

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE 459 AND 469 PIERCY ROAD HOTEL PROJECTS 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 Planning Director of the City of San José prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for 459 and 469 Piercy Road Hotel Projects under Planning File Nos. C18-029, H18-016 & H18-029 (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 459 and 469 Piercy Road Hotel Projects (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of a Conventional Rezoning from IP Industrial Park to CIC Combined Industrial/Commercial Zoning District on a 5.08-gross acre site; Site Development Permit to allow the construction of a five-story, 112-room hotel building on a 3.6-gross acre site located east of Hellyer Avenue, between Piercy Road and Silver Creek Valley Road at 459 Piercy Road; and Site Development Permit to allow the demolition of two existing structures, approximately 4,800 square feet and 1,661 square feet, the construction of a six-story, 175-room hotel building with a public eating establishment, and the removal of five ordinance size trees on a 2.02-gross acre site located at the northeast corner of Hellyer Avenue and Piercy Road at 469 Piercy Road (Assessor’s Parcel Numbers: 678-93-039 and 678-93-040), 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, 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 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 Nos. C18-029, H18-016 & H18-029). 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, 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 _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

459 and 469 Piercy Road Hotel Projects

File Nos. C18-029, H18-016 & H18-029

March 2019



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 Initial Study/Mitigated Negative Declaration prepared for the 459 and 469 Piercy Road Hotel Projects concluded that the implementation of each 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.

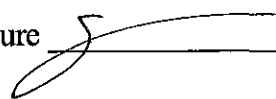
I, Vijay Mathur, the applicant on the 459 Piercy Road Hotel Project (File No. H18-029), on the behalf of Temple Hospitality SSJ, LLC, and I, Bryan Robertson, the applicant on the 469 Piercy Road Hotel Project (File No. H18-016), on the behalf of Piercy Tower Alpha LLC, hereby agree to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of an Initial Study/Mitigated Negative Declaration 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.

459 Piercy Road Hotel Project (File No. H18-029)

Project Applicant's Signature 

Date 03-21-2019

469 Piercy Road Hotel Project (File No. H18-016)

Project Applicant's Signature  Bryan Robertson

Date 3/22/19



Planning, Building and Code Enforcement
ROSALYNN HUGHEY, DIRECTOR

459 & 469 Piercy Road Hotels Project
File No. C18-029, H18-016 & H18-029

MITIGATION	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					
Impact BIO-1: Construction and demolition activities, including the removal of trees from the 469 Piercy Road project site, could impact nesting migratory birds.					
<p>MM BIO-1: The project applicants shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area extends from February 1st through August 31st (inclusive).</p> <p>If demolition and construction activities cannot be scheduled between September 1st and January 31st (inclusive) to avoid the nesting season, pre-construction surveys for nesting raptors and other migratory nesting birds shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation on-site and within 250 feet of the site. The pre-construction survey for nesting birds shall be conducted prior to initiation of construction, demolition activities, or tree removals no more than 14 days during the early part of the nesting season between February 1st and April 30th (inclusive) and no more than 30 days prior to initiation of these activities during the late part of the nesting season between May 1st and August 31st (inclusive).</p> <p>If an active nest is found in or close enough to the project area to be disturbed by construction activities, a qualified ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the</p>	<p>Avoid construction activities during nesting season. If construction cannot avoid the nesting season, pre-construction surveys shall be conducted by a qualified ornithologist and construction-free buffer zones shall be designated around active nests</p> <p>Submit a report indicating the results of the preconstruction survey and any designated buffer zones</p>	<p>Prior to the issuance of any grading or building permits, as well as the removal of any tree, whichever occurs first in time</p>	<p>Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement</p>	<p>Review/approve pre-construction survey report and any designated buffer zones, if applicable</p>	<p>Prior to issuance of any grading or building permits, as well as the removal of any trees, whichever occurs first in time</p>



