

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE FIRE STATION NO. 8 RELOCATION PROJECT MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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 Station No. 8 Relocation Project under Planning File No. ER22-063 (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 Station No. 8 Relocation Project (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of a Public Project Permit to construct a new a single-company, two-story fire station with a single apparatus bay for San José Fire Department (SJFD) Fire Station No. 8 at 601 East Santa Clara Street (APN 467-15-010) and relocate the uses from its current location at 802 East Santa Clara Street to the new building; 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 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 on-line on the Department of Planning, Building and Code Enforcement webpage 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 incorporate the foregoing recitals by reference into 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. ER22-063). 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 _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

**Fire Station No. 8 Relocation Project
File No. ER22-063**

January 2023



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. In instances in which the mitigation, monitoring, compliance, or other responsibility is assigned to the Director of the Planning, Building, and Code Enforcement or the Director's designee, the designee is understood to be other staff member(s) of the Planning, Building and Code Enforcement Department.

The Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the Fire Station No. 8 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 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.

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 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 a less than significant level, where feasible.

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AIR QUALITY					
Impact AIR-1: Cancer risk from construction activities and operations would be 39.6 per million, which exceeds the single-source significance threshold of 10 per million, at the residence with maximum impact, assuming infant exposure.					
<p>Mitigation Measure AIR-1: Tier 4 Engines.</p> <p>Prior to the start of construction activities, the project proponent shall prepare a construction operations plan that demonstrates that the off-road equipment used on-site to construct the Project would at minimum achieve a fleet-wide average 95-percent reduction in mass of exhaust emissions of diesel particulate matter (DPM). Specifically, this plan shall include, but is not limited to, the measures identified below:</p> <ul style="list-style-type: none"> All diesel-powered off-road equipment larger than 25 horsepower operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 engines with CARB-certified Level 3 Diesel Particulate Filters, or equivalent. Exceptions could be made for equipment that includes CARB- 	<p>Prepare a construction operations plan that demonstrates that the off-road equipment used on-site to construct the Project would at minimum achieve a fleet-wide average 95-percent reduction in mass of exhaust emissions of DPM.</p>	<p>Prior to the start of construction activities</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee</p>	<p>Review and approve construction operations plan</p>	<p>Prior to the start of construction activities</p>

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<p><i>certified Level 3 Diesel Particulate Filters or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement</i></p> <ul style="list-style-type: none"> <i>Provide electric power if feasible to avoid use of diesel-powered generator sets and other portable equipment.</i> <p><i>Off-road equipment descriptions and information shall be provided, including, but not limited to, equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number.</i></p> <p><i>Prior to the start of any construction activities, the Project proponent shall submit the construction operations plan and records of compliance to the Director of Planning, Building and Code Enforcement or the Director's designee.</i></p> <p><i>Implementation of Mitigation Measure AIR-1 using construction equipment meeting Tier 4</i></p>					

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<p><i>interim engine standards would reduce on-site diesel exhaust emissions from construction equipment by an average of 95 percent and avoid or reduce the potential environmental impact stated above to a less than significant level.</i></p>					
BIOLOGICAL RESOURCES					
Impact BIO-1: Demolition, grading, and construction activities and tree removal during the nesting season could impact migratory birds.					
<p>Mitigation Measure BIO-1: Nesting Bird Protection Measures.</p> <ul style="list-style-type: none"> <i>Avoidance: To the extent possible, construction activities that may encounter nesting birds (e.g., tree removal) should be performed outside of the nesting season. For most birds, including most raptors in the San Francisco Bay area, this period extends from February 1st through August 31st (inclusive). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching.</i> 	<p><i>Contract a qualified biologist to conduct preconstruction surveys for nesting birds. If active nests are identified, establish no-disturbance buffer zones around each nest, monitor construction activities near suitable habitat, when applicable, and implement the additional requirements in Mitigation Measure BIO-1.</i></p>	<p><i>Pre-construction nesting surveys within 14 days prior to the start of vegetation removal, tree trimming and removal, ground disturbance, and demolition or after any construction breaks of 14 days or more.</i></p>	<p><i>Director of Planning, Building and Code Enforcement or the Director's designee</i></p>	<p><i>Confirm receipt of executed contract with a qualified biologist to perform pre-construction surveys prior to start of construction activities. Receive and review survey documentation, as well as monitoring</i></p>	<p><i>Prior to start of construction activities. Within 14 days prior to the start of vegetation removal, tree trimming and removal, ground disturbance, and demolition</i></p>

