

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE OAKLAND ROAD COMFORT SUITES MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, prior to the adoption of this Resolution, the Director of Planning, Building and Code Enforcement of the City of San José prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for the Oakland Road Comfort Suites Project under Planning File Nos. PDC18-032 and PD18-042, (the “Initial Study/Mitigated Negative Declaration”), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively “CEQA”); and

WHEREAS, the Oakland Road Comfort Suites Project (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of a rezoning from the CIC Combined Industrial/Commercial Zoning District to the CIC(PD) Planned Development Zoning District and a Planned Development Permit to construct a five-story, 48-room hotel with an alternative parking arrangement on an approximate 0.24-gross acre site located at the northeast corner of Oakland Road and Faulstich Court (Assessor’s Parcel Number 241-13-019), San José, California; and

WHEREAS, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in certain significant effects on the environment and identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

WHEREAS, in connection with the approval of a project involving the preparation of an Initial Study/Mitigated Negative Declaration that identifies one or more significant environmental effects, CEQA requires the decision-making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environmental effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during project implementation, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of San José as lead agency for the Project (the “Mitigation Monitoring and Reporting Program”); and

WHEREAS, the City of San José is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to undertake the Project; and

WHEREAS, the City Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project are on file in the Office of the Director of Planning, Building and Code Enforcement, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and are available for inspection by any interested person at that location and on the Department of Planning, Building and Code Enforcement webpage (www.sanjoseca.gov/planning) and are, by this reference, incorporated into this Resolution as if fully set forth herein;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Initial Study/ Mitigated Negative Declaration represents the independent judgment and analysis of the City of San José, as lead agency for the Project. The City Council designates the Director of Planning, Building and Code Enforcement at the Director's Office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File Nos. PD18-042 and PDC18-032). The Mitigation Monitoring and Reporting Program for the Project is attached hereto as Exhibit "A" and fully incorporated herein. The Initial Study/ Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are: (1) on file in the Office of the Director of Planning, Building and Code Enforcement, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and on the Department of Planning, Building and Code Enforcement webpage (www.sanjoseca.gov/Planning) and (2) available for inspection by any interested person.

ADOPTED this ____ day of _____, 20 __, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

Oakland Road Comfort Suites Project

File Nos. PD18-042 & PDC18-032

March 2021



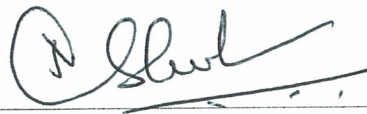
PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the Oakland Road Comfort Suites Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This MMRP addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the IS/MND concluded that the impacts from implementation of the project would be less than significant.

I, NIRAV SHAH, the applicant, on the behalf of Urban Mint Hospital hereby agree to implement the mitigation measures described below which have been developed in conjunction with the preparation of an IS/MND for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature 

Date 03/19/2021

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY					
Impact AIR-1: Construction activities associated with the proposed project would expose the off-site receptors to cancer risk and PM _{2.5} emissions in excess of BAAQMD thresholds.					
<p>MM AIR-1: Cleaner Off-road Construction Equipment. The following mitigation measure shall be implemented during all phases of construction to reduce potential exposure of diesel particulate matter (DPM) and particulate matter less than 2.5 micrometers in aerodynamic diameter (PM_{2.5}) emissions to sensitive receptors located near the Project site. Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below:</p> <ul style="list-style-type: none"> For all construction equipment larger than 25 horsepower used at the site, equipment shall meet U.S. EPA Tier 4 emission standards. Tier 4 Interim engines shall, at a minimum, meet United States Environmental Protection Agency or California Air Resources Board 	<p>During all phases of construction to reduce potential exposure of DPM and PM_{2.5}.</p> <p>Submit a construction operation plan to the Director of Planning, Building and Code Enforcement of Director's designee. The plan shall be accompanied by a letter signed by an air quality specialist.</p>	<p>Prior to issuance of any demolition, grading and/or building permits (whichever occurs earliest)</p>	<p>Director of Planning, Building or Code Enforcement or the Director's designee</p>	<p>Review the three-year post-construction monitoring plan and lighting design strategy.</p> <p>Review the verification letter or plan.</p>	<p>Prior to issuance of any building permits.</p>

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<p>(CARB) particulate matter emissions standards for Tier 4 Interim engines.</p> <ul style="list-style-type: none"> • Alternatively, use of CARB-certified Level 3 diesel particulate filters on off-road equipment with engines greater than 75 horsepower can be used in lieu of Tier 4 Interim engines or in combination with Tier 4 Interim engines. • The construction contractor shall maintain records documenting its efforts to comply with this requirement, including equipment lists. Off-road equipment descriptions and information shall include, but are not limited to, equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest). 					
BIOLOGICAL RESOURCES					
Impact BIO-1: Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment.					

