

**CALENDAR ITEM
C68**

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S 3

06/28/10
PRC 4581.9
D. Simpkin

**TERMINATION AND ISSUANCE OF A NEW
GENERAL LEASE – PUBLIC AGENCY USE**

LESSEE/APPLICANT:

Ross Valley Sanitary District
2960 Kerner Boulevard
San Rafael, CA 49401

AREA, LAND TYPE, AND LOCATION:

Sovereign land adjacent to Corte Madera Creek, city of Kentfield, Marin County.

AUTHORIZED USE:

The construction, use, maintenance, and operation of a new 42-inch diameter force main; the continued use, maintenance, and operation of an existing 36-inch diameter force main and sewage pumping station; and bank stabilization.

LEASE TERM:

25 years, beginning June 28, 2010.

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

OTHER PERTINENT INFORMATION:

1. On April 29, 1971, the Commission approved the issuance of a 49-year Public Agency Permit to Sanitary District No.1 of Marin County, also known as Ross Valley Sanitary District (RVSD), for the construction, operation, and maintenance of a sewage pumping station and 36-inch force main. The lease will expire April 30, 2020. Staff is recommending termination of the existing lease and issuance of a new General Lease - Public Agency Use to the Ross Valley Sanitary District for a 25-year term in order to accommodate the proposed new construction and the existing facilities.
2. The proposed project will replace a portion of the existing 36-inch force main with a new 42-inch force main. The existing force main has reached the end of its design life due to composition, age, and the lack of capacity. RVSD serves the communities of Fairfax, San Anselmo, Ross, Kentfield, and several unincorporated areas of Marin County as well as San Quentin

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Prison. The existing force main was installed in 1972 and is one of the oldest force mains within RVSD. It conveys about 60 percent of the RVSD flow during wet weather. The existing force main is composed of fiberglass "Techite", which is now known to exhibit failure characteristics under unbalanced external or internal stresses. The existing force main conveys flows from the Kentfield Pump Station, which underwent a complete rehabilitation in 2004. The rehabilitation has resulted in higher operating pressures compared to pre-2004 pressures which could result in the failure of the Techite pipe and overflows into Corte Madera Creek. The new force main will be constructed of high density polyethylene (HDPE), and have the ability to convey a five-year peak wet weather flow of 39 million gallons per day.

3. Pipeline construction will involve both open cut excavation and replacement of the existing 36-inch force main. The new force main will utilize the existing alignment. Pipeline construction is proposed only within Parcel 2, as shown on Exhibit A and described on Exhibit B. The existing pipeline in Parcel 2 will be removed. The existing 36-inch pipeline within Parcels 1 and 3 will not be replaced, and will remain in place.
4. Prior to construction, sections of the berm within Parcel 2, as shown on Exhibit A and described on Exhibit B, will require bank stabilization. Cone penetration tests (CPT) will be conducted every 20 feet on center along the berm. A pore pressure dissipation test will be performed at every fifth CPT location. Vacuum extraction potholing may be required to locate the existing pipeline along the berm. Bank stabilization will include compaction of soils under the berm by injection of grout materials. The grout will be a cementitious product comprised of primarily water, Portland cement, and sand. Grouting depths will extend no more than 30 feet into the berm.
5. **Termination of Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of CEQA because it is not a "project" as defined by CEQA and the State CEQA Guidelines. Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.
6. **Existing 36" Pipeline:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project.

CALENDAR ITEM NO. **C68** (CONT'D)

The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

7. Construction of New Pipeline:

A Mitigated Negative Declaration SCH# 2010012039 was prepared by Ross Valley Sanitary District and adopted on April 14, 2010, for this project. The California State Lands Commission's staff has reviewed such document. A Mitigation Monitoring Program was also adopted by the Ross Valley Sanitary District, and is attached as Exhibit C

This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

FURTHER APPROVAL REQUIRED:

U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, National Marine Fisheries Service, State Water Resources Control Board, Regional Water Quality Control Board, California Department of Fish and Game, Bay Conservation and Development Commission, Marin County Department of Public Works, Marin County Flood Control, Marin County Parks and Open Space, City of Larkspur

EXHIBITS:

- A. Location and Site Map
- B. Land Description
- C. Mitigation Monitoring Program

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

EXISTING 36" PIPELINE:

Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

CALENDAR ITEM NO. **C68** (CONT'D)

TERMINATION OF LEASE:

Find that the activity is not subject to the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15060 (c)(3) because the activity is not a project as defined by Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

CONSTRUCTION OF NEW PIPELINE:

Find that a Mitigated Negative Declaration SCH# 2010012039 and a Mitigation Monitoring Program were prepared by Ross Valley Sanitary District and adopted on April 14, 2010 for this project and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

SIGNIFICANT LANDS INVENTORY;

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.

