



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102-3404

Operations and Readiness Division

PUBLIC NOTICE

**REQUEST FOR PERMISSION TO ALTER A U.S. ARMY CORPS OF ENGINEERS
PROJECT UNDER SECTION 408**

TITLE: Guadalupe River – Fiber Optic Installation at Hedding Street, 408-SPN-2022-0003

Public notice comment period:
Begins: November 16, 2022
Ends: December 16, 2022

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, Bandwidth Infrastructure Group (BIG) (requester) has requested permission through Valley Water (non-federal sponsor of the federally authorized project) from the U.S. Army Corps of Engineers (USACE) to alter the Guadalupe River Project, an existing federal flood risk management project, authorized by the Flood Control Act of 1948.

LOCATION: The proposed conduit installation would take place under the downstream face of Hedding Street, under the Guadalupe River, in San Jose, Santa Clara County, California. (see attachment 1)

REQUESTER'S PROPOSED ACTION: The proposed project includes directional bore of four 2-inch HDPE conduits under the Hedding Street overpass and Guadalupe River. The proposed directional bore pits would be outside the federal project boundaries. (Attachment 2)

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: provide brief description of the environmental baseline, including adjacent land use, impacts to aquatic resources, determinations for ESA, EFH, and Section 106. NEPA determination of no significant impact and preparation of an EA.

USACE determined there is no suitable habitat for federally listed species under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) in the vicinity of the project. Therefore, USACE determined there would be no effects to federally listed species, designated critical habitat, or essential fish habitat under the jurisdiction of the USFWS and/or NMFS.

After an initial review, USACE has determined no eligible or potentially eligible cultural resources may be affected by the proposed project. USACE will initiate consultation with the State Historic Preservation Officer and Native American Tribes under Section 106 of the National Historic Preservation Act, as appropriate.

Upon review of the Section 408 application and other supporting documentation, USACE has made a preliminary determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of NEPA.

AUTHORITY: The authority to grant permission for temporary or permanent use, occupation, or alteration of any USACE civil works project is contained in Section 14 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C 408) ("Section 408"). Section 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers, to grant permission for the alteration or occupation or use of a USACE project if the Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project. The Secretary of Army's authority under Section 408 has been delegated to the USACE, Chief of Engineers. The USACE Chief of Engineers has further delegated the authority to the USACE, Directorate of Civil Works and Division and District Engineers, depending upon the nature of the activity.

LIMITS OF SECTION 408 AUTHORITY: A requester has the responsibility to acquire all other permissions or authorizations required by federal, state, and local laws or regulations, including any required permits from the USACE Regulatory Program under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Section 404 of the Clean Water Act (33 U.S.C. Section 1344), and/or Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413). In addition, an approval under Section 408 does not grant any property rights or exclusive privileges nor does it authorize any injury to the property or rights of others.

EVALUATION FACTORS: The decision whether to grant the requested permission for project alteration under Section 408 will be based on several factors. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. Review of requests for alteration will be reviewed by a USACE technical review team considering the following factors:

- 1) Impair the Usefulness of the Project Determination. The review team will determine if the proposed alteration would limit the ability of the USACE project to function as authorized, or would compromise or change any authorized project conditions, purposes or outputs. In order for an alteration to be approved, the requester must demonstrate that the alteration does not impair the usefulness of the federally authorized project.

2) Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Factors that may be relevant to the public interest evaluation depend upon the type of USACE project being altered and the nature of the proposed alteration and may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. This evaluation will consider information received from the interested parties, including tribes, agencies, and the public. The benefits that reasonably may be expected to accrue from the proposal must be compared against its reasonably foreseeable detriments. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks and by the net impact of the alteration on the public interest using the public interest factors.

3) Environmental Compliance. A decision on a Section 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. While USACE is responsible for ensuring environmental compliance, the requester is responsible for providing all information that the San Francisco District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and procedures. NEPA and other analysis completed to comply with other environmental statutes (e.g. Endangered Species Act) should be commensurate with the scale and potential effects of the activity that would alter the USACE project. The San Francisco District will work with the requester to determine the requirements, which will be scaled to the likely impacts of the proposed alteration and should convey the relevant considerations and impacts in a concise and effective manner. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from activities resulting in the temporary or permanent use, occupation, or alteration of any USACE civil works project. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Section 408 permission for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Operations and Readiness Division.

