

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE ADOPTING THE 1170 ROBERTS AVENUE
RESIDENTIAL DEVELOPMENT PROJECT MITIGATED
NEGATIVE DECLARATION, FOR WHICH AN INITIAL
STUDY WAS PREPARED, AND 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 1170 Roberts Avenue Residential Development Project under Planning File Nos. PDC24-039, PD24-004, T24-011 and ER24-088 (the “Initial Study/Mitigated Negative Declaration”), all in accordance with the requirements of the California Environmental Quality Act (“CEQA”); and

WHEREAS, the 1170 Roberts Avenue Residential Development Project (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of the rezoning of the project site from the R-1-8 Single Family Residence Zoning District to the R-1-8(PD) Planned Development Zoning District, demolition of an existing single-family home that was previously damaged by fire, and development of eight new single-family residences with private garages and a new private residential street, on an approximately 1.0-gross-acre site located at 1170 Roberts Avenue in 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;

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 into this Resolution as if fully set forth herein.

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 Nos. PDC24-039, PD24-004, T24-011 and ER24-088). 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 electronically on the Department of Planning, Building and Code Enforcement webpage; and (2) available for inspection by any interested person.

ADOPTED this ____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

1170 Roberts Avenue Residential Development

File Nos. PDC24-039 and ER24-088

September 2025



PREFACE

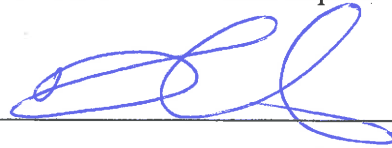
Section 21081.6 of the California Environmental Quality Act ("CEQA") requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program ("MMRP") whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of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

The Initial Study prepared for the 1170 Roberts Avenue Residential Development Project ("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 Initial Study/Mitigated Negative Declaration concluded that the impacts from implementation of the Project would be less than significant.

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.

I, David Chui, the applicant, on the behalf of Pan-Cal Corporation, hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of an Initial Study 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.

Project Applicant's Signature 

Date 9/18/2025

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					
Impact AQ-1: Construction of the proposed project would expose sensitive receptors to substantial concentrations of air pollutant emissions.					
MM AQ-1: Prior to the issuance of any tree removal, demolition, or grading permits (whichever occurs first), the project proponent shall provide documentation to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval, demonstrating that any off-road equipment greater than 50 horsepower to be used during construction of the project shall meet United States Environmental Protection Agency Tier 4 Final emission standards, unless it can be demonstrated to the City that such equipment is not commercially available. For purposes of this mitigation measure, "commercially available" shall mean the availability of Tier 4 Final engines similar to the availability for	The project proponent shall provide the Director of Planning, Building and Code Enforcement or the Director's designee documentation for review and approval for off-road equipment greater than 50 horsepower to be used during construction of the proposed project.	Prior to issuance of any Tree Removal, Demolition, or Grading Permits	City's Director of Planning, Building, and Code Enforcement; or the Director's Designee	Receive the project proponent documentation for off-road equipment greater than 50 horsepower to be used during construction	Prior to the issuance of any tree removal, demolition, or grading permits

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other large-scale construction projects in the city at the same time and taking into consideration factors such as (i) potential significant delays to critical-path timing of construction and (ii) geographic proximity to the project site of Tier 4 Final equipment. Where such equipment is not commercially available, as demonstrated by the construction contractor, Tier 4 Interim equipment or Tier 3 equipment retrofitted with a California Air Resources Board's Level 3 Verified Diesel Emissions Control Strategy (VDECS) shall be used. Furthermore, all off-road equipment of 50 horsepower or less, if used, shall be fitted with a Level 3 diesel particulate filter.					
MM AQ-2: Prior to the issuance of permits, the project proponent shall submit a list of all operating equipment in use on the construction site for verification by the City of San José. The construction equipment list shall state the makes, models, equipment	The project proponent shall provide the City's Supervising Environmental Planner a list of all operating equipment in use on the	During Construction	City's Director of Planning, Building, and Code Enforcement; or	Receive the construction equipment list.	During Construction

