



# Memorandum

**TO:** TRANSPORTATION &  
ENVIRONMENT COMMITTEE

**FROM:** Christopher Burton

**SUBJECT:** SEE BELOW

**DATE:** November 7, 2022

Approved

Date

11/19/22

**SUBJECT: CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) MITIGATION  
MONITORING AND REPORTING PROGRAM SEMI-ANNUAL STATUS  
REPORT**

## **RECOMMENDATION**

Accept the semi-annual status report on the California Environmental Quality Act (CEQA) Mitigation Monitoring and Reporting Program for the period of April 2022 through September 2022.

## **OUTCOME**

The purpose of this semi-annual report is to provide the Transportation and Environment Committee with an update on the mitigation compliance program and conformance to CEQA's requirements for mitigation monitoring under CEQA Guidelines Section 15097. Specifically, this report highlights the ongoing projects and key accomplishments achieved during the reporting period. The Committee's attention to this Program has assisted with compliance and fulfillment of the City's environmental mitigation commitments and obligations pursuant to CEQA.

## **BACKGROUND**

This is the 26<sup>th</sup> progress report on the status of the implementation and improvements to the City's Mitigation Monitoring and Reporting Program. CEQA requires that the City include feasible mitigation measures to reduce or eliminate potentially significant environmental impacts as part of the City's approval of projects, including land use approvals and other actions taken by the City

Council or other decision-making bodies. These mitigation measures are identified through environmental analyses prepared for individual projects in the form of Mitigated Negative Declarations or Environmental Impact Reports under CEQA. At the time of approval, the City is required to make findings as to how each project will substantially lessen or avoid significant environmental effects through either modification to the project, or the incorporation of environmental mitigation measures described in the project's Mitigated Negative Declaration or Environmental Impact Report. CEQA mandates that the City adopt and implement a Mitigation Monitoring and Reporting Program for individual projects. Mitigation measures are required to be fully enforceable by the lead agency through permit conditions, agreements, or other measures with an expectation that there will be consequences to the project for non-compliance. When imposing mitigation, lead agencies must ensure there is a "nexus" and "rough proportionality" between the measure and the significant impacts of the project. (See CEQA Guidelines Section 15126.4). The timing for mitigation measure implementation and compliance is mostly prior to the issuance of the grading permit. However, under certain circumstances, there are some mitigation measures that may be required to be implemented post-occupancy with required ongoing measures during project operations.

Over the past few years, staff has been working to improve the City's Mitigation Monitoring and Reporting Program implementation to better conform to the requirements of CEQA and to further the City's goals for stewardship of the natural environment. The Transportation and Environment Committee has been an active participant in this process, reviewing staff progress and making recommendations on a periodic basis.

## **ANALYSIS**

This part of the report focuses on mitigation compliance for projects during the grading permitting process as the timing for most compliance is triggered with grading. The Department of Planning, Building and Code Enforcement Environmental Review team leads the review of required mitigation compliance associated with projects that include approval of grading permits. Planning, Building and Code Enforcement's efforts are coordinated with applicants, the Department of Public Works, Environmental Services Department and other city departments as applicable.

### **Mitigation Monitoring Report Card**

#### ***Approved Projects***

In the reporting period from April 2022 through September 2022, seven (7) projects completed the mitigation compliance requirements in accordance with their Mitigation Monitoring Reporting Program adopted as part of the entitlement review under CEQA. One of the projects (Roosevelt Park Apartments) also completed mitigation monitoring for compliance with the National Environmental Policy Act (NEPA). The current reporting period's completed project list is summarized in Attachment A of this report with project name, project description, completed mitigation requirements, and review completion dates.

The number of projects completing mitigation compliance during this reporting period is steady compared with the last two reporting periods. Eight (8) projects completed mitigation compliance review in the last reporting period between October 2021 and March 2022 and seven (7) projects completed mitigation compliance review between April and September 2022.

Some of the projects that completed mitigation compliance review in this reporting period include the second phase of the Winchester Ranch residential project, an assisted living facility, an affordable housing project (Roosevelt Park Apartments), and a hotel. Typical mitigation compliance requirements for these projects include demonstration of compliance with measures to reduce construction air quality, preconstruction bird surveys, archaeological resources management, confirmation of approved site management plans for residual soil contamination, and compliance with construction noise and vibration mitigation.

### ***Projects Under Review***

The Environmental Review team is currently reviewing 58 projects for compliance with the adopted Mitigation Monitoring and Reporting Programs. This includes 26 projects that have been inactive since the last reporting period, due to a lack of response from the project applicants, and 22 new projects since the end of the last reporting period in March 2022. Projects under review also include portions of phased projects, such as Downtown West, Avenues – The World School, and Cityview Plaza. Attachment B of this report lists these projects by their project name, project description, grading permit description, and pending mitigation requirements.

Since the start of the current reporting period in April 2022, an additional 22 projects started the Mitigation Monitoring and Reporting Program compliance review process. This is a significant increase from 12 new projects in the previous reporting period from October 2021 – March 2022.

## **EVALUATION AND FOLLOW-UP**

In the next report to the Transportation and Environment Committee, staff will provide updates to the monitoring activity between October 2022 and March 2023. The next report to the Committee is scheduled for May 2023.

## **PUBLIC OUTREACH**

Information related to the CEQA Mitigation Monitoring and Reporting Program and latest reports will be updated on the Planning Division's Environmental Review web page at this link:

<https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/mitigation-monitoring-reports>.

**CEQA**

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

/s/

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Planning, Building and Code Enforcement

For questions, please contact David Keyon, Principal Planner, at [david.keyon@sanjoseca.gov](mailto:david.keyon@sanjoseca.gov).

**Attachments:**

- Attachment A: Approved Mitigation Compliance for Grading Permits from April 2022 through September 2022.
- Attachment B: On-going Mitigation Compliance for Grading Permits under Review as of September 2022.