

RESOLUTION NO. 2023-

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE EMERGENCY INTERIM HOUSING PROGRAMS PROJECT MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, 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 Emergency Interim Housing (EIH) Programs Project under Planning File No. ER22-198 (the “Initial Study/Mitigated Negative Declaration”), all in accordance with the requirements of the California Environmental Quality Act (“CEQA”); and

WHEREAS, the Initial Study/Mitigated Negative Declaration analyzed the EIH Programs Project (the “Project”), 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, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA requires a lead agency to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures during project implementation; 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 the 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 on the Department of Planning, Building and Code Enforcement webpage (www.sanjoseca.gov) and are, by this reference, incorporated into this Resolution as if fully set forth herein; and

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 CITY COUNCIL OF THE CITY OF SAN JOSE:

THAT THE CITY COUNCIL does hereby incorporate the foregoing recitals as if set forth in the body of this Resolution.

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. ER22-198). 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, and (2) Available for inspection by any interested person.

ADOPTED this ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

Emergency Interim Housing Programs Project
File No. ER22-198
September 2023



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 Emergency Interim Housing Programs 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.

The mitigation measures enumerated in this document would reduce the level of impact of potential environmental effects of the proposed action. In all cases, these mitigation measures would reduce the impact of effects determined to be significant prior to mitigation to less-than-significant levels.

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.

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 IS/MND for the 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
CHRISTOPHER BURTON, DIRECTOR

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Implementation Actions		Compliance Reporting		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY					
Impact AIR-1: Future projects located within 1,000 feet of existing sensitive receptors could result in a significant health risk impact from toxic air contaminants during construction.					
MM AIR-1.1: Emergency Interim Housing (EIH) projects proposing development within 1,000 feet of existing sensitive receptors as defined by the Bay Area Air Quality Management District (BAAQMD) shall have a qualified air quality consultant prepare a site-specific construction and operational health risk assessment (HRA). If the HRA demonstrates that the health risk exposures for adjacent sensitive receptors will be less than the BAAQMD project-level thresholds, no additional mitigation is necessary.	A qualified air quality consultant shall prepare a construction and operational HRA as described in MM AIR-1.1. The HRA will be submitted to the City for review.	Prior to any tree removal, grading, demolition, and/or building activity.	Director of Planning, Building and Code Enforcement or Director’s designee.	Review and approve the HRA.	Prior to any tree removal, grading, demolition, and/or building activity.
MM AIR-1.2: If the HRA demonstrates that the health risk exposures for adjacent receptors will be above BAAQMD project-level thresholds, projects shall implement the following measures during all phases of construction: <ul style="list-style-type: none"> Use Tier 4 engines for all off-road equipment greater than 50 horsepower and operating for more 	The City shall implement the measures described in MM AIR-1.2 during all phases of construction. Measures shall be printed on all construction documents, contracts, and project plans.	During all phases of construction.	Director of Planning, Building and Code Enforcement or Director’s designee.	Ensure that all appropriate measures identified in the HRA to reduce emissions below the thresholds are printed on all	During all phases of construction.



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<p>than 20 total hours over the entire duration of construction activities.</p> <ul style="list-style-type: none"> Implement fugitive dust best management practices (as outlined in the Standard Permit Conditions) and, if necessary, enhanced dust control measures recommended by BAAQMD. The need for enhanced measures shall be determined by the findings in the HRA. <p>Use portable electrical equipment where commercially available and practicable to complete construction. Construction contractors shall utilize electrical grid power instead of diesel generators when (1) grid power is available at the construction site; (2) when construction of temporary power lines is not necessary to provide power to portions of the site distant from existing utility lines; and (3) when use of portable extension lines is practicable given construction safety and operational limitations.</p>				<p>construction documents, contracts, and project plans.</p>	
HYDROLOGY AND WATER QUALITY					
Impact HYD-1: Construction of EIH projects within Special Flood Hazard Areas or in proximity to waterways could increase the risk of project inundation.					



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<p>MM HYD-1.1: EIH projects located within 100-year and 500-year floodplains (Federal Emergency Management Agency [FEMA] Zone AE, A, AH, or AO) shall have the first finished floor of all proposed structures raised above the base flood elevation consistent with the requirements of the Municipal Code (Floodplain Ordinance 17.08) and General Plan policies EC-5.1 and IN-3.7.</p>	<p>The City shall implement measure MM HYD-1.1 during the development review process and during construction. Measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Prior to any tree removal, grading, demolition, and/or building activity</p>	<p>Director of Planning, Building and Code Enforcement or Director’s Designee.</p>	<p>Review and approve design plans.</p>	<p>Prior to any tree removal, grading, demolition, and/or building activity.</p>
<p>TRIBAL CULTURAL RESOURCES</p>					
<p>Impact TCR-1: Construction of EIH projects within one mile of a creek, or 1,000 feet of a known Tribal Cultural Resource, could result in significant impacts to unknown Tribal Cultural Resources from ground disturbing activities.</p>					
<p>MM TCR-1.1: Upon identification of an EIH site, the City shall notify tribal representatives of Tribes with a traditional or cultural affiliation in the City of San José who have requested consultation under AB 52. Notification shall be made via electronic mail, and such notification shall include a site address, Assessor’s Parcel Number(s), a location map, and conceptual site plan (if available). The notification shall also include information on proposed grading and trenching. Tribal representatives will have 30 days from the date of the notice to respond and request consultation and/or additional mitigation measures depending on the</p>	<p>Once future project sites are identified the City shall notify tribal representatives as described in MM TCR-1.1.</p> <p>If the additional mitigation measures are required, the City shall prepare an ARTP, provide at least one cultural sensitivity training to construction personnel prior to the initial ground-</p>	<p>During the development review process. For additional mitigation required, during construction.</p>	<p>Director of Planning, Building and Code Enforcement or Director’s Designee.</p>	<p>Notify tribal representatives of development once future project sites are identified.</p>	<p>During the development review process. For additional mitigation required, during construction.</p>



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characteristics of the site and the project. Additional mitigation measures may include, but are not limited to, the following: <ul style="list-style-type: none"> • Preparation of an Archaeological Research Treatment Plan (ARTP), which will include guidelines if resources are discovered during site construction. • Conducting a cultural sensitivity training for construction workers in coordination with a Native American Tribal representative from a Tribe with a traditional or cultural affiliation in the City of San José and registered with the Native American Heritage Commission (NAHC). • Engagement of a Native American Tribal Monitor from a Tribe with a traditional or cultural affiliation in the City of San José and registered with the NAHC to be present during ground disturbing activities. • Engagement of an archaeological monitor to be present during ground disturbing activities. 	breaking activities with a qualified Native American Tribal representative, and engage with tribal representatives and/or archaeological monitor to be present during ground disturbing activities, as described in MM TCR-1.1. The ARTP and evidence of the cultural sensitivity training shall be submitted to the Director of Planning, Building and Code Enforcement or Director’s Designee. Measures shall be printed on all construction documents, contracts, and project plans.				

Source: City of San José. *Emergency Interim Housing Programs Initial Study.* June 2023.