Royal Avenue to the east; Auzerais Avenue to the south; and the Caltrain rail corridor to the west)

The Environmental Services Department received the subject project on October 7, 2020 and submits the following comments and requirements based on the information received to date.

## **Infrastructure Plan (IP)**

### **General:**

1. The Environmental Services Department may not have the resources or expertise to provide review of technical aspects of this development and may require reimbursement to provide the level of review required during the subsequent review process.

### **Wastewater and Recycled Water Comments:**

1. *IP, General:* While the “district” systems may only have 1-2 connection points to the City’s sewer infrastructure, any discharge from these connection points must comply with requirements of the Industrial Wastewater Discharge Permit in conformance with the City’s NPDES permit. In the event of “district” system reduction or suspension in treatment service, City must also know the proposed uses and estimated amount and characteristics of wastewater discharges from each parcel in order to protect the City’s sewer infrastructure, ensure compliance with City’s regulatory obligations, and reasonably allocate the cost of City sewer services between parcels in compliance with Prop 218. For these reasons, each parcel must have a submeter and notification of any change in use will be a requirement of the Wastewater Discharge Permit. Each parcel shall have in its deed the requirements to (a) comply with conditions to ensure discharge within the allocated capacity, (b) comply with a pretreatment program, (c) comply with all permits for the onsite wastewater collection and treatment facility from both state and local regulatory agencies; and (d) the obligation to pay for City services in the event of nonpayment by the legal entity responsible for payment of City wastewater collection and treatment services. **Please note that the project will comply with all Wastewater Discharge Permit, submetering, and deed requirements (see “Project Conditions” section below).**
2. *IP, General:* City understanding is that references to “district” is meant in the general sense and not, for example, as a legal “district”. **Please confirm in the text and describe the legal entity of the “district”, including the formation, ownership, management, and how Google intends to assess wastewater and solid waste charges to its various customers.**
3. *IP, General:* **Please provide details on how the applicant will ensure that waste collection, wastewater collection and treatment, and recycled water rates to district system customers will be based on, and if there will be a standard for limiting the percentage of increase each year.**
4. *IP, pg. 6:* Document states: "It should be noted that full electrification of the site is committed over the use of natural gas with the potential exception of natural gas for limited cooking applications in up to 20,000 SF of retail only." The City continues to advocate for a fully all-electric site for this innovative and high-profile development, in

alignment with Climate Smart goals. The City Council approved an updated natural gas infrastructure prohibition ordinance on Dec. 1, 2020 which will extend the prohibition to all building types and this project as of August 1, 2021.