PUBLIC INVOLVEMENT: The purpose of this notice is to solicit comments from the public; federal, state, and local agencies and officials; tribes; and other interested parties regarding the Guadalupe River – Fiber Optic Installation at Hedding Street Project, a proposed alteration to an existing federally authorized project. Comments received within 30 days of publication of this notice will be used in the evaluation of potential impacts of the proposed action on important resources and in the evaluation of whether the proposed alteration would be injurious to the public interest and/or would impair the usefulness of the authorized project. Only the specific activities that have the potential to occupy, use or alter the Guadalupe River Project will be evaluated. Please limit comments to the area of the alteration and those adjacent areas that would be directly or indirectly affected by the

alteration to the Guadalupe River Project. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act.

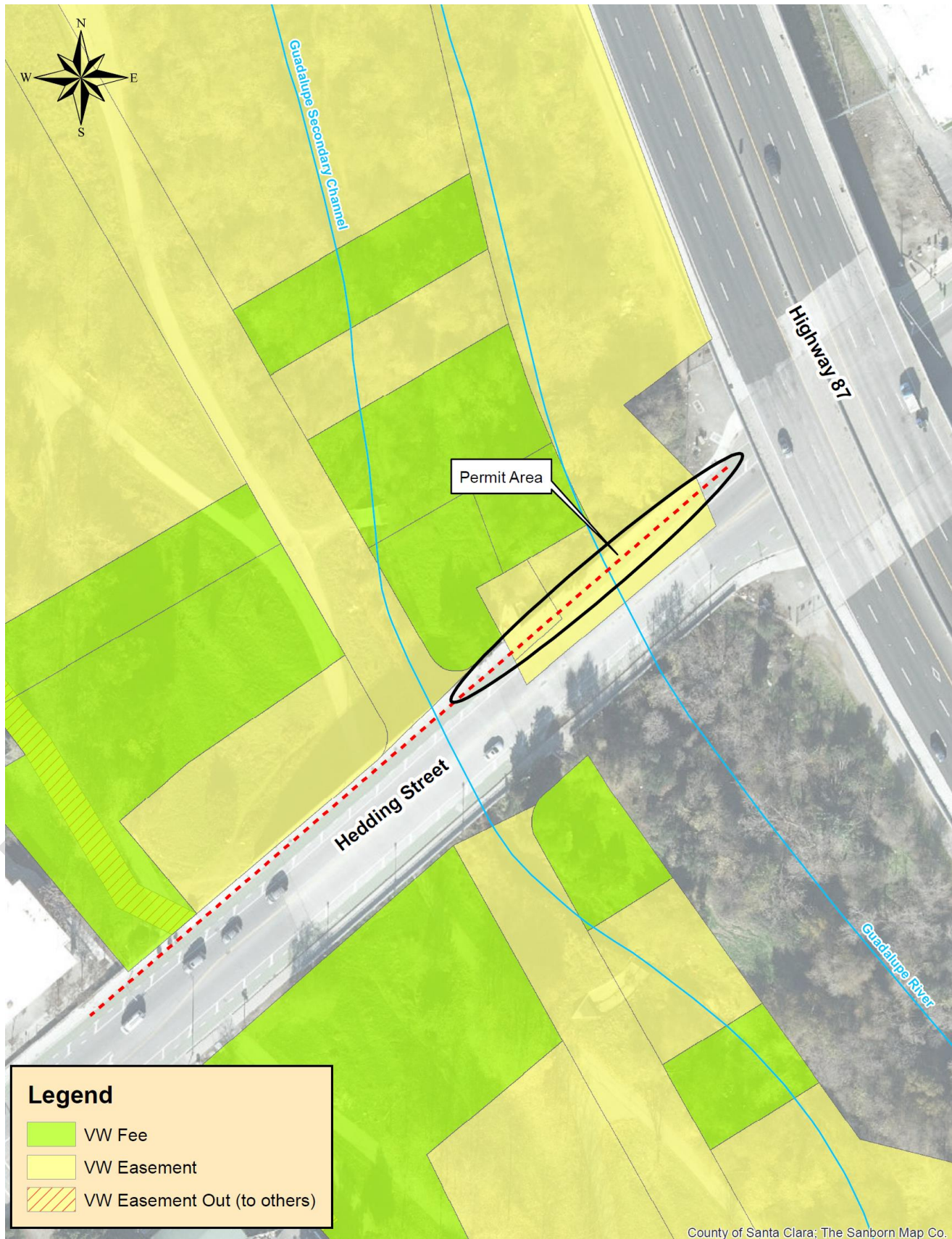
SUBMITTING COMMENTS: Written comments, referencing 408-SPN-2022-0003 must be submitted to the office listed below on or before December 16, 2022.

