

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE 750 WEST SAN CARLOS RESIDENTIAL PROJECT ADDENDUM TO THE DIRIDON STATION AREA PLAN FINAL ENVIRONMENTAL IMPACT REPORT, THE ENVISION SAN JOSE 2040 GENERAL PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT, SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT, AND ADDENDA THERETO, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM**

**WHEREAS**, prior to the adoption of this Resolution, the Planning Director of the City of San José prepared and approved an Addendum to the Final Environmental Impact Report for the Diridon Station Area Plan (“DSAP FEIR”) under Planning File No. PP06-163 and City Council adopted Resolution No. 77096, the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (“General Plan Update FPEIR”) under Planning File No. PP09-011 and City Council adopted Resolution No. 76041, and Supplemental EIR (“SEIR”) for the Envision San José 2040 General Plan, Greenhouse Gas Reduction Strategy under Planning File No. PP15-060 and City Council adopted Resolution No. 77617, and Addenda thereto, for the 750 West San Carlos Residential Project under Planning File Nos. PDC16-045 and PD16-031 (the “Project”), 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 City prepared, completed, and adopted in accordance with CEQA the General Plan Update FPEIR, which analyzed the environmental impacts set forth from the land use and development assumptions of the Envision San José General Plan; and

**WHEREAS**, the Planning Commission of the City certified said General Plan Update FPEIR, which certification was not appealed; and

**WHEREAS**, in connection with the adoption of a resolution approving said Envision San José 2040 General Plan (Planning File No. PP09-011), the City Council adopted Resolution No. 76041 on November 1, 2011 setting forth certain findings pertaining to the General Plan Update FPEIR and adopting a mitigation monitoring and reporting program, all pursuant to the provisions of CEQA; and

**WHEREAS**, subsequent to said actions on the General Plan Update FPEIR, the City prepared, completed, and adopted in accordance with CEQA the DSAP FEIR, which analyzed the environmental impacts set forth from the land use and development assumptions of the Diridon Station Area Plan; and

**WHEREAS**, the Planning Commission of the City certified said DSAP FEIR, which certification was not appealed; and

**WHEREAS**, in connection with the adoption of a resolution approving said Diridon Station Area Plan (Planning File No. PP09-163), the City Council adopted Resolution No. 77096 on July 17, 2014 setting forth certain findings pertaining to the DSAP FEIR and adopting a mitigation monitoring and reporting program, all pursuant to the provisions of CEQA; and

**WHEREAS**, subsequent to said actions on the DSAP FEIR and the General Plan Update FPEIR, the City prepared, completed, and adopted in accordance with CEQA the Supplemental EIR (“SEIR”) for the Envision San José 2040 General Plan, Greenhouse Gas Reduction Strategy (Planning File No. PP15-060); and

**WHEREAS**, the Planning Commission of the City certified said SEIR, which certification was not appealed; and

**WHEREAS**, the City Council adopted Resolution No. 77617 on December 15, 2015 setting forth certain findings pertaining to the SEIR, all pursuant to the provisions of CEQA, and adopting a mitigation monitoring and reporting program, all pursuant to the provisions of CEQA; and

**WHEREAS**, the 750 West San Carlos Residential Project (the "Project") analyzed under the Addendum consists of a Planned Development Rezoning from HI - Heavy Industrial Zoning District to A (PD) Planned Development Zoning District and Planned Development Permit to allow the construction of a 7-story, 56 residential unit building on a 0.41 gross acre site, at 750 West San Carlos Street in San José, California; and

**WHEREAS**, the Addendum concluded that implementation of the Project would not result in new significant effects on the environment beyond those already identified in the previously approved DSAP FEIR, General Plan FPEIR, SEIR and Addenda thereto, nor will the Project result in an increase in the severity of significant effects identified in the EIRs and the identified mitigation measures, as amended, would continue to 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 EIR or MND 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 environment 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; and

**WHEREAS**, the Project will not result in any new significant effect or increase in the severity of an existing significant effect on the environment, a project specific Mitigation Monitoring and Reporting Program (“Mitigation Monitoring and Reporting Program”) was prepared to reflect current General Plan policies and current protocols, which have been updated to incorporate applicable mitigation measures from the DSAP FEIR, General Plan Update FPEIR, SEIR, and Addenda thereto into the Project; 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 Addendum along with the certified DSAP FEIR, General Plan Update FPEIR, and SEIR and Addenda thereto, and the 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 Addendum along with the DSAP FEIR, General Plan Update FPEIR, SEIR and Addenda thereto, 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;