5. *IP, pg. 6:* Document references a “Maintenance Matrix”. City staff notes that it has not yet received for review the Maintenance Matrix (attachment to Development Agreement).
6. *IP, pg. 37:* Document states: “However natural gas use may be required for certain end uses, such as retail cooking in up to 20,000 GSF.” The City continues to advocate for a fully all-electric site for this innovative and high-profile development, in alignment with Climate Smart goals. The City Council approved an updated natural gas infrastructure prohibition ordinance on Dec. 1, 2020 which will extend the prohibition to all building types and this project as of August 1, 2021.
7. *IP, pg. 43:* Document states: “A PSS [pressure sanitary sewer] operates through a sealed system, eliminating leakages (exfiltration) and stormwater inflow and infiltration (I/I) while also reducing odor issues. The pump station wet wells associated with the PSS will be vented as required by CPC to prevent odorous conditions. If needed, air blowers and odor control units (e.g., carbon filters) may be incorporated into the pump station design.” **Please note that the project will comply with all required odor mitigation measures. The City may require additional measures to mitigate against future complaints of public nuisance based on odor such as a deed restriction limiting development or activity that would result in offensive odor production within a specified distance from sensitive odor receptors such as schools, hospitals, nursing homes, etc. (see “Project Conditions” section below).**
8. *IP, pg. 44:* Document states: “The WRF(s) have been sized to treat up to a maximum wastewater production flow of 1 million gallons per day (MGD).” **Please rephrase for clarification that each WRF would treat up to 1 MGD and reconcile this text with the Draft EIR statement that “Based on City modeling, the project could generate wastewater flows of approximately 2.52 mgd.” If the system is inoperable or terminated, how would the 2.52 MGD of estimated wastewater flow be managed if the capacity of the max. of two WRFs in the development is 2 MGD (i.e.1 MGD each)?**
9. *IP, pg. 45:* Document states: “These discharges would incur a fee based on the City’s monitored industrial discharge rates.” Monitored industrial discharge rates are not the same as connection fees. The one-time connections to the City sewer infrastructure and to the Regional Wastewater Facility will require a fee to reserve the appropriate capacity for each parcel as distinguished from ongoing service charges, which would also be assessed, based on actual discharge. The rate that applies may vary depending on the final development design, district or direct sewer infrastructure connection(s), wastewater treatment occurring, etc. **Please edit to “These discharges would incur a fee, separate from one-time City connection fees which shall be calculated and charged in the same manner as fees charged to other property owners. Rates for usage will be based on the resolution for sanitary sewer service rates adopted by the San Jose City Council.”**
10. *IP, pg. 45:* Document states: “Project will have the capacity to irrigate public areas with recycled water produced at the WRF thereby leaving potable water available for other

uses.” **Please edit to clarify “public areas” (e.g. whether this may include publicly or privately owned parks) being considered for use of recycled water.**

11. *IP, pg. 45*: Document states: “This arrangement would add redundancy to the proposed WRF and would avoid the need for the Project applicant to permit a treated water discharge into the environment.” Redundancy does not obviate the need for the onsite wastewater treatment and recycled water facility to obtain a permit from the State Water Board as a wastewater treatment plant or at a minimum be subject to the applicable General Order for domestic wastewater treatment plant and other regulations such as monitoring and reporting. The recycled water facility would still be subject to State recycled water quality standards and potentially local regulation of onsite recycled water facility. These state permits and regulatory oversight for the operation of these facilities is in addition to the Industrial Discharge Permit required by the City locally to comply with the City’s NPDES permit. **Please clarify in text that the permit being avoided is for a fully onsite wastewater processing plant that is not connected to the City’s sewer infrastructure.**
12. *IP, pg. 48*: Document states: “City-supplied potable water would be used as a backup supply to the recycled water system. Due to the phasing of the Project, potable water would also be used as a supply for non-potable uses until the water reuse facility(s) are constructed and brought online. ” **Please revise “City-supplied” to “San Jose Water Company-supplied” as the City’s municipal water system does not serve the project location.**

#### **Integrated Waste Management Comments:**

1. *IP, General*: Although the City does not currently have a deconstruction ordinance, the City desires to reduce waste and to increase material recovery from development projects in the City. The City recommends the applicant consider submitting a deconstruction plan to recover materials during the demolition process. If a complete building deconstruction is not feasible because of the type of building and its components, a partial deconstruction is advised where the most valuable commodities are salvaged before the demolition takes place. The salvaged material can be sold or donated to resale businesses in the area or can be further incorporated through adaptive reuse into the current buildings set to be constructed. **Please reference plans to create and submit a deconstruction plan as applicable.**
2. *IP, General*: Google’s proposal for solid waste will need to comply with certain requirements in the San José Municipal Code including SJMC §9.10.45, 9.10.190, 9.10.457, 9.10.525, 9.10.740, 9.10.750, 9.10.1000.A., 9.10.1010.A., 9.10.1350, 9.10.1380, 9.10.1610, and 9.10.1810. The City is open to the AWCS concept of consolidating waste at collection locations as long as it conforms to the City’s solid waste system and is properly permitted. **The Applicant should provide more details to confirm waste collection and services to comply with the applicable sections of Chapter 9.10 of the San Jose Municipal Code and the City’s Solid Waste Enclosure**