Jessica Vargas, 408 Coordinator
U.S. Army Corps of Engineers, San Francisco District
Operations and Readiness Division
450 Golden Gate Avenue, 4th Floor, Room 1111
San Francisco, California 94102-3404

Email: *spn.operationsdivision@usace.army.mil*

ATTACHMENTS: Location map and Project plans.

EXHIBIT A PERMIT AREA



County of Santa Clara; The Sanborn Map Co.



DARK FIBER SERVICE CONNECTION

OAKLAND RD. SUBLOOP PERMIT DESIGN SAN JOSE, CA

SEGMENT #5

GUADALUPE CREEK SCVWD PERMIT

CONTACT LIST:

BANDWIDTH INFRASTRUCTURE GROUP CA, LLC (OWNER)

| | |
|----------------------------|------------------------------------|
| ANDREW MUNN | OFFICE: |
| VICE PRESIDENT | CELL: (303) 517-1539 |
| 530 LAKESIDE DR., STE. 190 | FAX: |
| SUNNYVALE, CA 94085 | EMAIL: andrew.munn@bandwidthig.com |

LIGHTWAVE CONSTRUCTION (CONSTRUCTION CONTRACTOR)

| | |
|-------------------------|--|
| STEPPEN BEECHER | OFFICE: |
| OWNER | CELL: (916) 515-7968 |
| 5499 DAISY DR. | FAX: |
| POLLOCK PINES, CA 95726 | EMAIL: steppen@lightwaveconstruction.com |

MAYBERRY TELECOM CONSULTANTS, INC. (ENGINEERING CONSULTANT)

| | |
|-------------------------|-----------------------------------|
| PETE N. MAYBERRY | OFFICE: |
| ENGINEERING CONSULTANT | CELL: (916) 799-4245 |
| 1815 CHINOOK RD. | FAX: (916) 471-0240 |
| W. SACRAMENTO, CA 95691 | EMAIL: pmayberry@mtcengineers.com |

SHEET INDEX

| | |
|---------|------------------------------|
| SHEET 1 | TITLE SHEET, CONTACTS, INDEX |
| SHEET 2 | SITE MAP, LEGEND |
| SHEET 3 | CONSTRUCTION PLAN SHEET |
| SHEET 4 | BORE PROFILE |

General Notes

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|-----|---------------------|-------|
| 1 | Encroachment Permit | 11/20 |
| 2 | Revision | 6/21 |
| 3 | Revision | 7/21 |
| No. | Revision/Issue | Date |

Construction Consultant

LIGHTWAVE CONSTRUCTION

STEPPEN BEECHER
(916) 515-7968

Engineering Consultant

MAYBERRY TELECOM CONSULTANTS, INC.