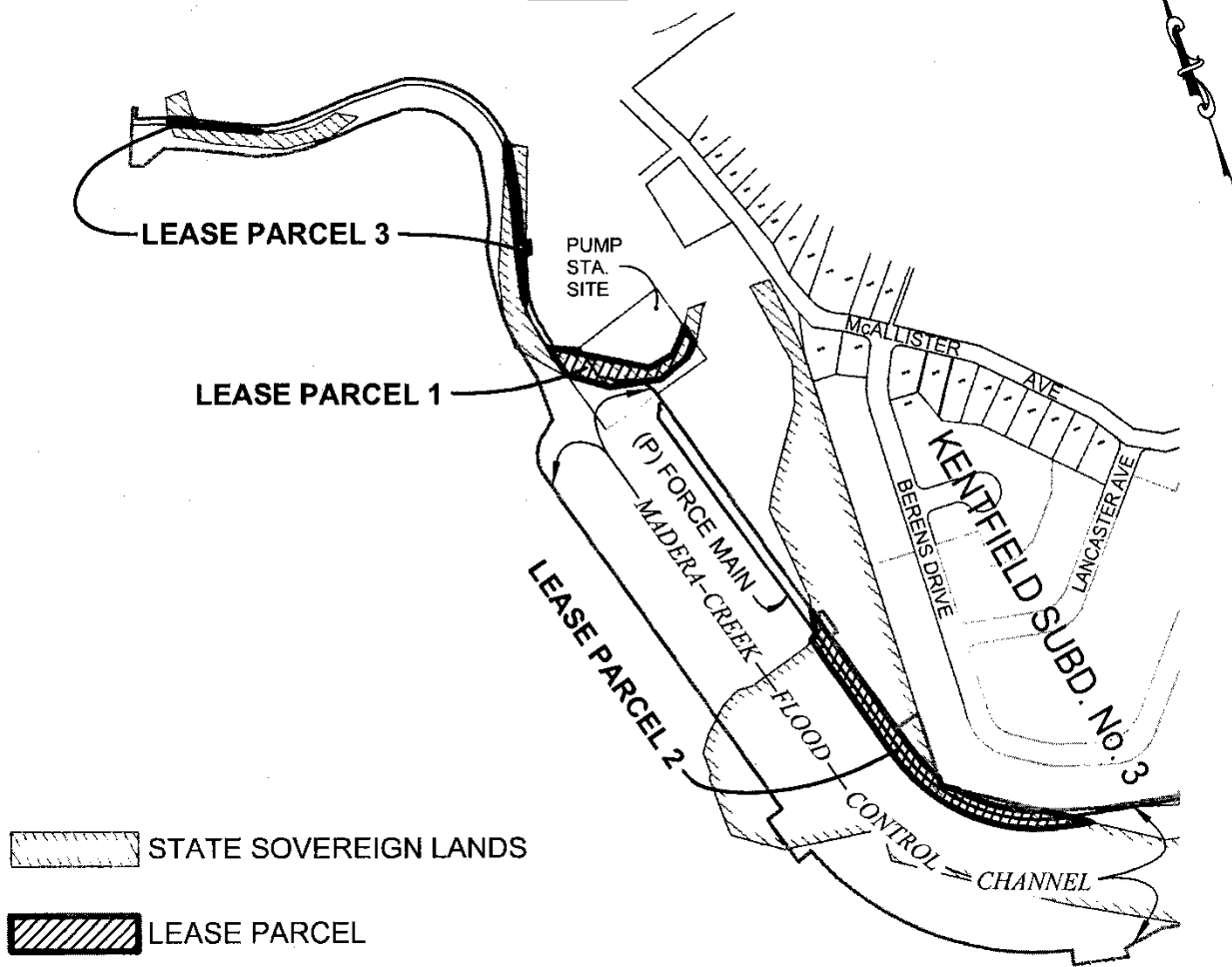
AUTHORIZATION:

Authorize termination, effective June 27, 2010, of Lease No. PRC 4581.9, a Public Agency Permit, issued to Sanitary District No. 1 of Marin County.