**Area Guidelines (2011 Version,**

**<https://www.sanjoseca.gov/Home/ShowDocument?id=46404>), even if the premises will be serviced by the AWCS, in the event of “district” system reduction or suspension in treatment service. The City will make the final determination of which authorized collector (e.g. residential or commercial) will provide service in alignment with City franchise agreements, Municipal Code, and based on final project design and waste management plan submittals.**

3. *IP, pg. 45:* Document states “Should anaerobic digestion be implemented, co-digestion with food waste collected via the automated water collection system would increase the amount of biogas and biosolids production.”

The franchise system limits Google’s ability to collect food waste if it charges a fee for such collection from third parties. If Google collects food waste through the AWCS for free or purchases the food waste, the exclusive franchise would not prohibit Google from using the food waste for anaerobic digestion as ZWED does not have an exclusive right to anaerobically digest food waste. The City understands that the applicant is only contemplating processing food waste together with wastewater sludge in an onsite anaerobic digester. **If the project will collect food waste and process it via anaerobic digestion with wastewater sludge, the applicant must include details regarding how it would comply with the City’s franchise agreements, Municipal Code, Senate Bill (SB) 1383, and will be required to comply with all required odor mitigation measures (see “Project Conditions” section below).**

4. *IP, pg. 54:* Document states “The waste is transferred through a single-pipe that pneumatically pulls the waste to one or more central terminal facilities, where each waste stream is deposited into the appropriate container.”

Solid waste generators are required to take measures for odor mitigation at all solid waste storage and processing locations under City Municipal Code, including SJMC §9.10.430(A), 9.10.430(D), 9.10.430(F), 9.10.450(C), 9.10.840, and 9.10.1395.

CalRecycle also requires an Odor Impact Minimization Plan for certain waste facilities.

**Please note that the project will comply with all required odor mitigation measures (see “Project Conditions” section below).**

5. *IP, pg. 54:* Document states: “All components of the waste management system would be owned and managed by the Project applicant, and interface with the City’s waste franchisee for waste hauling.” The owner of the solid waste itself is owned by the generator until discarded in a container for disposal. The Project applicant will be the owner of the infrastructure, however. **Please clarify the meaning of “all components”.**
6. *IP, pg. 54:* Document references “a flatbed waste collection truck”. A flatbed truck is not typically used for waste collection. A roll-off waste collection vehicle is typically used to service waste compactors by the commercial collection franchisee, Republic Services. **Please change “a flatbed waste collection truck” to a “roll-off waste collection truck”.**

7. *IP, pg. 54:* Document states: “The Project is considering a custom food scrap stream to allow for direct transfer to an anaerobic digestion facility (ZWED), bypassing an intermediate waste sorting facility.” Under the current municipal agreement with ZWED (effective date May 1, 2020), all wet waste from commercial streams in San Jose is delivered directly to ZWED without sorting at an intermediate materials recovery facility. **Please revise the document to accurately describe the current commercial system.**
8. *IP, pg. 54:* Document states: “glass-only bags of waste would need to be hauled via traditional means. Cardboard will generally not be used in AWCS but hauled via traditional means.” Under the Municipal Code, no person owning or occupying a commercial premise may share a garbage, recycling material or rubbish container with another commercial premise if sharing such a container contributes to the transportation of material on or across any public street (excluding alleys between the affected commercial premises) or will have an adverse effect on the flow of vehicular or pedestrian traffic. Therefore, Google may not transport solid waste itself on or across public streets to its centralized location. **Please clarify if “hailed by traditional means” means Google plans to haul the transport the streams that won’t enter the AWCS with Google-owned vehicles or plans to subscribe to waste collection services from the City’s authorized hauler.**
9. *IP, pg. 54:* Document states: “Additional residual waste streams not transported by the AWCS would be collected by a vehicle from each building.” As stated above, collection of solid waste from a residential or commercial premise must be performed by an authorized collector, depending on the use of the premises, and shared containers between different commercial premises is not permitted if it will lead to transportation of solid waste on or across any public street or have an adverse effect on the flow of vehicular or pedestrian traffic. The City is open to the AWCS concept as long as it conforms to the City’s solid waste system and is properly permitted. **Please clarify whether Google intends for the other residual waste streams not transported by the AWCS, or for that matter waste from buildings that cannot be connected to the AWCS, to be serviced by Google or by one of the City’s authorized collectors.**
10. *IP, pg. 54:* Document states: “The Project is considering various strategies to manage solid waste, including an automated waste collection system (AWCS). The AWCS option comprises a main pressurized pneumatic pipe that runs below grade, primarily within the proposed utilidors. Individual buildings are connected to the main AWCS trunk via below-grade laterals. The computer-controlled system would allow for the collection of a variety of solid waste streams via waste inlets distributed within the buildings and at select exterior locations. The waste is transferred through a single-pipe that pneumatically pulls the waste to one or more central terminal facilities, where each waste stream is deposited into the appropriate container.” Solid waste is traditionally placed in container bins where it is left for collection from the premises by truck across public streets. However, the AWCS concept is novel and the Municipal Code does not specifically address a system where solid waste is transported automatically from the generator’s