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<p>MM BIO-1: Nesting Birds. To avoid disturbance of nesting and special-status birds, the project applicant shall schedule activities related to the project, including, but not limited to, vegetation removal, ground disturbance, construction, and demolition to occur outside of the bird nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31 (inclusive).</p> <p>If demolition and construction activities cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified biologist or ornithologist prior to the issuance of any grading permits to ensure that no nests shall be disturbed during project implementation. The nesting bird pre-construction survey shall be conducted within the project boundary, including a 300-foot buffer (500-foot for raptors). The survey shall be conducted by a qualified biologist familiar with the identification of avian species known to occur in the area. The pre-construction survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30, inclusive) and no more than 30 days prior to the initiation of these activities during the</p>	<p>Conduct pre-construction surveys.</p> <p>Submit a report indicating the results of the survey and any designated buffer zones to the Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Prior to issuance of grading and building permits. No more than 14 days prior to any ground disturbing and vegetation removal activities</p>	<p>Director of Planning, Building or Code Enforcement or the Director's designee</p>	<p>Review the report indicating the results of the survey and any designated buffer zones.</p>	<p>Prior to issuance of any building permits.</p>



Planning, Building and Code Enforcement
 ROSALYNN HUGHEY, DIRECTOR

EXHIBIT "A"
(File Nos. PDC18-18-042; PD18-032)

Oakland Road Comfort Suites Project
File Nos. PD18-042 & PDC18-032

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<p>late part of the breeding season (May 1 through August 31, inclusive).</p> <p>If active nests are found, the qualified biologist or ornithologist, in consultation with California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction (which depends upon the species, the proposed work activity, and existing disturbances associated with land uses outside the site). The buffer zone shall be demarcated by the qualified biologist or ornithologist with bright orange construction fencing, flagging, construction lathe, or other means to mark the boundary. All construction personnel shall be notified as to the existence of the buffer zone and shall be instructed to avoid entering the buffer zone during the nesting season. No ground disturbing activities shall occur within this buffer until the qualified biologist or ornithologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist.</p> <p>The project applicant shall submit a report to the City's Director of Planning, Building and Code Enforcement or Director's designee indicating the results of the</p>					



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survey and any designated buffer zones, and is to be completed to the satisfaction of the Director of Planning, Building and Code Enforcement prior to the issuance of any demolition or grading permits.					
HAZARDS AND HAZARDOUS MATERIALS					
Impact HAZ-1: Historic agricultural activities on the Project site may have impacted subsurface soil with pesticide residuals, which could be released during excavation and construction activities for the Project.					
MM HAZ-1: Soil Sampling. Prior to the issuance of any grading, or excavation permits, the Project applicant shall retain a qualified environmental consultant to conduct soil sampling to test shallow soils on the site for organochlorine pesticides and pesticide-based metals (e.g., lead and arsenic). The qualified environmental consultant shall compare results to the Regional Water Quality Control Board Environmental Screening Levels and prepare documentation to outline the soil sample data and testing and submit the results to the Director of Planning, Building, and Code Enforcement or Director’s designee and the Environmental Compliance Officer in the City of San Jose’s Environmental Services Department. If residual contaminants are found and are above environmental screening levels, the Project applicant shall implement appropriate management procedures,	Conduct soil sampling. If contaminated soil is found then, implement the requirements and recommendations of the SCCDEH. Submit the requirements and recommendations of the SCCDEH to the Environmental Compliance Officer of the City’s Environmental Services Department for review.	Prior to the issuance of any site demolition, grading, or excavation permits	Director of Planning, Building and Code Enforcement or the Director’s designee and the Environmental Compliance Officer of the City’s Environmental Services Department SCCDEH	Director of Planning, Building and Code Enforcement or the Director’s designee SCCDEH, if cleanup is required	Prior to the issuance of any grading, or excavation permits.



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<p>such as removal of the contaminated soil and/or capping the contaminated soil under clean soil or hardscape must be implemented under regulatory oversight from the SCCDEH or DTSC. Copies of all environmental investigations shall be submitted to the City's Environmental Services Department and the Director of Planning, Building and Code Enforcement, or Director's designee prior to issuance of any grading permits.</p> <p>If contaminated soils are found in concentrations above established regulatory environmental screening levels, the Project applicant shall enter into the Santa Clara County Department of Environmental Health's (SCCDEH) Site Cleanup Program or equivalent to formalize regulatory oversight of the mitigation of contaminated soil to ensure the site is safe for construction workers and the public after development. The SCCDEH (or equivalent oversight agency) may require development of a Removal Action Plan, Soil Mitigation Plan, or other similarly titled report to document the removal and /or capping of contaminated soil. A copy of any reports prepared along with proof of regulatory oversight shall be submitted to the Director of Planning, Building, and Code Enforcement, or Director's designee, and the Municipal Compliance Officer of the City of San José Environmental Services Department. All work and reports produced shall be</p>					



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performed under the regulatory oversight and approval of the SCCDEH (or equivalent oversight agency).					
NOISE					
Impact NOI-1: Mechanical equipment associated with project operation is not known at this time and has the potential to exceed 55 dBA DNL at the adjacent residential property lines.					
MM NOI-1: Acoustical Study. Prior to issuance of any building permits and during final building design, the project applicant shall prepare a detailed acoustical study to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit. The detailed acoustical study demonstrating that mechanical equipment would not exceed 55 dBA DNL at adjacent sensitive receptors shall be signed by a qualified noise consultant and submitted to the Director of Planning, Building, and Code Enforcement, or Director's designee, prior to the issuance of a building permit.	Prepare a detailed acoustical study. Submit the study to the Director of Planning, Building and Code Enforcement or Director's designee	Prior to the issuance of any building permit	Director of Planning, Building and Code Enforcement or the Director's designee	Director of Planning, Building and Code Enforcement or the Director's designee	Prior to the issuance of any building permit

Source: City of San José. Initial Study Oakland Road Comfort Suites Project. March 2021.