

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE ADOPTING THE McEVoy AFFORDABLE
HOUSING PROJECT ADDENDUM TO THE DIRIDON
STATION AREA PLAN FINAL PROGRAM
ENVIRONMENTAL IMPACT REPORT IN ACCORDANCE
WITH THE CALIFORNIA ENVIRONMENTAL QUALITY
ACT, AS AMENDED, AND ADOPTING A RELATED
MITIGATION MONITORING AND REPORTING PROGRAM**

WHEREAS, the City of San José ("City") acting as lead agency under the California Environmental Quality Act of 1970, together with State and local guidelines implementing said Act, all as amended to date (collectively "CEQA"), prepared the Final Program Environmental Impact Report for the Diridon Station Area Plan (DSAP) ("DSAP FPEIR"), which analyzed the environmental impacts of future development in the 250-acre DSAP area, which is generally bound by Lenzen Avenue and the Union Pacific Railroad (UPRR) tracks to the north, Interstate 280 to the south, the Guadalupe River and Delmas Avenue to the east, and Sunol Avenue and the Diridon Station commuter rail tracks to the west; and is consistent with the planned growth in the Envision San José 2040 General Plan; and

WHEREAS, the City Council certified said DSAP FEIR, which certification was not appealed; and

WHEREAS, in connection with the adoption of a resolution approving said DSAP (Planning File No. PP09-163), the City Council adopted Resolution No. 77096 on June 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, prior to the adoption of this Resolution, the Director of Planning, Building and Code Enforcement of the City of San José prepared and approved an Addendum to the DSAP FEIR for the McEvoy Affordable Housing Project under Planning File No. PP09-163 (the "Addendum"), all in accordance with CEQA; and

WHEREAS, the McEvoy Affordable Housing Project (the "Project") analyzed under the Addendum consists of (i) a General Plan Amendment to amend the Envision San José General Plan Land Use/Transportation Diagram designation from Mixed Use Commercial to Transit Residential, (ii) a Conforming Rezoning from HI Heavy Industrial Zoning District to the R-M Multiple-Resident Zoning District, (iii) a tentative map to merge and reconfigure six of the parcels (APNs 261-38-001, -004, -030, -047, -048 and -049) into three parcels, (iv) a Special Use Permit to demolish two buildings totaling approximately 11,380 square feet, remove three (3) ordinance sized trees, and construct a 100-percent affordable housing (excluding the manager's units) project with 365 affordable, multi-family residential units with two towers with an alternative parking arrangement, back-up generator, and up to 12.5-foot tall retaining wall on a 1.13-acre portion of the 1.22-acre site. One building (Family Building) is an approximately 194,246-square foot, 13-story building with a rooftop garden, and the second building (Workforce Building) is approximately 150,082 square feet and 13 stories with a rooftop garden, and (iv) a request under State Density Bonus laws for increase in density, concessions and waivers to increase building height, reduce the required setbacks along McEvoy Street and Dupont Street, and reduce the amount of required motorcycle parking, all on a 1.22-acre site located at 280 McEvoy Street in San José, California; and

WHEREAS, as further described in the Addendum, the implementation of the Project would not result in new significant effects on the environment beyond those already identified in the previously approved DSAP FPEIR, nor will the Project result in an

increase in the severity of significant effects identified in the DSAP FPEIR, and identified mitigation measures, as amended, would continue to reduce each of those significant effects to a less-than significant level; and

WHEREAS, although the Project will not result in any new significant effect or increase in the severity of an existing significant effect on the environment, revisions to standard measures and mitigation measures are being made to reflect current General Plan policies and current protocols, which have been updated to incorporate applicable mitigations from the DSAP FPEIR into the Project; and