Planning, Building and Code Enforcement

ROSALYNN HUGHEY, DIRECTOR

459 & 469 Piercy Road Hotels Project
File No. C18-029, H18-016 & H18-029

MITIGATION	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
<p>extent of a construction-free buffer zone (typically 250 feet for raptors and 100 feet for other birds) around the nest, to ensure that raptor or migratory bird nests would not be disturbed during ground disturbing activities. The construction-free buffer zones shall be maintained until after the nesting season has ended and/or the ornithologist has determined that the nest is no longer active.</p> <p>The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement prior to issuance of any grading, demolition, and/or building permit, and any tree removal, whichever occurs first in time.</p>					
GREENHOUSE GAS EMISSIONS					
Impact GHG-1: Operation of the 459 and 469 Piercy Road hotel projects would generate GHG emissions that would have a cumulatively considerable contribution to global climate change.					
<p>MM GHG-1: Prior to issuance of any Public Works clearances, the project applicants for each hotel project shall implement separately for each hotel the following mitigation measures according to the hotel's date of occupancy.</p> <ul style="list-style-type: none"> Develop a GHG emissions reduction plan that would (1) reduce emissions from implementation of the hotel projects, and (2) demonstrate reduction of GHG emissions resulting from 	<p>Prepare and submit a GHG reduction plan specific to each hotel and sufficient to reduce that hotel's emissions according to the reduction targets in place at the time</p> <p>Implement emission reduction measures</p>	<p>Prior issuance of any Public Works Clearances</p> <p>Implement emission reduction measures prior to receiving certificate of occupancy</p>	<p>Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement</p>	<p>Review/approve GHG reduction plan</p>	<p>Prior to the issuance of any Public Works Clearances</p>



Planning, Building and Code Enforcement

ROSALYNN HUGHEY, DIRECTOR

459 & 469 Piercy Road Hotels Project
File No. C18-029, H18-016 & H18-029

MITIGATION	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
<p>implementation of the 459 and 469 Piercy projects will be reduced by a sufficient amount for each site to achieve the 2020 standard of 1,100 MT of CO₂e/year, and the 2030 standard of 660 of CO₂e/ year, which is based on the year each hotel would become operational, i.e. begin emitting GHG emissions from occupancy.</p> <ul style="list-style-type: none"> ○ If both hotels are operational prior to January 1, 2021 they are subject to 2020 GHG reduction targets, and the projects would require GHG emission reductions of at least 458 MT of CO₂e/year for the 459 Piercy project, and at least 1,335 MT of CO₂e/year for the 469 Piercy project, such that each project would have GHG emissions not exceeding 1,100 MT of CO₂e/year. ○ If both hotels are operational after December 31, 2020 they are subject to 2030 GHG reduction targets, the projects would require GHG emission reductions of at least 898 MT of CO₂e/ year for the 459 Piercy project and at least 1,775 MT of CO₂e/ year for the 469 Piercy project, such that each project would have GHG emissions not exceeding 660 MT of CO₂e/ year. 					



Planning, Building and Code Enforcement

ROSALYNN HUGHEY, DIRECTOR

459 & 469 Piercy Road Hotels Project
File No. C18-029, H18-016 & H18-029

MITIGATION	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
<p>Elements of this plan may include, but would not be limited to, the following:</p> <p>Elements of this plan the GHG emissions reduction plan may include, but would not be limited to, the following:</p> <ul style="list-style-type: none"> • Installation of solar power systems or other renewable electric generating systems that provide electricity to power on-site equipment and possibly provide excess electric power; • Construct onsite or fund off-site carbon sequestration projects (such as a forestry or wetlands projects for which inventory and reporting protocols have been adopted). If the project develops an off-site project, it must be registered with the Climate Action Reserve or otherwise be approved by the BAAQMD in order to be used to offset Project emissions; • Purchase of carbon credits to offset project annual emissions. Carbon offset credits must be verified and registered with The Climate Registry, the Climate Action Reserve, or another source approved by the California Air Resources Board or BAAQMD. The preference for offset carbon credit purchases include those that can be achieved as follows: 1) within the City; 2) within the San Francisco Bay Area Air Basin; 3) within 					