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identification numbers, engine family numbers, and number of construction equipment on-site.	construction site for verification by the City of San José.		the Director's Designee		
BIOLOGICAL RESOURCES					
Impact BIO-1: Removal of trees and building demolition during project construction may result in the inadvertent destruction of active bat roosts unless appropriate precautions are followed.					
MM BIO-1: Prior to the issuance of any tree removals, grading permits, demolition permits or building permits (whichever comes first), adequate measures shall be taken to avoid inadvertent take of special status bat species if present in trees on the project site. This shall be accomplished by taking the following steps. A qualified biologist shall visually inspect trees to be removed and structures to be demolished for bat roosts within 7 days prior to their	A qualified biologist shall visually inspect trees/structures to be removed for bat roosts and contact qualified bat biologists if any are found, within 7 days prior to tree removal.	Prior to issuance of any Tree Removal, Grading, Demolition, or Building Permits	City of San Jose; Qualified Biologist	Confirm qualified biologist is contracted to inspect trees to be removed and structures to be demolished for bat roosts, within 7 days prior to tree removal.	Prior to issuance of any Tree Removal, Grading, Demolition, or Building Permits

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removal. The biologist shall look for signs of bats, including sightings of live or dead bats; bat calls or squeaking; the smell of bats; bat droppings, grease stains, or urine stains around openings in trees; or flies around such openings. Trees with multiple hollows, crevices, forked branches, woodpecker holes, or loose and flaking bark have the highest chance of occupation and shall be inspected the most carefully. • If signs of bats are detected, confirmation on presence or absence shall be determined by the qualified biologist, which may include night emergency or acoustic surveys. • Due to restrictions of the California Health Department, direct contact by workers with any bat is not allowed.					

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The qualified bat biologist shall be contacted immediately if a bat roost is discovered during project construction. • If an active maternity roost is encountered during the maternity season (April 15 to August 31), the California Department of Fish and Wildlife shall be contacted for direction on how to proceed, and an appropriate exclusion zone established around the occupied tree or structure until young bats are old enough to leave the roost without jeopardy. The size of the buffer would take into account: ○ Proximity and noise level of project activities; ○ Distance and amount of vegetation or screening					

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between the roost and construction activities; and Species-specific needs, if known, such as sensitivity to disturbance. Prior to the issuance of any tree removals, grading permits, demolition permits, or building permits (whichever occurs first), the report of all findings shall be submitted by a qualified biologist to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.					
Impact BIO-2: The project would interfere with the movement of nesting and migratory birds due to the number of trees on the parcel.					
MM BIO-2: Prior to the issuance of any tree removals, grading permits, demolition permits or building permits (whichever occurs first), the project proponent shall schedule construction activities outside of the nesting season (generally defined as September 1	An ornithologist shall conduct a nesting bird survey within 7 days prior to the construction start date to identify any active nests within 500	Prior to Ground Disturbance and issuance of any Tree Removal, Grading,	City's Director of Planning, Building, and Code Enforcement; or	Confirm a qualified biologist is contracted to conduct a nesting bird	Prior to Ground Disturbance and issuance of any Tree Removal,

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through January 31, inclusive). If construction activities occur within the bird nesting season (generally defined as February 1 through August 30, inclusive), a qualified biologist shall conduct pre-construction nesting bird surveys within 7 days prior to the proposed start date to identify any active nests (including Cooper's hawk) within 500 feet of the project site. If an active nest is found, the nest shall be avoided, and a suitable buffer zone shall be delineated in the field such that no impacts shall occur until the chicks have fledged the nest as determined by a qualified biologist. Construction buffers shall be 300 feet for passerines and up to 500 feet for any raptor species; however, avoidance buffers may be reduced at the discretion of the biologist, depending on the location of the nest, the species' tolerance to human	feet of the project site and establish a buffer zone if found.	Demolition, or Building Permits	the Director's Designee	survey within 7 days prior to the construction start date.	Grading, Demolition, or Building Permits