garbage container to a central location via pneumatic tube. **The City is open to the AWCS concept as long as it conforms to the City's solid waste system and is properly permitted. Google may not engage in the business of collecting, transporting, or disposing of solid waste, meaning it cannot charge a separate fee for the collection and transportation of discarded solid waste to third parties, and when the solid waste generated from the development is ultimately collected for processing or disposal such collection will need to be performed by a solid waste collector authorized by the City in accordance with the Municipal Code. The City will make the final determination of which authorized collector (e.g. residential or commercial) will provide service in alignment with City franchise agreements, Municipal Code, and based on final project design and waste management plan submittals.**

### **Downtown West Design Standards and Guidelines (DWDSG)**

#### **General:**

1. *DWDSG, pg. 323:* Please edit if "Infrastructure Standards" refer to "Improvement Standards" in this excerpt: While this section provides an overview of the district systems, see the Downtown West Infrastructure Standards and Infrastructure Plan for more information.

#### **Wastewater and Recycled Water Comments:**

1. *DWDSG, General:* With respect to the connection/capacity fees to both the City wastewater collection system and to the Regional Wastewater Facility – the maximum capacity must be allocated to the applicable parcel prior to connection of the onsite facility to the City system and such capacity shall be recorded in the deed for each parcel. Capacity may not be transferred between parcels, and no development that would cause the parcel to exceed its allocated capacity should be approved before fees are remitted for additional capacity (in alignment with SJMC §15.16.510 and SJMC §15.16.730). **Please note that the project will comply with all deed requirements (see "Project Conditions" section below).**
2. *DWDSG, General:* Wastewater Treatment and Water Use facilities must be permitted by the State Water Board. Odor emission from development must comply with BAAQMD regulations including for onsite wastewater treatment facility and an additional permit if the project is within 1,000 feet of a school. **Please note that the project will comply with all BAAQMD permit requirements (see "Project Conditions" section below).**
3. *DWDSG, General:* In order to control for discharges by individual parcels that exceed pretreatment standards, the development shall require that all properties comply with a pretreatment program that is as stringent as the City's pretreatment program and agree to be subject to the Wastewater Discharge Permit. **Please note that the project will comply**