WHEREAS, the related mitigation measures are described in the Addendum; and

WHEREAS, a related Mitigation Monitoring and Reporting Program ("Mitigation Monitoring and Reporting Program") was prepared that incorporates certain mitigation measures from the previously certified DSAP FPEIR, which have been updated and refined to reflect the current regulatory context; 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 DSAP FPEIR and Addendum, including 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 DSAP FPEIR, Addendum, 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 DSAP FPEIR, 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 FPEIR 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 FPEIR 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. GP17-015, C18-034, SP18-059, and T19-017). The Mitigation Monitoring and Reporting Program is attached hereto as Exhibit "A" and is fully incorporated herein by this reference. The DSAP FPEIR, 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 _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

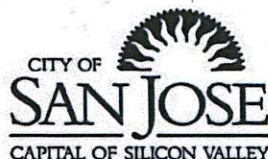
TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

McEvoy Affordable Housing Project

File Nos. GP17-015, C18-034, SP18-059, T19-017

CITY OF SAN JOSÉ
December 2019



PREFACE

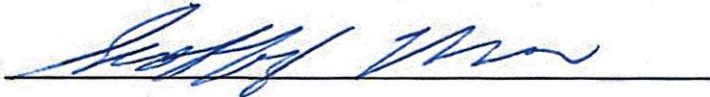
Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Initial Study prepared for the McEvoy Affordable Housing 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 Initial Study concluded that the impacts from implementation of the project would be less than significant.

I, Geoffrey Morsem, the applicant, on the behalf of McEvoy Street, LP & First Community Housing, hereby agree to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of an Initial Study in support of a CEQA Addendum to the Downtown Strategy 2040 Environmental Impact Report 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

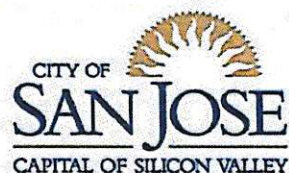
01/8/2020

*Planning, Building and Code Enforcement*

ROSALYNN HUGHEY, DIRECTOR

McEvoy Affordable Housing Project
File Nos. GP17-015, C18-034, SP18-059,
T19-017

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
AIR QUALITY					
AIR-3: The project would result in a maximum excess residential cancer risk during construction activities that would exceed the Bay Area Air Quality Management District (BAAQMD) significance threshold.					
MM AIR-1.1: Exhaust emissions reduction. Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs first), the project applicant shall submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall demonstrate that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 70 percent reduction in coarse particulate matter (PM ₁₀) exhaust emissions (assumed to be diesel particulate matter) or more. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth in these mitigation measures. Feasible methods to achieve this reduction would include the following: <ul style="list-style-type: none"> All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days continuously shall meet, at a minimum, USEPA particulate matter emissions standards for Tier 4 engines or equivalent. The use of equipment that includes Tier 2 engines and CARB-certified Level 3 Diesel Particulate 		The project applicant shall submit the proposed plan to achieve a fleet-wide average 70 percent reduction in diesel particulate matter [DPM] emissions to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.	Prior to the issuance of any ground disturbing permits.	Director of Planning, Building and Code Enforcement.	Review and approve the proposed plan to achieve a fleet-wide average 70 percent reduction in DPM emissions.



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Filters (DPF), or alternatively-fueled equipment (i.e., non-diesel) would meet this requirement.					
BIOLOGICAL RESOURCES					
BIO-4: Demolition, grading, and construction activities and tree removal during the nesting season could impact nearby migratory birds and raptors.					
MM BIO-4.1: Avoidance. The project applicant 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 30th (inclusive), as amended.		Avoid construction activities during nesting seasons. All measures shall be printed on all construction documents, contracts, and project plans.	Prior to the issuance of any tree removal or ground disturbing permits.	Director of Planning, Building and Code Enforcement.	Confirm if project is scheduled outside of nesting season. Ensure that all measures are printed on all construction documents, contracts, and project plans.
MM BIO-4.2: Nesting bird surveys. If it is not possible to schedule demolition and construction between September 1 and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. The plan for conducting pre-construction surveys shall be prepared by a qualified ornithologist and submitted to the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of a grading permit. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the		All measures shall be printed on all construction documents, contracts, and project plans. A plan for conducting pre-construction surveys shall be prepared by a qualified ornithologist prior to issuance of a grading permit. Submit a report indicating the results of the pre-	The plan for conducting pre-construction surveys shall be submitted prior to the issuance of any tree removal or ground disturbing permits. The pre-construction surveys shall be	Director of Planning, Building and Code Enforcement.	Ensure that all measures are printed on all construction documents, contracts, and project plans. Review and approve the pre-construction survey plan.