Authorize issuance of a General Lease – Public Agency Use to the Ross Valley Sanitary District beginning June 28, 2010, for a term of 25 years, for the construction, use, maintenance, and operation of a new 42-inch diameter force main and bank stabilization not previously authorized by the Commission, and the continued use, maintenance, and operation of an existing 36-inch diameter force main and sewage pumping station, as shown on Exhibit A (for reference purposes only) and as described on Exhibit B attached and by this reference made a part hereto; consideration is the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the best interest of the State.

NO SCALE

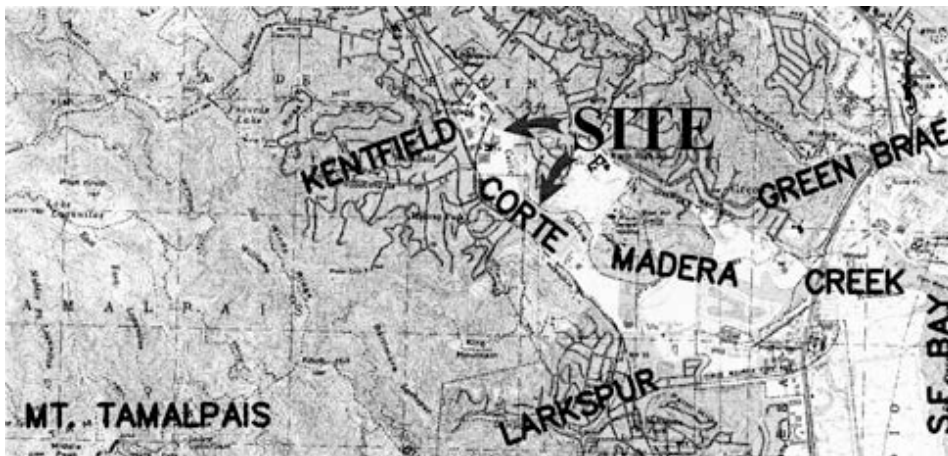
SITE



KENTFIELD PROPOSED 42" FORCE MAIN REHABILITATION

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit A

PRC 4581.9
ROSS VALLEY SAN DIST.
GENERAL LEASE
PUBLIC AGENCY USE
MARIN COUNTY



EAP 02/10

EXHIBIT B
LAND DESCRIPTION

All those portions of the following described parcels of land lying within the bed of Corte Madera Creek as shown the map prepared by the California State Lands Commission titled *State Sovereign Lands in Corte Madera Creek, Marin County, California*, and dated June, 1961:

Parcel 1

That land lying between the easterly right of way line of the Corte Madera Creek Flood Control Channel as depicted on the Record of Survey filed in Book 10 of Surveys at Page 13, records of Marin County, and the following described line:

BEGINNING at the most northeasterly corner of Parcel A as described in the Grant Deed from the Marin Junior College District to the Marin County Flood Control and Water Conservation District recorded October 9, 1969 in Book 2331 at Page 585, Official Records of Marin County, said point being the northerly terminus of the course shown on Sheet 2 of 5 of said Record of Survey as being N 15°19'19" W 625.0'; thence from said POINT OF BEGINNING N 74°40'41" E 140.0 feet; thence N 15°19'19" W 200.00 feet; thence S 72°23'18" W 225.17 feet, more or less to the easterly right of way line of the Corte Madera Creek Flood Control Channel.

Parcel 2

A strip of land, being 40 feet wide, the southwesterly line of which is described as follows:

COMMENCING at a standard County of Marin monument at the southerly terminus of the Berens Drive centerline course shown as S 1°15' W 404.348' on the Map of Kentfield Gardens Subdivision No. Three as filed on March 30, 1954 in Volume 8 of Maps at Page 5, records of Marin County; thence N 2°33'12" E along the centerline of said Berens Drive 404.54 feet (shown as S 1°15' W 404.348' on said map) to a standard County of Marin monument at the northerly terminus of said centerline course; thence N 88°52'14" W 349.52 feet to the POINT OF BEGINNING; thence S 15°19'19" E 446.94 feet; thence along the arc of a tangent curve to the left, having a radius of 400 feet, through a central angle of 63°24'10" for an arc distance of 442.63 feet; thence S 78°43'29" E 177.63 feet to the POINT OF TERMINATION, said point being distant S 38°11'05" E 434.26 feet from the Point of Commencement.