**with all Wastewater Discharge Permit requirements (see “Project Conditions” section below).**

4. *DWDSG, General:* Discharge from the onsite wastewater facility will be required to comply with the Wastewater Discharge Permit under San Jose Municipal Code Chapter 15.14. The distribution of recycled water is subject to state recycled water quality standards and could be subject to local regulation of onsite recycled water facilities after December 2022. **Please note that the project will comply with all Wastewater Discharge Permit requirements (see “Project Conditions” section below).**
5. *DWDSG, pg. 387:* Each building must have submeters for wastewater, recycled water and potable water. A list of uses in any given year shall be submitted to the City so the City can send Prop 218 notices and apply the appropriate rate to each parcel in the event there is a direct discharge to City infrastructure for City treatment. This could happen if the on-site treatment facility is offline for repairs or diminished treatment or experiences a failure. To ensure that each parcel will agree to a lien to be placed on their parcel, any transfer of a parcel within the development must include a recorded covenant that runs with the land agreeing to the payment of their share of the unpaid wastewater collection and treatment services from the City. See “Project Conditions” section below. **Add requirement for submetering of waste, wastewater, and recycled water at the building level and requirement to obtain and adhere to all applicable permits and regulations during construction and operations in the Conformance Review Checklist to ensure compliance in early design.**

#### **Stormwater Comments:**

1. *DWDSG, pg. 236:* The City’s initial comment was that “All streets adjacent to Google development should be converted to green streets. This is consistent with the project foundations outlined on sheet 2.04 to provide high levels of sustainability and excellence in design.” And the applicant response was to “See the Mobility Chapter of the Downtown West Design Guidelines and Standards.” The City’s Green Stormwater Infrastructure Plan identifies the Diridon Station Area as being high or med-high for constructability prioritization of Green Streets. **If the intent is to comply with the City’s initial comment for “Green Streets”, please specifically list the Green Stormwater Infrastructure Plan under “key regulatory documents” (pg. 239) and include “Green Streets” reference(s) in the appropriate Standard(s) within the Mobility section of the Design Guidelines.**

#### **Infrastructure Plan Sheets (IPS)**

#### **Integrated Waste Management Comments:**

1. *General:*
  - a. Current IPS do not show the location of the solid waste central terminal facility(ies). Each central terminal facility will require a solid waste enclosure or solid waste room. To comply with City Council Policy 6-29, drainage within a

solid waste enclosure or solid waste room should be connected to the sanitary system.

- b. Ensure compliance with the Solid Waste Enclosure Area Guidelines (2011 Version) <https://www.sanjoseca.gov/Home/ShowDocument?id=46404>.

### **Downtown West Improvement Standards (DWIS)**

#### **Wastewater and Recycled Water Comments:**

1. *DWIS, pg. 15*: Document Section 5.1 states: "Private district systems will conform to a combination of City of San José standards as well as additional location, state, and national standards which are utility-specific. If a utility system will not be regulated by the City of San José, the governing agency is detailed below." Yet, Section 5.4 – Wastewater Collection makes it seem as only the State's plumbing code applies. **Section 5.4 should reference the need for an NPDES permit and that EPA Part 503 Rule will apply if "onsite solids management" is implemented as noted in the Infrastructure Plan. For example, Section 5.5 – Water Reuse Facility is more thorough in that it has a bulleted list of applicable federal, state, and local requirements.**

#### **Integrated Waste Management Comments:**

1. *DWIS, pg. 19*: Document states: "Each AWCS terminal will require a CalRecycle Full Permit as a waste transfer station. The San José Planning, Building and Code Enforcement Department will act as CalRecycle's Local Enforcement Agency (LEA)." Note that even though the facility may obtain a permit as a waste transfer station, the solid waste received may only be collected by the City's franchise hauler as required under the San Jose Municipal Code. **Edit as follows to clarify the City's role related to the LEA: "Each AWCS terminal will require a CalRecycle permit as a waste transfer station. The CalRecycle's Local Enforcement Agency (LEA) is housed in the San José City hall office of Planning, Building and Code Enforcement."**
2. *DWIS, pg. 20*: Document Section 5.10 "Solid Waste Management" lists "San Jose Municipal Code Chapter 9, Part 10". "San Jose Municipal Code Chapter 9, Part 10" is an incomplete reference. **Change "San José Municipal Code Chapter 9, Part 10" to "Chapter 9.10 Solid Waste Management".**
3. *DWIS, pg. 20*: Document Section 5.10 "Construction Waste Diversion" lists "San José Municipal Code Chapter 9, Part 15". "San José Municipal Code Chapter 9, Part 15" is an incomplete reference. **Change "San José Municipal Code Chapter 9, Part 15" to "San José Municipal Code, Chapter 9.10, Part 15".**