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breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 30th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.	construction survey and any designated buffer zones to the Director of Planning, Building and Code Enforcement or the Director's designee.	conducted no more than 14 days prior to the initiation of construction activities.		Review and implement the recommendations of the pre-construction survey report.	
MM BIO-4.3: Buffer zones. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.	All measures shall be printed on all construction documents, contracts, and project plans. Submit a report indicating the results of the pre-construction survey and any designated buffer zones to the Director of Planning, Building and Code Enforcement or the Director's designee.	Prior to the issuance of any tree removal or ground disturbing permits.	Director of Planning, Building and Code Enforcement.	Ensure that all measures are printed on all construction documents, contracts, and project plans. Review and implement the recommendations of the pre-construction survey report.	Prior to the issuance of any tree removal, demolition, grading, and/or building permits.
MM BIO-4.4: Reporting. Prior to any tree removal, or approval of any grading permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Director of Planning, Building and Code Enforcement or the Director's designee.	All measures shall be printed on all construction documents, contracts, and project plans. Submit a report indicating the results of the pre-construction survey and any	Prior to the issuance of any tree removal or ground disturbing permits.	Director of Planning, Building and Code Enforcement.	Ensure that all measures are printed on all construction documents, contracts, and project plans.	Prior to the issuance of any tree removal, demolition, grading, and/or building permits.

*Planning, Building and Code Enforcement*

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		designated buffer zones to the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee.			Review and implement the recommendations of the pre-construction survey report.
CULTURAL RESOURCES					
CUL-2: Construction activities could impact unknown archaeological resources.					
MM CUL-2.1: Preliminary investigation. Once the site has been cleared, a qualified archaeologist shall complete mechanical trenching to explore for buried historical and Native American resources. Trenching depths shall be consistent with the depths and range of excavation proposed, and the stratigraphy of the parcel. This investigation shall be completed prior to any construction or other ground disturbing activities required as part of the project. The results of the presence/absence exploration shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and approval prior to issuance of any grading permit. Based on the findings of the presence/absence exploration, an archaeological resources treatment plan (as described in MM CUL-2.2) shall be prepared by a qualified archaeologist, if necessary.		All measures shall be printed on all construction documents, contracts, and project plans. Complete a mechanical trenching investigation to determine whether historic or prehistoric features exist on the site and submit the results to the Director of Planning, Building and Code Enforcement or the Director's designee. Prepare and implement a treatment plan for historic and prehistoric artifacts, as necessary.	Prior to issuance of any grading permits. Monitoring to be performed during all phases of construction.	Director of Planning, Building and Code Enforcement, and City of San José Historic Preservation Officer.	Review the mechanical trenching investigation results.
					Prior to issuance of any grading permits and during all phases of construction.



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<p>MM CUL-2.2: <u>Treatment plan.</u> If required by MM CUL-2.1, the project applicant shall retain a qualified archaeologist to prepare a treatment plan that reflects the permit-level detail pertaining to depths and locations of all ground disturbing activities. The treatment plan shall be prepared and submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer prior to approval of any grading permit. The treatment plan shall contain, at a minimum:</p> <ul style="list-style-type: none"> • Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations. • Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found). • Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information). • Detailed field strategy to record, recover, or avoid the finds and address research goals. • Analytical methods. • Report structure and outline of document contents. • Disposition of the artifacts. 	<p>A qualified archaeologist shall prepare and implement the project-specific archaeological resource treatment plan, as necessary. The plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee and the City of San José Historic Preservation Officer.</p>	<p>Prior to issuance of any grading permits.</p> <p>Monitoring to be performed during all phases of construction.</p>	<p>Director of Planning, Building and Code Enforcement, and City of San José Historic Preservation Officer.</p>	<p>Review the treatment plan for historic and prehistoric artifacts.</p>	<p>Prior to issuance of any grading permits and during all phases of construction.</p>