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<ul style="list-style-type: none"> <i>Nesting Bird Surveys: For construction activities that are initiated during the nesting season, pre-construction nesting bird surveys shall be completed by a qualified biologist to ensure that active nests are not disturbed by construction. This survey shall be completed no more than 14 days prior to the initiation of construction activities. During this survey, the biologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction area for nests.</i> <i>Buffer Zone: If an active nest is found sufficiently close to work areas to be disturbed by construction, the biologist 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 passerine birds) to ensure that nests are not be disturbed during construction. The no-disturbance buffer shall remain in place</i> 		<p><i>Also during and after construction work if active nests are identified.</i></p>		<p><i>reports and a final report if active nests are identified.</i></p>	<p><i>or after any construction breaks of 14 days or more. Also during and after construction work if active nests are identified.</i></p>

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<p><i>until the biologist determines the nest is no longer active or if the nesting season ends. If construction ceases for 14 days or more during the early part of the breeding season (February 1st through April 30th, inclusive) or for 30 days or more during the late part of the breeding season (May 1st through August 31st, inclusive), then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts on active bird nests that may have been established during the pause in construction.</i></p> <ul style="list-style-type: none"> <i>Reporting: Prior to any site disturbance, such as tree removal, or the start of any grading, building or demolition activities (whichever occurs first), the biologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of the Department of Planning,</i> 					

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<p><i>Building and Code Enforcement or the Director's designee.</i></p> <p><i>Implementation of Mitigation Measure MM BIO-1 will avoid or reduce the potential environmental impact stated above to a less than significant level by ensuring that nesting birds on the project site, and immediately adjacent to the project site, are identified and buffer zones are established around trees with nests to protect nests from construction activities if construction cannot avoid the nesting season.</i></p>					
CULTURAL RESOURCES					
Impact CUL-1: Project ground disturbing activities could result in a substantial adverse change in the significance of an archaeological resource.					
<p>Mitigation Measure CUL-1: Cultural Resources Awareness Training.</p> <p><i>Prior to start of any grading or building activities, a Secretary of the Interior (SOIS)-qualified archaeologist and a Native American representative registered with the Native American Heritage Commission for the City of San</i></p>	<p><i>A Secretary of the Interior-qualified archaeologist and a culturally affiliated Native American representative shall conduct a training program for all construction and field</i></p>	<p><i>Submit training documents for review and approval prior to issuance of any grading or building permits. Submit</i></p>	<p><i>Director of Planning Building and Code Enforcement or the Director's designee</i></p>	<p><i>Review and approve training documents.</i></p> <p><i>Receive documentation to confirm</i></p>	<p><i>Prior to the start of any grading or building activities. Review documentation construction</i></p>

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<p><i>José and that is traditionally and culturally affiliated with the geographic area, as described in Public Resources Code Section 21080.3 shall conduct a training program for all construction and field personnel involved in ground disturbance. On-site personnel shall attend a mandatory pre-project training that shall outline the general archaeological sensitivity of the area and the procedures to follow in the event an archaeological resource and/or human remains are inadvertently discovered. A training program shall be established for new project personnel before they begin project work. The project proponent shall submit a copy of the training documents to the Director of Planning Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any grading or building permits. Documentation confirming the training sessions conducted shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior start of construction activities.</i></p>	<p><i>personnel</i></p>	<p><i>confirmation training conducted prior to start of construction activities.</i></p>		<p><i>training conducted</i></p>	<p><i>training completed prior to start of construction activities.</i></p>

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<i>Implementation of Mitigation Measure MM CUL-1 will avoid or reduce the potential environmental impact stated above to a less than significant level by ensuring that construction workers are trained to identify any potential cultural resources, and that all ground disturbing activities are monitored by a qualified archaeologist and a Native American Monitor.</i>					
HAZARDS AND HAZARDOUS MATERIALS					
Impact HAZ-1: Development of the proposed project could potentially expose construction works and the public to soil, soil vapor and/ or groundwater contamination from an off-site source during the demolition and construction phases of the project, and future site occupants to soil vapor contamination after construction.					
Mitigation Measure HAZ-1: Site Management Plan and Vapor Intrusion Measures. <i>Prior to start of any demolition or grading activities, the City of San Jose shall enter into an agreement with the Santa Clara County Department of Environmental under their Site Cleanup Program (SCCDEH). The project proponent shall meet with the SCCDEH and perform additional soil, soil gas and/or groundwater sampling and testing to adequately</i>	<i>Enter into an agreement with the Santa Clara County Department of Environmental under their Site Cleanup Program and perform additional soil, soil gas and/or groundwater sampling and testing to adequately define the known and</i>	<i>Submit the Plan, vapor intrusion mitigation measures, and evidence of regulatory oversight for review and approval prior to issuance of any</i>	<i>Director of the City of San José Planning, Building, and Code Enforcement Department, or the Director's designee, and the Environmental Compliance Officer in the City of San</i>	<i>Review the Plan, vapor intrusion mitigation measures, and evidence of regulatory oversight and confirm its attachment to relevant grading and/or</i>	<i>Prior to the start of any grading or demolition activities.</i>