### **Amendments to 2014 DSAP (ADSAP)**

#### **Stormwater Comments:**

1. *ADSAP, pg. 4:* The Streetscapes section notes “Figure 3-4-1 should be amended to reflect Downtown West. The text describing the street typologies should be further refined to clarify that street design is governed by the Complete Streets Standards and Guidelines, DWDSG and VTM, and the figures of the cross-sections (Figures 3-4-2 - 3-4-6) are illustrative.” **Please add reference to Green Stormwater Infrastructure Plan and note the Green Streets prioritization for the Diridon Station Area.**

#### **Project Conditions:**

The following items shall be included as Project Conditions and incorporated into the Conformance Checklist process:

**Environmental Services Clearance for Building Permit(s):** Prior to the approval of the issuance of Building permits, the applicant will be required to have satisfied all of the following draft ESD conditions:

1. **Connection Fees and Use Charges:** In accordance with City Ordinance and state law, all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits for existing connections, shall be calculated and charged in the same manner as fees charged to other property owners.
2. **Rates to Property Owners and Tenants:** Depending on the potential burden of unregulated usage charges for non-City sanitary sewer collection and sewage treatment services, recycled water, and waste services to property owners and tenants – the City may consider requiring the applicant to limit the maximum rates that can be charged to property owners and tenants using district system waste and sanitary sewer services.
3. **Submeters:** Each building shall have potable water, wastewater, and recycled water submeters.
4. **Deed Restrictions:** Before approval of any development for the parcel, the parcel deed shall be amended to require restrictions including, but not limited to (a) compliance with conditions to ensure discharge within the allocated capacity for the parcel and noting that capacity may not be transferred between parcels and no development that would cause the parcel to exceed its allocated capacity should be approved before fees are remitted for additional capacity (in alignment with SJMC §15.16.510 and SJMC §15.16.730) (b) compliance with a wastewater pretreatment program, (c) compliance with all permits for the onsite wastewater collection and treatment facility from both state and local regulatory agencies; and (d) the obligation to pay for City services in the event of nonpayment by the legal entity responsible for payment of City wastewater collection and treatment services. The City can include reference in the Development Agreement for details.

**5. Wastewater/Recycled Water Design Review:**

- a. The State Water Board DDW will review the engineering report and provide technical comments on tertiary filtration and disinfection unit processes. The Santa Clara County Department of Public Health (DPH) may act in an advisory role.

**6. Odor Controls:**

- a. Conformance with Odor Mitigation Measures for Wastewater (AQ-5), including a Hydrogen Sulfide and Odor Management program (HSOM Program) at each water reuse facility (WRF) for review and approval by the ESD Director.
- b. Demonstration of Odor Mitigation Measures for Waste at Collection Terminals in alignment with SJMC §9.10.430(A), SJMC §9.10.430(D), SJMC §9.10.430(F), SJMC §9.10.450(C), SJMC §9.10.1395, and SJMC §9.10.840.
- c. Demonstrated compliance with CalRecycle requirements for an Odor Impact Minimization Plan (as applicable).
- d. The City may require additional measures to mitigate against future complaints of public nuisance based on odor such as a deed restriction limiting development or activity that would result in offensive odor production within a specified distance from sensitive odor receptors such as schools, hospitals, nursing homes, etc.

