

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE 945 LINCOLN AVENUE REDEVELOPMENT PROJECT 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 Planning Director of the City of San José prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for the 945 Lincoln Avenue Redevelopment Project under Planning File Nos. C16-012 and H14-036 (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 945 Lincoln Avenue Redevelopment Project (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of a Conventional Rezoning from the CN Commercial Neighborhood and R-M Multiple Residence Zoning Districts to the CIC Combined Industrial/Commercial Zoning District and a Site Development Permit to demolish the existing one-story, 8,516-square foot retail structure and to allow the construction of a new two-story, approximately 17,090-square foot commercial building on a 1.1-gross acre site located at the northwest corner of Lincoln Avenue and Pedro Street at 945 Lincoln Avenue, in the City of San José (Assessor’s Parcel Numbers 264-05-080 and 264-05-081), 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, located at 200 East Santa Clara Street, 3rd Floor Tower, San José,



California, 95113, are available for inspection by any interested person at that location 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 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. C16-012 and H14-036). 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, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113 and (2) available for inspection by any interested person.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

# MITIGATION MONITORING AND REPORTING PROGRAM

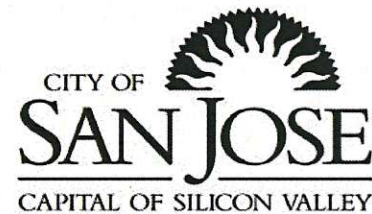
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**945 Lincoln Avenue Redevelopment Project**

**File No. C16-012 & H14-036**

**May 2018**

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## PREFACE

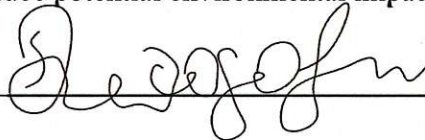
Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring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

The Initial Study/Mitigated Negative Declaration prepared for the 945 Lincoln Avenue Redevelopment 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 Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the Initial Study/Mitigated Negative Declaration concluded that the impacts from implementation of the project would be less than significant.

I, Drago Gveric, the applicant, on the behalf of Croatian Franciscan Fathers, hereby agree to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of an Initial Study/Mitigated Negative Declaration 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, where feasible.

Project Applicant's Signature \_\_\_\_\_



Date 08/28/2018





*Planning, Building and Code Enforcement*

ROSALYNN HUGHEY, DIRECTOR

945 Lincoln Avenue Redevelopment  
Project  
File Nos. C16-012 & H14-036

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
<b>BIOLOGICAL RESOURCES</b>					
<b>Impact BIO-1:</b> Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.					
<p><b>Mitigation Measure BIO-1.1:</b> To avoid disturbance of nesting and special-status birds, the project applicant shall schedule ground disturbance 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<sup>st</sup> through August 31<sup>st</sup> (inclusive).</p> <p><b>Mitigation Measure BIO-1.2:</b> If it is not possible to schedule demolition and construction between September 1<sup>st</sup> and January 31<sup>st</sup> (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified biologist or ornithologist to ensure that no nests shall be disturbed during project implementation. The pre-construction nesting bird survey shall be conducted within the project boundary, including a 300-foot buffer (500-foot for raptors), on foot. The survey shall be conducted by a 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<sup>st</sup> through April 30<sup>th</sup>, inclusive) and no more than 30 days prior to the</p>	<p>Avoid construction activities during nesting seasons. If avoidance of construction activities during nesting seasons is not feasible, a pre-construction nesting bird survey shall be conducted by a qualified ornithologist and construction-free buffer zones shall be designated around any discovered nest.</p> <p>The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the Supervising Environmental Planner of the San José Department of Planning, Building and Code Enforcement.</p>	<p>Prior to issuance of any vegetation removal, grading, demolition, and/or building permit or activities.</p>	<p>Supervising Environmental Planner of the San José Department of Planning, Building and Code Enforcement</p>	<p>Confirm that demolition and construction activities are scheduled outside of the nesting season.</p> <p>Review report indicating the results of the survey (or any other environmental investigation reports, if applicable) and any designated buffer zones.</p>	<p>Prior to issuance of any vegetation removal, grading, demolition, and/or building permit or activities</p>



*Planning, Building and Code Enforcement*  
 ROSALYNN HUGHEY, DIRECTOR

**EXHIBIT "A"**  
**(File Nos. C16-012; H14-036)**

**945 Lincoln Avenue Redevelopment  
 Project  
 File Nos. C16-012 & H14-036**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>initiation of these activities during the late part of the breeding season (May 1<sup>st</sup> through August 31<sup>st</sup>, 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 is dependent upon the species, the proposed work activity, and existing disturbances associated with land uses outside of 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 the buffer zone until the qualified biologist or ornithologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Encroachment into the buffer zone shall occur only at the discretion of the qualified biologist.</p> <p>Prior to the issuance of any demolition or grading permits, the project applicant shall submit a report</p>					





*Planning, Building and Code Enforcement*  
 ROSALYNN HUGHEY, DIRECTOR

**EXHIBIT "A"**  
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indicating the results of the survey and any designated buffer zones to the Supervising Environmental Planner of the San José Department of Planning, Building and Code Enforcement.					

*Source: 945 Lincoln Avenue Redevelopment Project Initial Study/Mitigated Negative Declaration, May 2018*