

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE ADOPTING THE FIRE TRAINING AND
EMERGENCY OPERATIONS CENTER RELOCATION
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 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 Fire Training and Emergency Operations Center Relocation Project under Planning File No. ER20-180 (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 Fire Training and Emergency Operations Center Relocation Project (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of a Public project to relocate the City’s existing fire training and emergency operations facilities to the Project site. The project would result in the removal of existing structures such as solar panels, freestanding metal canopy structure, electric panels, infrastructure, and equipment, the renovation of approximately 16,000 square feet of existing building space, and construction of an approximate total of 56,393 square feet of new building area on the 26-acre project site located at 1591 and 1661 Senter Road, (Assessor’s Parcel Numbers 477-38-007 and 477-38-016), 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, 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, 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 No. ER20-180). 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 (2) available for inspection by any interested person.

ADOPTED this ____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

Fire Training and Emergency Operations Center Relocation Project

File No. ER20-180

October 2020



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 Fire Training and Emergency Operations Center Relocation 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.

The City of San José hereby agrees to fully implement the Mitigation Measures described below, which have been developed in conjunction with the preparation of an Initial Study/Mitigated Native Declaration for the proposed project. The City understands that these mitigation measures, or substantially similar measures, will be adopted as conditions of approval to avoid or significantly reduce potential environmental impacts to less than significant levels.



Planning, Building and Code Enforcement
 ROSALYNN HUGHEY, DIRECTOR

EXHIBIT "A"
(File No. ER20-180)

**Fire Training and Emergency
 Operations Center Relocation Project
 File Nos. ER20-180**

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
BIOLOGICAL RESOURCES					
Impacts BIO-1 and BIO-2: Demolition, grading, and construction activities and tree removal during the nesting season could impact migratory birds.					
MM BIO-1: Avoidance and Inhibit Nesting. To avoid disturbance of nesting and special-status birds, the Project Proponent 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).	Schedule project activities to occur outside of the bird nesting season (September 1 through January 31, inclusive).	Prior to the issuance of any demolition or grading permits.	Director of Planning, Building, and Code Enforcement and the Director of Public Works, or Directors' designee	Construction schedule and timing.	Prior to issuance of any demolition or grading permits, and during construction activities occurring between February 1 through August 31.



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<p>MM BIO-2: Preconstruction Surveys. If demolition and construction activities cannot be scheduled to occur between September 1 and January 31 (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 nesting bird pre-construction survey shall be conducted within the Project boundary, including within 250 feet of the project area. 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 through April 30, inclusive) and no more than 30 days prior to the initiation of these activities during the 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 the 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, for raptors and 100 feet for other birds 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</p>	<p>The biologist or ornithologist shall conduct pre-construction surveys. The project biologist or ornithologist shall also establish the appropriate buffers on site during construction activities.</p> <p>Submit a pre-construction survey report to the City's Director of Planning, Building, and Code Enforcement and the Director of Public Works or Directors' designee.</p>	<p>No more than 14 days prior to the initiation of construction and 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 late part of the breeding season (May 1 through August 31, inclusive).</p>	<p>Director of Planning, Building, and Code Enforcement and Director of Public Works or Directors' designee</p>	<p>Receive a copy of the pre-construction survey report and confirm use of the appropriate construction buffers.</p>	<p>Prior to the issuance of any demolition or grading permits.</p>



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<p>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 Proponent shall submit a report to the City's Director of Planning, Building and Code Enforcement and Director of Public Works or Directors' designee indicating the results of the survey and any designated buffer zones, and is to be completed to the satisfaction of the Director of Planning, Building and Code Enforcement and the Director of Public Works or Directors' designee prior to the issuance of any demolition or grading permits.</p>					
GEOLOGY AND SOILS					
Impact GEO-1: The Project site is in a designated Liquefaction Hazard Zone and the potential for on-site liquefaction to occur is high. As such, the Project may be subject to impacts related to seismically induced liquefaction.					
MM GEO-1: Geohazard Clearance-Liquefaction. Prior to the issuance of any building permits, the Project Proponent shall submit a request for geohazard clearance, with a copy of the geotechnical report prepared for the site (Appendix C of the Initial Study/Mitigated Negative Declaration), to the City	Submit a request for geohazard clearance, with the accompanying geotechnical report to the City Engineering Geologist.	Prior to the issuance of any building permits.	City Engineering Geologist	Review the geotechnical report and issue geohazard clearance.	Prior to the issuance of any building permits.



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<p>Engineering Geologist. The Project shall conform to the recommendations of the project-specific geotechnical report, including soil improvements and foundation and design considerations for the proposed foundations, unless otherwise determined by the City Engineering Geologist.</p>					
HAZARDS AND HAZARDOUS MATERIALS					
<p>Impact HAZ-1: Construction of the proposed Project has the potential to disturb soil and groundwater contaminants that are known to occur on the site. Such contaminants are associated with past uses on the site, and could result in the release of hazardous materials/substances into the environment.</p>					
<p>MM HAZ-1: Site Management/Removal Action Plan. Prior to the issuance of any demolition or grading permits, the Project Proponent shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (or Department of Toxic Substances Control). A Soil Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified hazardous materials consultant to address contaminants known to occur on the Project site. The Plan must establish remedial measures and/or soil and groundwater management practices to ensure construction worker safety and the health of future workers and visitors. The Plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building, and Code Enforcement (PBCE), Director of Public Works, or Directors' designee and the Environmental Compliance Officer in the City of San José's Environmental Services Department.</p>	<p>A hazardous materials consultant shall prepare a Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document.</p>	<p>Prior to the issuance of any demolition or grading permits.</p>	<p>Director of Planning, Building, and Code Enforcement, Director of Public Works, or Directors' designee and Environmental Compliance Officer in the City of San José's Environmental Services Department.</p>	<p>Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document.</p>	<p>Prior to the issuance of any demolition or grading permits.</p>



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NOISE AND VIBRATION					
Impact NOI-1: Sensitive receptors in the Project area would be intermittently exposed to high noise levels during Project construction.					
<p>MM NOI-1: Construction Phasing. Prior to the issuance of any grading or demolition permits, the Project Proponent shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.</p> <ul style="list-style-type: none"> • As a part of the noise logistic plan, construction activities for the proposed Project shall include, but are not limited to, the following best management practices: <ol style="list-style-type: none"> a) Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence. 	<p>Prepare and implement a construction noise logistics plan and designate a noise disturbance coordinator. Submit a copy of the Plan to the Director of Planning, Building, and Code Enforcement and Director of Public Works or Directors' designee.</p>	<p>Prior to the issuance of any demolition, grading or building permits and prior to the start of construction.</p>	<p>Director of Planning, Building, and Code Enforcement and Director of Public Works or Directors' designee</p>	<p>Receive construction noise logistics plan.</p>	<p>Prior to the start of construction and issuance of any grading or building permits, and implemented during construction.</p>



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<ul style="list-style-type: none"> b) Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses. c) Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. d) Prohibit unnecessary idling of internal combustion engines. e) Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. f) Utilize "quiet" air compressors and other stationary noise sources where technology exists. g) Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site. h) Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide 					



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<p>a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.</p> <p>i) If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.</p> <p>j) Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.</p> <p>k) Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement and approval from the</p>					



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<p>Director of Public Works or Directors' designee that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.</p> <p>The Project Proponent shall submit the construction noise logistics plan to the Director of Planning, Building, and Code Enforcement and Director of Public Works or Directors' designee prior to the issuance of any grading or building permits.</p>					

Source: Initial Study/Mitigated Negative Declaration for the Fire Training and Emergency Operations Center Relocation Project (September, 2020).