**7. City Wastewater Discharge Permit:** The development connected to the district systems must be covered under a Wastewater Discharge Permit, updated at minimum annually or more frequently as needed, including:

- a. Proposed uses and estimated amount and characteristics of wastewater discharges from each building
- b. Requirement to adopt a pretreatment program for its properties that is aligned with the City's pretreatment program and NPDES requirements
- c. Requirement to maintain records of monthly flow, production changes, closures, wastewater sampling records, etc. and to notify the City in the event of a change in ownership, use, or a tenant, and
- d. Maintenance of compliance with other permits outside of the City's jurisdiction

**8. BAAQMD Permit:** Applicant shall comply with BAAQMD regulations for an onsite wastewater treatment facility and an additional permit if the project is within 1,000 feet of a school.

**9. Solid Waste Handling Plans:** Applicant shall provide a Waste Management Plan, for City review and approval, covering each building in the development and including:

- a. The type of collection containers, service provider at the building and/or terminal collection (if serviced by the district utility system), commercial and residential premises waste management plan in the event of service reduction or termination, locations of, collection plans, and style of public litter cans that would be placed

in the public right of way, and planned handling of special wastes (e.g. biosolids if applicable).

- b. Demonstrated compliance with onsite waste collection space and truck collection access in accordance with the applicable sections of the City's *Solid Waste Enclosure Area Guidelines* (2011 Version) <https://www.sanjoseca.gov/Home/ShowDocument?id=46404>.
- c. Demonstrated compliance with City Council Policy 6-29, wherein drainage within a solid waste enclosure or solid waste room should be connected to the sanitary system.
- d. Demonstrated compliance with SB 1383 for organics handling/ diversion requirements.
- e. Demonstrated compliance with applicable Municipal Code and franchise agreements

**10. External Wastewater, Recycled Water, and Waste Permits:** District systems must receive the following:

- a. Onsite wastewater treatment and recycled water facility permits from applicable State and local agencies including the State Water Board for the appropriate Class wastewater treatment plant and, at a minimum, be subject to the applicable General Order(s) for domestic wastewater treatment plants, general waste discharge requirements for biosolids, and other regulations such as monitoring and reporting.
- b. County permit, if the County exerts jurisdiction over the onsite wastewater/ recycled water system, or the City, if it adopts a permitting process in the future
- c. Permitted as a waste transfer station in accordance with PRC 40200(a). The specific permit required from CalRecycle is based on the tonnage the inbound tonnages/day:  
<https://www.calrecycle.ca.gov/swfacilities/permitting/facilitytype/transfer>.

**Term Sheet:**

- 1. Pg. 1: Document states in Section "1", "Overview of Subsequent Review": "The Planned Development Permit (PD Permit), which effectuates the PD Zoning District, includes the Downtown West Design Standards and Guidelines (DWDSG), the Downtown West Improvement Standards (DWIS), and the Conceptual Infrastructure Plan Sheets." **Add reference to "Infrastructure Plan".**
- 2. Pg. 1, Section B: **Add reference to "Infrastructure Plan".**
- 3. Pg. 3, Section 2: **Add the following item "Location of potable water, wastewater, and recycled water submeters on all proposed buildings."**
- 4. Pg. 24, Section "2.j." Consider movement to vertical review section and edit as follows (edits shown in bold and strikethrough): "Waste Management Plan, including the location

and specifications of the solid waste enclosure or room, including dimensions, roofing structures, and drainage; number of waste containers to be placed inside the enclosure or room, the types of containers to be used, and the frequency of collection; the circulation plan for the hauler to enter and exit the site; ~~and~~ waste pick-up location; **commercial and residential premises waste management plan in the event of service reduction or termination; locations of, collection plans, and style of public litter cans that would be placed in the public right of way; and, planned handling of special wastes (e.g. biosolids if applicable). Plan must demonstrate compliance with:**