Planning, Building and Code Enforcement

ROSALYNN HUGHEY, DIRECTOR

459 & 469 Piercy Road Hotels Project
File No. C18-029, H18-016 & H18-029

MITIGATION	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
<p>the State of California; then 4) elsewhere in the United States. Provisions of evidence of payments, and funding of an escrow-type account or endowment fund would be overseen by the City;</p> <ul style="list-style-type: none"> Develop and implement a transportation demand management (TDM) program to reduce mobile GHG emissions. <p>The GHG reduction plan for each hotel shall be submitted to the City of San José Supervising Environmental Planner, for approval prior issuance of any Public Works Clearances for each hotel.</p>					
HAZARDS AND HAZARDOUS MATERIALS					
Impact HAZ-1: Historic activities on the project sites may have impacted subsurface soil from previous agricultural uses.					
<p>MM HAZ-1: The project applicants shall retain a qualified consultant to conduct soil sampling to test shallow soils on the site for organochlorine pesticides and pesticide-based metals (e.g. lead and arsenic). The qualified consultant shall prepare documentation to outline the soil sample data and testing. If the residual contaminants are not detected and/or are found to be below the environmental screening levels (ESLs) for public health and the environment in accordance with Santa Clara County Department of Environmental Health (SCCDEH) or the California Department of Toxic Substances Control (DTSC) requirements, no further mitigation is required.</p>	<p>Retain a qualified consultant to conduct soil sampling and document soil sample data and testing and submit soil sample data and testing report</p> <p>All measures shall be printed on all construction documents, contracts, and project plans</p>	<p>Prior to the issuance of any grading permits</p>	<p>Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and Environmental Services Department.</p>	<p>Review/approve all environmental investigations, if applicable.</p> <p>Ensure that all measures are printed on all construction documents, contracts, and project plans.</p>	<p>Prior to issuance of any grading permits.</p>



Planning, Building and Code Enforcement

ROSALYNN HUGHEY, DIRECTOR

459 & 469 Piercy Road Hotels Project
File No. C18-029, H18-016 & H18-029

MITIGATION	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
<p>If residual contaminants are found and are above ESLs, the project applicants shall implement appropriate management procedures, such as removal of the contaminated soil and/or capping the contaminated soil under clean soil or hardscape must be implemented under regulatory oversight from the SCCDEH or DTSC. Copies of all environmental investigations shall be submitted to the City's Environmental Services Department and the Supervising Environmental Planner prior to issuance of any grading permits.</p>					
HYDROLOGY AND WATER QUALITY					
Impact HYD – 1: The 469 Piercy Road project site has a water supply well on-site which could result in long-term contribution of pollutants in the groundwater if improperly abandoned.					
<p>MM HYD – 1: Prior to the issuance of any grading permits, the project applicant shall ensure the on-site well at 469 Piercy Road has been properly abandoned with oversight from the Santa Clara Valley Water District (SCVWD). A well destruction permit shall be obtained from the SCVWD and the well decommissioned in accordance with the conditions of the permit. A copy of the issued destruction permit shall be provided to the Public Works Engineer and the City's Environmental Supervising Planner along with SCVWD verification of implementation of, and compliance with, the well destruction permit.</p>	<p>Submit a well destruction permit to the SCVWD</p>	<p>Prior to the issuance of any grading or building permits.</p>	<p>SCVWD and Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement.</p>	<p>Receive copy of approved well destruction permit</p>	<p>Prior to issuance of any grading or building permits.</p>
NOISE AND VIBRATION					
Impact NOI -1: Mechanical equipment associated with the projects could generate noise in excess of the City's noise policy goal of 55 dBA DNL.					



Planning, Building and Code Enforcement

ROSALYNN HUGHEY, DIRECTOR

459 & 469 Piercy Road Hotels Project
File No. C18-029, H18-016 & H18-029

MITIGATION	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
<p>MM NOI-1: Consistent with the General Plan FEIR and City of San José Municipal Code, the project proposes to implement the following measures to ensure that project operational noise does not exceed 55 dBA DNL at residential property lines:</p> <ul style="list-style-type: none"> • A detailed acoustical study shall be prepared during final building design to evaluate the potential noise generated by building mechanical equipment and to identify the necessary noise controls that are included in the design to meet the City's 55 dBA DNL noise limit at the shared property line. The study shall evaluate the noise from the equipment and predict noise levels at noise-sensitive locations. Noise control features, such as sound attenuators, baffles, and barriers, shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations, such as residences. The study shall be submitted to the City of San José for review and approval prior to issuance of any building permits. • Ensure that noise generating activities such as maintenance activities and loading and unloading activities are limited to the hours of 7:00 AM to 9:00 PM. 	Retain a qualified acoustical consultant to perform an acoustical study	Prior to issuance of any building permits.	Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement.	Review/approve acoustical study	Prior to issuance of any building permits.

Source: City of San José. *459 and 469 Piercy Road Hotel Projects Initial Study/Mitigated Negative Declaration* File No. C18-029 & H18-016, H18-029. January 2019.