PETE MAYBERRY
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Project Owner # Address



ANDREW MUNN
(303) 517-1539

Project Name # Address

OAKLAND RD. SUBLOOP PERMIT DESIGN SAN JOSE, CA

TITLE SHEET

| | | |
|--------------|----|-----------------|
| Designed By: | PM | MTC, Inc. Job#: |
| Drawn By: | PM | 20-154-5 |
| Checked By: | SB | |

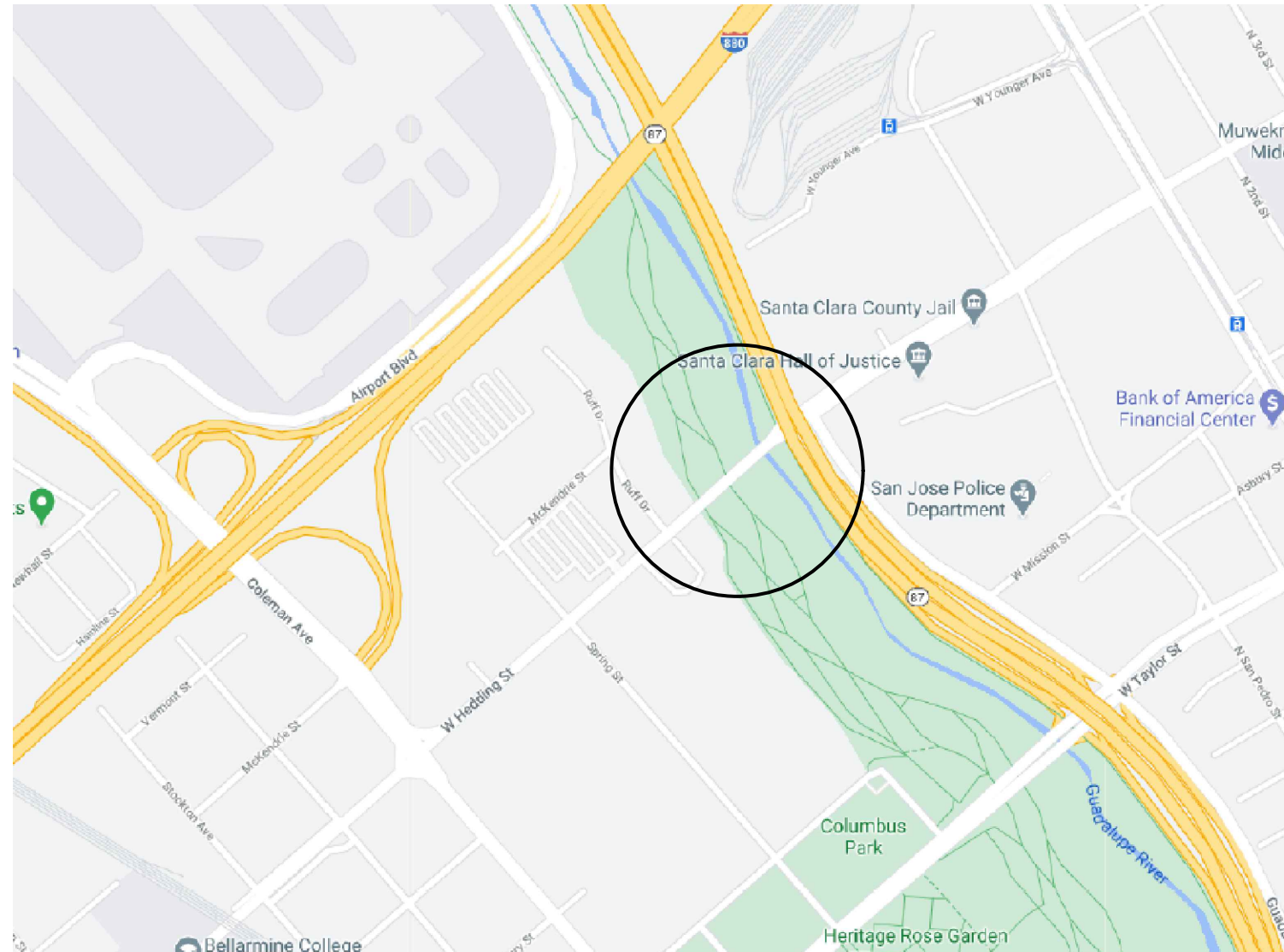
BANDWIDGE IG Ref#: Sheet

Date: 11/11/20
Scale: N.T.S.