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presence, and construction-related noises and vibrations. Prior to the issuance of any tree removals, grading permits, demolition permits, or building permits, a report of all findings shall be submitted by a qualified biologist to the Director of Planning, Building and Code Enforcement or the Director's designee.					
MM BIO-3: Prior to issuance of any tree removal, grading, or demolition 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 (PBCE) or the Director's designee.	An ornithologist shall submit a report to the City of San Jose indicating the results of the nesting bird survey.	Prior to issuance of any Tree Removal, Grading, or Demolition Permits	City's Director of Planning, Building, and Code Enforcement; or the Director's Designee	Receive the report by the ornithologist.	Prior to issuance of any Tree Removal, Grading, or Demolition Permits
CULTURAL RESOURCES					

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Impact CUL-1: Ground-disturbing activities during construction of the proposed project would have the potential to uncover, damage, or destroy archaeological resources.					
Implement Mitigation Measure TCR-1.	The project applicant shall implement cultural awareness training provided by a qualified archaeologist in consultation with a Native American Tribal representative.	Prior to the issuance of any demolition, grading, or building permits.	City's Director of Planning, Building, and Code Enforcement; or the Director's Designee	Documentation verifying that the cultural awareness training program has been completed shall be submitted to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee within	Prior to the issuance of any demolition, grading, or building permits.

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				20 days of completion of the training	
Implement Mitigation Measure TCR-2.	A qualified archaeologist in consultation with a Native American Tribal representative shall prepare a monitoring plan for all earthmoving activities and submit the plan to the City of San Jose.	Prior to the issuance of any demolition, grading, or building permits.	City's Director of Planning, Building, and Code Enforcement; or the Director's Designee.	A monitoring plan for all earthmoving activities	Prior to the issuance of any demolition, grading, or building permits.

NOISE

Impact N-1: Construction noise levels would exceed the exterior threshold of 80 dBA Leq at the residential receptors to the north, east, and south of the site. With construction activities lasting over 12 months, generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies would occur.

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MM N-1: Prior to issuance of any tree removal, grading, or demolition permits (whichever occurs first), a construction noise logistics plan shall be prepared and submitted to the Director of Planning, Building and Code Enforcement, or the Director’s designee for review and approval, that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints, to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. Project construction operations shall use best available noise suppression devices and	The project proponent shall prepare a construction noise logistics plan, designate a noise disturbance coordinator, and use best available noise suppression devices and techniques.	Prior to Ground Disturbance and issuance of any Tree Removal, Grading, or Demolition Permits	Noise Disturbance Coordinator	Receive the construction noise logistics plan.	Prior to Ground Disturbance and issuance of any Tree Removal, Grading, or Demolition Permits

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techniques, including but not limited to the following: Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence. 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.					

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- Construct solid plywood fences or similar around ground-level construction sites adjacent to noise-sensitive receptors. A temporary, 8-foot-high noise barrier shall be constructed along the project site's eastern property lines to shield the adjacent residential receptors to the north, east, and south. The noise barrier shall be solid over the face and at the base of the barrier to provide a 6 dBA noise reduction. - Equip all internal combustion-engine-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					

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portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining 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. - Notify all adjacent residences and other noise-sensitive land uses about the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.					