Parcel 3

That land lying between the easterly and northerly right of way line of the Corte Madera Creek Flood Control Channel as depicted on the Record of Survey filed in Book 10 of Surveys at Page 13, records of Marin County, and the following described line:

BEGINNING at a point distant S 74°40'41" W 143.50 feet from the most northeasterly corner of Parcel A as described in the Grant Deed from the Marin Junior College District to the Marin County Flood Control and Water Conservation District recorded October 9, 1969 in Book 2331 at Page 585, Official Records of Marin County, said point being the northerly terminus of the course shown on Sheet 2 of 5 of said Record of Survey as being N 15°19'19" W 625.0'; thence N 15°19'19" W 206.06 feet; thence N 12°15'23" W 97.23 feet; thence along the arc of a non-tangent curve to the right, the center of which bears N 83°55'21" E, having a radius of 293.50 feet, through a central angle of 11°55'58" for an arc distance of 61.13 feet; thence N 12°02'03" E 97.23 feet; thence N 15°05'59" E 139.09 feet; thence N 9°33'54" E 116.74 feet; thence along the arc of a non-tangent curve to the left, the center of which bears S 88°53'59" W, having a radius of 215.50 feet, through a central angle of 76°54'58" for an arc distance of 289.29 feet; thence N 88°40'54" W 116.74 feet; thence S 85°47'01" W 81.70 feet; thence S 87°24'39" W 48.60 feet; thence along the arc of a non-tangent curve to the right, the center of which bears N 0°35'01" E, having a radius of 281.50 feet, through a central angle of 21°33'21" for an arc distance of 105.90 feet; thence N 64°41'16" W 48.60 feet; thence N 63°03'38" W 39.03 feet; thence along the arc of a non-tangent curve to the left, the center of which bears S 26°56'22" W, having a radius of 1116.50 feet, for an arc distance of 198 feet, more or less to the easterly right of way line of College Avenue.

EXCEPTING from the afore-described parcels, any portions lying outside of the boundaries of the State Sovereign lands as depicted upon the map prepared by the California State Lands Commission titled *State Sovereign Lands in Corte Madera Creek, Marin County, California*, and dated June, 1961.

END DESCRIPTION



EVA
[Signature]
02.16.2010

EXHIBIT C

Mitigation Monitoring
and Reporting Plan

MITIGATION MONITORING AND REPORTING PLAN

Potential Impact	Mitigation Measure	Responsibility	Action	Completion Date
D. Biological Resources D1-D3: Impact to Special-status Species, Sensitive Habitats, and Wetlands	<p>D1: Any active raptor, loggerhead shrike, egret, or heron nests in the vicinity of proposed Segment 2 Project excavation shall be avoided until young birds are able to leave the nest (i.e., fledged) and forage on their own. This measure shall not apply to ongoing maintenance and repair, to which raptors and other birds are already acclimated. Avoidance may be accomplished either by scheduling vegetation removal and new construction during the non-nesting period (September through January), or if this is not feasible, by conducting a pre-construction survey for active nests. A pre-construction survey report verifying that no active nests are present shall be submitted to RVSD for review and approval prior to initiation of vegetation removal or new construction during the nesting season, or that nesting has been completed as detailed below. Provisions of the pre-construction survey and nest avoidance measures, if necessary, shall include the following:</p> <p>a. If vegetation removal and new construction is scheduled during the active nesting period (February through August), a qualified wildlife biologist shall be retained to conduct a pre-construction nesting survey no more than 15 days prior to initiation of excavation to provide confirmation on presence or absence of active nests in the vicinity.</p>	RVSD	Condition contract documents, restrict construction activities, or complete survey.	Prior to construction.

MITIGATION MONITORING AND REPORTING PLAN (continued)

Potential Impact	Mitigation Measure	Responsibility	Action	Completion Date
	<p>b. If active nests are encountered, species-specific measures shall be prepared by a qualified biologist through informal consultation with the CDFG and implemented to prevent nest abandonment. At a minimum, vegetation removal and new construction in the vicinity of the nest shall be deferred until the young birds have fledged. A nest-setback zone of at least 100 feet shall be established for raptors, egrets and herons, and 50 feet for loggerhead shrike and passerine birds within which all vegetation removal and construction-related disturbances shall be prohibited. The perimeter of the nest-setback zone shall be fenced or adequately demarcated, and construction personnel restricted from the area.</p> <p>c. If permanent avoidance of the nest is not feasible, impacts shall be minimized by prohibiting disturbance within the nest-setback zone until a qualified biologist verifies that the birds have either (1) not begun egg-laying and incubation, or (2) that the juveniles from the nest are foraging independently and capable of independent survival at an earlier date.</p>			