1

ABBREVIATIONS AND LEGEND

| | | |
|---------------|--|--|
| BIG | BANDWIDTH INFRASTRUCTURE GROUP | NEW BANDWIDTH INFRASTRUCTURE GROUP CONDUIT |
| BFC | BROOKS FIBER COMMUNICATIONS | EXISTING BANDWIDTH INFRASTRUCTURE GROUP CONDUIT |
| CB | CATCH BASIN | EXISTING MFS CONDUIT |
| CIP | CAST IRON PIPE | EXISTING SPRINT CONDUIT |
| CONC. | CONCRETE | EXISTING QWEST CONDUIT |
| CSB | CUSTOMER SPLICE BOX | EXISTING CONDUIT(S) |
| DSP | DRY STAND PIPE | EXISTING PG&E NATURAL GAS |
| ELI | ELECTRIC LIGHTWAVE INC. | EXISTING AIR PRODUCTS NITROGEN MAIN |
| EMT | ELECTRIC METALLIC TUBING | EXISTING SANITARY SEWER |
| EXIST. | EXISTING | EXISTING STORM DRAIN |
| FRID | FIRE RATED INNER DUCT | EXISTING RECLAIMED WATER |
| G | GAS | EXISTING WATER |
| HDPE | HIGH DENSITY POLYETHYLENE | EXISTING ELECTRIC |
| HP | HIGH PRESSURE | EXISTING JOINT TRENCH |
| IRR | IRRIGATION | EXISTING TELEPHONE |
| MCI | MCI/WORLDCOM | EXISTING FIBER OPTIC LINE |
| MFS | METROPOLITAN FIBER SERVICE | EXISTING SANTA CLARA COUNTY FIBER OPTIC LINE |
| MH | MANHOLE | EXISTING CABLE TV |
| MPOE | MINIMUM POINT OF ENTRY | EXISTING ELI CONDUIT |
| NXLK | NEXLINK | EXISTING U/E MANHOLE |
| PBMH | PACIFIC BELL MANHOLE | W/ METAL COVER |
| PIV | POST INDICATOR VALVE | SUBSCRIBER CONDUIT |
| PSUE | PUBLIC SERVICE UTILITY EASEMENT | EXISTING MANHOLE |
| P2P | POINT TO POINT INC. | EXISTING FIRE HYDRANT |
| ROW | RIGHT OF WAY | LIGHT POLE |
| RCP | REINFORCED CONCRETE PIPE | EXIST. TREE |
| SB | SPLICE BOX | WATER VALVE |
| SD | STORM DRAIN | PROPERTY ADDRESS |
| SS | SANITARY SEWER | |
| SSCO | SANITARY SEWER CLEANOUT | |
| STA. | STATION | |
| T | TELEPHONE | |
| TGC | TELEPORT COMMUNICATIONS GROUP | |
| VCP | VITRIFIED CLAY PIPE | |
| W | WATER | |
| W-W | WALL TO WALL | |
| WCM | MCI/WORLDCOM | |
| WM | WATER METER | |
| WV | WATER VALVE | |



WORK LOCATION:
SITE MAP
No Scale

General Notes

- SEE SHEET 2 FOR GENERAL NOTES, ABBREVIATIONS, AND SYMBOLS.
- CAUTION: NOT ALL UTILITIES SHOWN. CONTRACTOR TO FIELD VERIFY LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.

| | | |
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Construction Consultant

LIGHTWAVE CONSTRUCTION

STEPHEN BEECHER
(916) 515-7968

Engineering Consultant

MAYBERRY TELECOM CONSULTANTS, INC.

PETE MAYBERRY
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Project Owner # Address