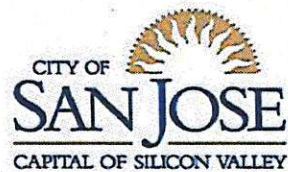


Planning, Building and Code Enforcement

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<ul style="list-style-type: none"> • Appendices: all site records, correspondence, and consultation with Native Americans, etc. <p>Implementation of the plan, by a qualified archaeologist, shall be required prior to the issuance of any grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.</p>					
HAZARDS AND HAZARDOUS MATERIALS					
HAZ-1: Contaminants associated with historic uses of the properties surrounding the project site could be encountered during project construction.					
<p>MM HAZ-1.1: Site Management Plan. A Site Management Plan (SMP) or similar document shall be prepared to manage the cleanup of potential contamination. The SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils, and shall include the following:</p> <ul style="list-style-type: none"> • A detailed discussion of the site background; • Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program; • Procedures to follow if evidence of an unknown historic release of hazardous materials is discovered during excavation or demolition; and 	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p> <p>Prepare SMP and submit results to SCCDEH.</p>	<p>Prior to issuance of any grading permits.</p>	<p>City of San José Environmental Compliance Officer.</p> <p>Director of Planning, Building and Code Enforcement.</p> <p>Santa Clara County Department of Environmental Health.</p>	<p>SCCDEH (or equivalent agency) shall review and approve the SMP.</p> <p>A copy of the SMP and confirmation from SCCDEH (or equivalent agency) shall be reviewed by the Director of Planning, Building and Code Enforcement and the City of San José Environmental Compliance Officer.</p>	<p>Prior to the issuance of any grading permits.</p>



Planning, Building and Code Enforcement

ROSALYNN HUGHEY, DIRECTOR

EXHIBIT "A"
(File Nos. GP17-015, C18-034, SP18-059, T19-017)

McEvoy Affordable Housing Project
File Nos. GP17-015, C18-034, SP28-059,
T19-017

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<ul style="list-style-type: none"> A health and safety plan (HSP) for each contractor working at the site, in an area below grade, that addresses the safety and health hazards of each site operation phase, including the requirements and procedures for employee protection. The HSP shall outline proper soil handling procedures and health and safety requirements to minimize work and public exposure to hazardous materials during construction. <p>The SMP shall be submitted to the Santa Clara County Department of Environmental Health (SCCDEH; or equivalent agency) for review and approval. A copy of the approved SMP shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the Environmental Compliance Officer of the City of San José for approval prior to the issuance of any grading permits.</p>					
<p>MM HAZ-1.2: Soil Sampling. Prior to beginning development, including excavation and/or grading, shallow soil samples shall be taken in the near surface soil in areas of historic railroad activity, including rail lines, that occur in the proposed project area. Soil samples will be tested for arsenic, lead, California Heavy Metals Test (CAM) 17 metals, volatile organic compounds (VOCs), total petroleum hydrocarbons (TPHs), polycyclic aromatic hydrocarbons (PAHs), and polychlorinated biphenyls (PCBs) to determine if soil contamination from previous historic railroad activity is above established construction worker safety</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p> <p>Complete soil sampling in the vicinity of historic railroad activity and submit results to the Director of the City of San José Department of Planning, Building and Code Enforcement or the</p>	<p>Prior to issuance of any grading permits.</p>	<p>City of San José Environmental Compliance Officer.</p> <p>Director of Planning, Building and Code Enforcement.</p>	<p>Review and approve the results of soil sampling and testing.</p>	<p>Prior to issuance of any grading permits.</p>