MITIGATION MONITORING AND REPORTING PLAN
(continued)

Potential Impact	Mitigation Measure	Responsibility	Action	Completion Date
	<p>d. A survey report of findings verifying that any young have fledged shall be submitted for review and approval by RVSD prior to initiation of construction in the nest-setback zone. Following approval by RVSD, vegetation removal and new construction in the nest-setback zone may proceed as proposed.</p>			
D. Biological Resources (cont.)	<p>D2: Although the potential for occurrence of special-status plant species along the Project alignment is considered highly unlikely, based on previous surveys, supplemental detailed spring surveys shall be conducted to confirm absence. The supplemental detailed surveys should be conducted by a qualified botanist prior to any ground disturbance activities in areas where there remains a potential for occurrence, along the berm south of the Ecology Study Area and Bon Air Road. No supplemental surveys for special-status plants are considered necessary for other locations in the Project area due to the extent of past disturbance and results of systematic surveys, including the South Eliseo Drive alignment and vicinity of PS 15.</p>	RVSD	Conduct survey, prepare Mitigation and Monitoring Program if necessary.	Spring 2010.

MITIGATION MONITORING AND REPORTING PLAN (continued)

Potential Impact	Mitigation Measure	Responsibility	Action	Completion Date
	<p>If populations of any special-status plant species are encountered, then RVSD shall ensure that construction-related impacts are avoided or adequately mitigated by retaining a qualified botanist to develop and implement a Special-Status Plant Species Mitigation and Monitoring Program. A Mitigation and Monitoring Program shall only be required if a listed species or those maintained on Lists 1A, 1B or 2 of the CNPS <i>Inventory</i> are encountered during the pre-construction survey. Potential impacts on any species maintained on Lists 3 and 4 of the CNPS <i>Inventory</i> would not be considered significant and no additional mitigation would be required for these species if encountered during the pre-construction survey.</p> <p>If required based on the results of the supplemental surveys, the Mitigation and Monitoring Program shall be prepared in consultation with the CDFG and shall be approved by RVSD prior to any initial ground-disturbing activity or construction. The Mitigation and Monitoring Program shall be based on the status and vulnerability of the species present with avoidance of all or a majority of any populations on the site the preferred method of mitigation. Where complete or even partial avoidance of any</p>			

MITIGATION MONITORING AND REPORTING PLAN (continued)

Potential Impact	Mitigation Measure	Responsibility	Action	Completion Date
	<p>special-status plant populations on the site is considered infeasible, options for mitigation may include a program to salvage and re-establish the population at an alternative, suitable location. Details of any salvage and habitat recreation effort shall include the following criteria and performance standards:</p> <ol style="list-style-type: none"> Collection of seeds during the appropriate developmental stage of the plan. Procedures for sowing techniques appropriate to the life cycle of the plant. Development of maintenance and monitoring program specific to the environmental conditions necessary for survival of the new population. Maintenance and monitoring shall be provided for a minimum of five years to determine success of re-seeding and habitat creation, and need for additional preservation. Identification of funding sources by the applicant to provide implementation of the plan in consultation with the qualified plant ecologist, landscape architect, and civil engineer. 			

MITIGATION MONITORING AND REPORTING PLAN (continued)

Potential Impact	Mitigation Measure	Responsibility	Action	Completion Date
<p>D. Biological Resources (cont.) D3: Conflict with Marin County Ordinance No. 3342 and habitat enhancement efforts in the Ecology Study Area.</p>	<p>D3: Improvement design and construction restrictions shall be implemented to preserve the two "protected" coast live oak trees in the Ecology Study Area near PS 15, and provide for the replacement of any native coast live oaks and enhancement plantings lost or disturbed during construction. This shall consist of the following:</p> <ol style="list-style-type: none"> The trunk location of the two "protected" coast live oaks with trunk diameters of 14 and 18 inches shall be mapped by engineered survey, and construction operations restricted away from these trees to provide for their preservation. The 19 "protected" coast live oaks native located along the edge of the construction zone shall be flagged prior to initiation of construction and all efforts made to preserve these trees. Where preservation is determined to be infeasible, a Tree Removal Permit shall be obtained by the Contractor consistent with Chapter 22.75 of the Marin Municipal Code, and replacement plantings provided as specified below. 	RVSD	<p>Condition contract documents, protect coast live oaks near PS 15, provide for the replacement of any native coast live oaks, and enhancement tree and shrub plantings.</p>	<p>Prior to and after construction.</p>