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<p><i>define the known and suspected contamination from past agricultural use and any other past uses of concern. A Site Management Plan (SMP), Corrective Action Plan, Remedial Action Plan, or other equivalent plan shall be prepared and submitted to the SCCDEH for their approval. The Plan must include a Health & Safety Plan (HASP) and must establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The SMP shall include a plan for management of soil during construction, dust control measures, and waste management. The SMP would also provide measures if areas of unexpected contamination or subsurface structures are encountered. Corrective actions in the SMP that could be considered include limited soil removal around the former LUST area, in-situ enhanced bioremediation or chemical oxidation, monitored natural attenuation, or a combination of one or more of these. Additionally, based on the results of soil vapor samples, the planned structure shall incorporate vapor intrusion</i></p>	<p><i>suspected contamination from past uses of concern.</i></p> <p><i>Retain a qualified professional to prepare and submit a SMP or equivalent document, and vapor intrusion mitigation measures. The document and evidence of regulatory oversight shall be submitted to ESD and the Director of Planning, Building and Code Enforcement or the Director's designee</i></p>	<p><i>grading permits or permits for any ground-disturbing and/or construction activities.</i></p>	<p><i>José's Environmental Services Department</i></p>	<p><i>demolition activities.</i></p>	

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<p><i>mitigation measures to help reduce the potential for vapor intrusion into the future structure in accordance with SCCDEH oversight and recommendations.</i></p> <p><i>The Plan and evidence of regulatory oversight shall be provided to the Director of the City of San José Planning, Building, and Code Enforcement Department, or the Director’s designee, and the Environmental Compliance Officer in the City of San José’s Environmental Services Department.</i></p> <p><i>Implementation of Mitigation Measure HAZ-1 and the City’s Standard Project Conditions, potential impacts from upset or accidental hazardous material releases during or after project construction or due to being located on a Hazardous Waste and Substances Site List (“Cortese List”) site would be reduced to a less than significant level.</i></p>					

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NOISE					
Impact NOI-1: Sensitive receptors in the project area would be intermittently exposed to high noise levels during project construction.					
<p>Mitigation Measure NOI-1: Construction Phasing.</p> <p>Prior to the start of any grading or demolition activities, 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"> Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses. 	<p>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.</p>	<p>Submit construction noise logistics plan for review prior to the start of any grading or demolition activities.</p> <p>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</p>	<p>Director of Planning, Building and Code Enforcement, or the Director's designee</p>	<p>Review and approve construction noise logistics plan.</p> <p>Receive documentation to confirm noise disturbance coordinator is in place.</p>	<p>Prior to the start of any grading or demolition activities.</p> <p>Review noise disturbance coordinator documentation prior to start of construction activities.</p>

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<ul style="list-style-type: none"> • Equip all internal combustion–driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. • Prohibit unnecessary idling of internal combustion engines. • 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 noise-sensitive land uses. • Utilize “quiet” air compressors and other stationary noise sources where technology exists. • Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site. 		<p><i>reduce noise impacts on neighboring residents and other uses.</i></p>			

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<ul style="list-style-type: none"> • <i>Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule in writing and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.</i> • <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.</i> • <i>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</i> 					

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<p><i>notice sent to neighbors regarding the construction schedule.</i></p> <ul style="list-style-type: none"> <i>Limit construction hours to 7 a.m. to 7 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 that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. Because it is anticipated that certain construction activities (such as continuous pours of concrete foundations) may require work outside normally permitted construction hours (e.g., overnight), the project's Public Permit would allow for such construction activities, subject to conditions of approval, including performance</i> 					

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<p><i>standards, imposed by the City to limit noise impacts.</i></p> <p><i>Implementation of Mitigation Measure NOI-1 will reduce potential construction noise impacts near sensitive receptors to below the City noise ordinance standard (Title 20, Part 3, Section 20.100.450 of the City's Municipal Code).</i></p>					

Source: Initial Study for the Fire Station No. 8 Relocation Project, January 2023.