**WHEREAS**, the Project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

**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 DSAP FEIR, General Plan Update FPEIR, SEIR, and Addenda thereto, as all modified by the Addendum, as well as other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Addendum modifying the DSAP FEIR, General Plan Update FPEIR, SEIR, and Addenda thereto prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Addendum modifying the DSAP FEIR, General Plan Update FPEIR, SEIR, and Addenda thereto 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 Addendum and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File Nos. PDC16-045 and PD16-031). The Mitigation Monitoring and Reporting Program for the Project is attached hereto as Exhibit "A" and fully incorporated herein. The Addendum 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            ,            , by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

---

SAM LICCARDO  
Mayor

ATTEST:

---

TONI J. TABER, CMC  
City Clerk

**MITIGATION MONITORING AND REPORTING PROGRAM**

**750 West San Carlos Street Residential Project**

**File Nos. PDC16-045, PD16-031**

**CITY OF SAN JOSE**  
**October 2017**



P R E F A C E

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 Addendum prepared for the 750 West San Carlos Street Residential 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 Addendum concluded that the impacts from implementation of the project would be less than significant.

I, BLAKE PETERS, the applicant, on the behalf of DAY AREA PROPERTY DEVELOPERS, LLC, hereby agree to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of an Addendum 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 10-24-17





Department of Planning, Building and Code Enforcement  
**HARRY FREITAS, DIRECTOR**

750 West San Carlos Street  
 Residential Project  
 File Nos. PDC16-045, PD16-031

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>AIR QUALITY</b>					
<b>Impact AQ-1:</b> Project construction would expose sensitive receptors to cancer risks and PM <sub>2.5</sub> concentrations associated with construction vehicle and equipment emissions.					
<p><b>MM AQ-1.1:</b> The Project applicant shall ensure that all mobile diesel-powered off-road equipment larger than 50 horsepower and operating on the project site for more than two days continuously meets U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.</p> <p>Prior to issuance of any grading permit, all measures shall be printed on all construction documents, contracts, and project plans to the satisfaction of the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement (PBCE).</p>	All measures shall be printed on all construction documents, contracts, and project plans.	Prior to issuance of any grading permit.	PBCE Supervising Environmental Planner.	Ensure that all measures are printed on all construction documents, contracts, and project plans.	Prior to issuance of any grading permit.
<b>BIOLOGICAL RESOURCES</b>					
<b>Impact BIO-1:</b> Construction activities could result in significant impacts to nesting migratory and other protected bird species.					
<p><b>MM BIO 1-1:</b> The Project applicant shall schedule demolition and tree removals between September 1st and January 31st (inclusive) to avoid the raptor nesting season. If this scheduling is not feasible, pre-construction surveys for nesting raptors shall be completed by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation in accordance to the following procedures.</p>	Avoidance of construction activities during nesting season. If not possible, pre-construction surveys shall be conducted by a qualified ornithologist and construction-free buffer zones shall be designated	Prior to the issuance of any grading permit. If construction will occur during the nesting season, preconstruction surveys shall be done within 14 days	PBCE Supervising Environmental Planner.	Review and accept a report indicating the results of the survey and any designated buffer zones.	Prior to and during construction activities.

**DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.**



*Department of Planning, Building and Code Enforcement*  
**HARRY FREITAS, DIRECTOR**

750 West San Carlos Street  
 Residential Project  
 File Nos. PDC16-045, PD16-031

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
<ul style="list-style-type: none"> <li>Between February 1st and April 30st (inclusive), pre-construction surveys shall be completed no more than 14 days prior to the initiation of construction activities or tree removal.</li> <li>Between May 1st and August 31st (inclusive), pre-construction surveys shall be completed no more than thirty (30) days prior to the initiation of these activities.</li> <li>The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests.</li> <li>If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist shall, in consultation with the State of California, Department of Fish &amp; Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet for raptors) around the nest, which shall be protected from disturbance through the duration of nesting activity.</li> </ul>	around active nests.	of construction from February 1 <sup>st</sup> to April 30st, and within 30 days of construction from May 1 <sup>st</sup> to August 31 <sup>st</sup> .			
The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the PBCE Supervising Environmental Planner prior to issuance of any grading and building permits.	Submit a report indicating the results of the survey and any designated buffer zones to the PBCE Supervising Environmental Planner.				

Source: 750 West San Carlos Street Residential Project Addendum, October 2017.  
 Page | 3

**DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.**