MITIGATION MONITORING AND REPORTING PLAN (continued)

Potential Impact	Mitigation Measure	Responsibility	Action	Completion Date
	<p>c. Temporary construction fencing shall be installed at the limits of the construction zone at the edge of the Ecology Study Area to minimize loss and disturbance to enhancement tree and shrub plantings and the "protected trees." A qualified biologist or certified arborist shall be involved in identifying trees and plantings to be protected and limits of temporary construction fencing to be installed in advance of any tree removal or grading activities.</p> <p>d. Non-native eucalyptus, pine and green wattle removed as part of the Project shall be completely removed and all slash hauled from the site and disposed of properly. Replacement of these non-native, invasive species is not required as part of the project.</p>			

MITIGATION MONITORING AND REPORTING PLAN
(continued)

Potential Impact	Mitigation Measure	Responsibility	Action	Completion Date
	<p>e. Any trees which qualify as a "protected tree" under Marin County Tree Ordinance (Section 22.75 of the Municipal Code) as well as any native enhancement tree and shrub plantings in the Ecology Study Area removed as a result of Project improvements and construction shall be replaced at a 2:1 replacement ratio. Replacement plantings shall be installed as coordinated with representatives of Friends of Corte Madera Creek Watershed, either through actual plant installation by the Contractor or through payment of an in-lieu fee to Friends of Corte Madera Creek Watershed for future plantings in the Ecology Study Area. If an in-lieu fee is not paid to Friends of Corte Madera Creek Watershed, a maintenance and monitoring program shall be prepared and implemented for any replacement plantings installed by the Contractor. The program shall define minimum maintenance and monitoring provisions, which shall include short-term summer irrigation of all plantings during the dry months for a minimum of three years to ensure successful establishment.</p>			

MITIGATION MONITORING AND REPORTING PLAN (continued)

Potential Impact	Mitigation Measure	Responsibility	Action	Completion Date
<p>E. Cultural Resources</p> <p>E1, E2, E4: Impact to prehistoric cultural resources and human remains.</p>	<p>E1. Retain an archaeologist to monitor excavation activities in undisturbed soils and any locally sourced fill soils from the immediate Project area for the presence of prehistoric cultural resources. The scope of the monitoring will be dependent upon review of available subsurface information and upon the Contractor's construction approach and scheduling. Based on the judgment of the archaeologist, provide clearance for the site or, if significant resources are found, implement required protocol for mitigation.</p> <p>E2. If human remains are encountered, the following procedures will be implemented:</p> <p>a. Per the stipulations of the California Health and Safety Code Section 7050.5(b), the Marin County Coroner's Office will be contacted immediately; this will occur whether or not a Most Likely Descendant has already been appointed.</p> <p>b. The Coroner's Office has two working days in which to examine the identified remains. If the Coroner determines that the remains are Native American, then—if a Most Likely Descendant has not yet been appointed—the Office will notify the Native American Heritage Commission within 24 hours.</p>	<p>Contractor</p>	<p>Condition Contract Documents, retain archaeologist, RVSD to monitor compliance.</p>	<p>Prior to construction.</p>
		<p>Contractor</p>	<p>Contact agencies, implement required protocol.</p>	<p>During construction.</p>

MITIGATION MONITORING AND REPORTING PLAN (continued)

Potential Impact	Mitigation Measure	Responsibility	Action	Completion Date
	<p>c. Following receipt of the Coroner's Office notice, the NAHC will contact a Most Likely Descendant. The Most Likely Descendant then has 48 hours in which they can make recommendations to the project sponsor and consulting archaeologist regarding the treatment and/or re-interment of the human remains and any associated grave goods.</p> <p>d. Appropriate treatment and disposition of Native American human remains and associated grave goods will be collaboratively determined in consultation between the appointed Most Likely Descendant, the consulting archaeologist, and the landowner or authorized representative. The treatment of human remains may potentially include the preservation, excavation, analysis, and/or reburial of those remains and any associated artifacts.</p> <p>e. If the remains are determined not to be Native American, the Coroner, archaeological research team, and RVSD will collaboratively develop a procedure for the appropriate study, documentation, and ultimate disposition of the historic human remains.</p>			