BANDWIDTH IG

ANDREW MUNN
(303) 517-1539

Project Name # Address

OAKLAND RD. SUBLOOP PERMIT DESIGN

SAN JOSE, CA

GENERAL NOTES
SITE MAP & LEGEND

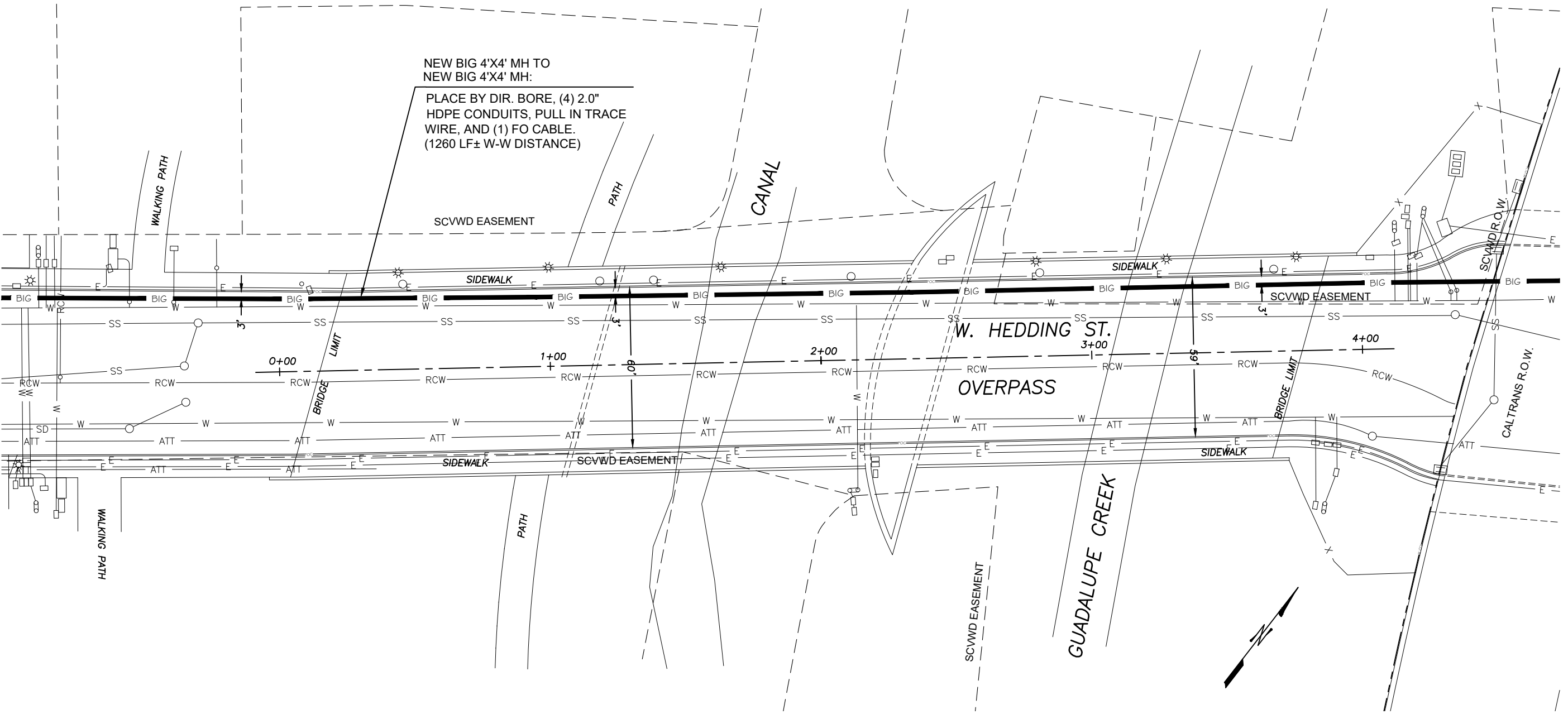
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| Designed By: | PM | MTC, Inc. Job#: |
| Drawn By: | PM | 20-154-5 |
| Checked By: | SB | |

BANDWIDTH IG Ref#: Sheet

Date: 10/27/20

Scale: N.T.S.

2



NEW BIG 4'X4' MH TO
NEW BIG 4'X4' MH:
PLACE BY DIR. BORE, (4) 2.0"
HDPE CONDUITS, PULL IN TRACE
WIRE, AND (1) FO CABLE.
(1260 LF± W-W DISTANCE)



General Notes

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3. ROW BASED ON PARCEL MAPPING AND IS APPROXIMATE. CONTRACTOR TO SURVEY ROW TO IDENTIFY EXACT LOCATION.