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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) 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 notice sent to neighbors regarding the construction schedule.					
Impact N-2: Operational HVAC noise levels would exceed General Plan Policy EC-1.3 noise limits of 55 dBA DNL at the residential receptors to the north and east of the proposed project site. With operational HVAC noise levels, a substantial permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies would occur.					
MM N-2: Prior to issuance of any tree removal, grading, or demolition permits	The project proponent shall select Mechanical	Prior to issuance of any tree	City of San José	Confirm a qualified	Prior to issuance of

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(whichever occurs first), mechanical HVAC equipment shall be selected and designed to reduce noise levels to meet City requirements of 55dBa per Section 20.20.300, Performance standards, at the nearby noise-sensitive land uses to the north and east of the project site. A qualified acoustical consultant shall be retained to review mechanical noise as these systems are selected to determine specific noise reduction measures necessary to reduce noise to comply with the City's noise level requirements, and a report shall be prepared and submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee for review and approval, to demonstrate compliance. The project applicant shall conform with any special building construction techniques requested by the City's Building Department prior to	HVAC equipment that is designed to reduce noise levels to City requirements, retain a qualified acoustical consultant, submit report to Director, and conform with any special building construction techniques requested by the City's Building Department.	removal, grading, or demolition permits		acoustical consultant is contracted to review mechanical noise and has provided acoustical report.	any tree removal, grading, or demolition permits

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issuance of occupancy permits. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels, locating equipment farther from adjacent neighbors, and shielding units with barriers to interrupt direct line of sight.					
TRIBAL CULTURAL RESOURCES					
Impact T-1: Ground-disturbing activities during construction of the proposed project would have the potential to uncover, damage, or destroy tribal cultural resources.					
MM TCR-1: Cultural Awareness Training. Prior to the issuance of any demolition, grading, or building permits (whichever occurs first), the project applicant, in association with the City of San José, shall implement a cultural awareness training program for workers that may be present on the project site during ground disturbing activities. Training shall be required for all construction personnel participating in ground disturbing construction activities to alert them	The project applicant shall implement cultural awareness training provided by a qualified archaeologist in consultation with a Native American Tribal representative.	Prior to the issuance of any demolition, grading, or building permits.	City’s Director of Planning, Building, and Code Enforcement; or the Director’s Designee	Documentation verifying that the cultural awareness training program has been completed shall be submitted to the Director of	Prior to the issuance of any demolition, grading, or building permits.

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to the archaeological sensitivity of the project area and provide protocols to follow in the event of a discovery of archaeological materials. The training shall be provided by a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. The qualified archaeologist, to be retained by the applicant on an on-call basis, shall develop and distribute for job site posting an “ALERT SHEET” summarizing potential archaeological finds that could be exposed and the protocols to be followed as well as points of contact to alert in the event of a discovery. Documentation verifying that the cultural awareness training program has been completed shall be submitted to the Director				Planning, Building and Code Enforcement (PBCE) or the Director’s designee within 20 days of completion of the training	

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of Planning, Building and Code Enforcement (PBCE) or the Director’s designee within 20 days of completion of the training. The project applicant shall note on any plans that require ground disturbing excavation that there is a potential for exposing buried cultural resources including prehistoric Native American burials.					
MM TCR-2: Monitoring Plan. Prior to the issuance of any demolition, grading, or building permits (whichever occurs first), a qualified archaeologist, in consultation with a Native American representative registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, shall prepare a monitoring plan for all earthmoving activities. The Plan shall be submitted to the Director of	A qualified archaeologist in consultation with a Native American Tribal representative shall prepare a monitoring plan for all earthmoving activities and submit the plan to the City of San Jose.	Prior to the issuance of any demolition, grading, or building permits.	City’s Director of Planning, Building, and Code Enforcement; or the Director’s Designee.	A monitoring plan for all earthmoving activities	Prior to the issuance of any demolition, grading, or building permits.

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Planning, Building and Code Enforcement (PBCE) or the Director’s designee for review and approval. The plan shall include, but is not limited to, the following: Monitoring schedules, contract information, recommended monitoring methods, and timing of reporting finds. A qualified archeologist in collaboration with a Native American monitor, registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, shall be present during applicable earthmoving activities in accordance with the Monitoring Plan. These could include but not are not limited to, trenching, initial or full grading, lifting of foundation, boring on site, or major landscaping.					
Source: City of San José. <i>1170 Roberts Avenue Residential Development Project Initial Study /Mitigated Negative Declaration</i>. June 2025.					