- **Onsite waste collection space and truck collection access in accordance with the applicable sections of the City's *Solid Waste Enclosure Area Guidelines* (currently 2011 Version, <https://www.sanjoseca.gov/Home/ShowDocument?id=46404>.)**
- **City Council Policy 6-29, wherein drainage within a solid waste enclosure or solid waste room should be connected to the sanitary system,**
- **SB 1383 for organics handling/ diversion requirements, and**
- **Applicable Municipal Code and franchise agreements.**

5. Include the following additional requirements in the review process for vertical and/or horizontal improvements:
  - a. District systems plan including waste, wastewater, and recycled water management strategies.
  - b. Onsite Wastewater/Recycled Water District Systems Design Review by the State Water Board, Santa Clara County Department of Public Health (DPH) as required, including review of the engineering report and any technical comments on tertiary filtration and disinfection unit processes.
  - c. Odor Controls including:
    - i. Conformance with Odor Mitigation Measures for Wastewater (AQ-5), including a Hydrogen Sulfide and Odor Management program (HSOM Program) at each water reuse facility (WRF) for review and approval by the ESD Director.
    - ii. Demonstration of Odor Mitigation Measures for Waste at Collection Terminals in alignment with SJMC §9.10.430(A), SJMC §9.10.430(D), SJMC §9.10.430(F), SJMC §9.10.450(C), SJMC §9.10.1395, and SJMC §9.10.840.
    - iii. Demonstrated compliance with CalRecycle requirements for an Odor Impact Minimization Plan (as applicable).
    - iv. The City may require additional measures to mitigate against future complaints of public nuisance based on odor such as a deed restriction

limiting development or activity that would result in offensive odor production within a specified distance from sensitive odor receptors such as schools, hospitals, nursing homes, etc.

- d. Applicable Wastewater, Recycled Water, and Waste Permits including:
    - i. Onsite wastewater treatment and recycled water facility permits from applicable State and local agencies including the State Water Board for the appropriate Class wastewater treatment plant and, at a minimum, be subject to the applicable General Order(s) for domestic wastewater treatment plants, general waste discharge requirements for biosolids, and other regulations such as monitoring and reporting.
    - ii. County permit, if the County exerts jurisdiction over the onsite wastewater/ recycled water system, or the City, if it adopts a permitting process in the future
    - iii. Permitted as a waste transfer station in accordance with PRC 40200(a). The specific permit required from CalRecycle is based on the tonnage the inbound tonnages/day: <https://www.calrecycle.ca.gov/swfacilities/permitting/facilitytype/transfer>.
    - iv. BAAQMD Permit for an onsite wastewater treatment facility and an additional permit if the project is within 1,000 feet of a school.
    - v. City Wastewater Discharge Permit, to be updated at minimum annually or more frequently as needed, including:
      - 1. Proposed uses and estimated amount and characteristics of wastewater discharges from each building
      - 2. Requirement to adopt a pretreatment program for its properties that is aligned with the City's pretreatment program and NPDES requirements
      - 3. Requirement to maintain records of monthly flow, production changes, closures, wastewater sampling records, etc. and to notify the City in the event of a change in ownership, use, or a tenant
      - 4. Maintenance of compliance with other permits outside of the City's jurisdiction
  - e. Copies of all required State design review approval(s) and permit(s) for wastewater and recycled water systems.
6. Pg. 29: Document states: "[The criteria for a minor deviation, non-material amendment, and material amendment are in progress.]" **Please provide for City review.**
7. Pg. 24, Section "2.e." references the "Maintenance Matrix. **Please provide for City review.**

8. Pg. 23, Section “2.e.” revise as shown in bold: “Summary of all infrastructure proposed for public dedication, including whether such proposed publicly-dedicated infrastructure is consistent with the MaintenanceMatrix (Exhibit\_\_to the Development Agreement **and reflecting all permitting requirements**), as it may be amended from time to time.

For questions, contact Julie Benabente, Sustainability and Compliance Division, at [Julie.Benabente@sanjoseca.gov](mailto:Julie.Benabente@sanjoseca.gov).

Memo Compiled by:

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