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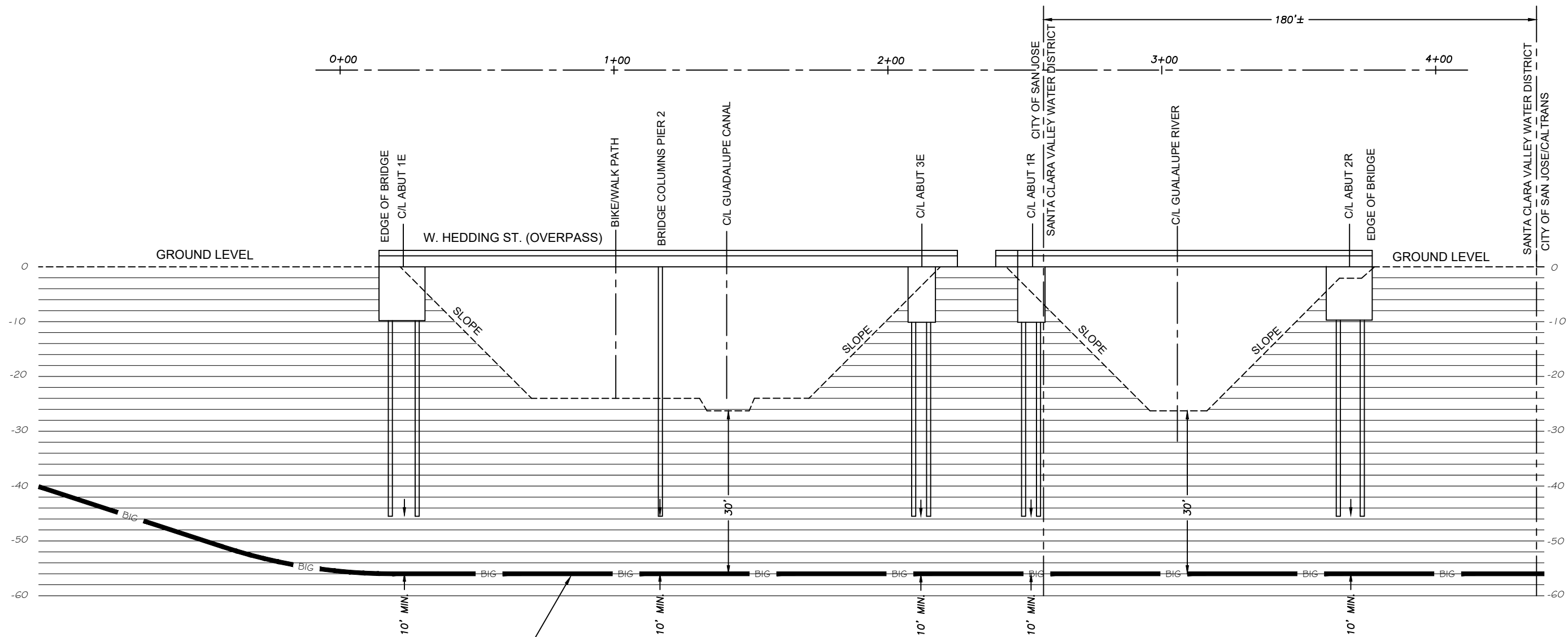
**OAKLAND RD.
SUBLOOP PERMIT DESIGN
SAN JOSE, CA**

CONSTRUCTION PLAN

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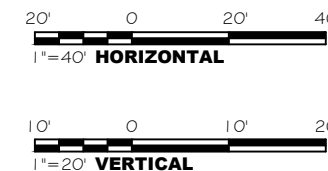
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| BANDWIDTH IG Ref#: | Sheet |
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| Scale: | 1" = 40' |

3



NEW SILICA 4'X4' MH TO NEW SILICA 4'X4' MH:
 PLACE BY DIR. BORE, (4) 2.0" HDPE CONDUITS, PULL IN TRACE WIRE, AND (1) FO CABLE. (300 LF± IN SCVWD R.O.W.)

CROSSING PROFILE (Viewed Looking Northwest)



Know what's below.
 Call before you dig.

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BORE PROFILE

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4