

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE ADOPTING THE FIRE STATION NO. 32
PROJECT 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 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. 32 Project under Planning File Nos. ER22-068 (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. 32 Project (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of a Public Project to construct a new, one-story 7,827 square-foot fire station with two apparatus bays a 1.12-gross acre site at 1138 Olinder Court (Assessor’s Parcel Numbers 472-10-108), 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, 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 electronically on the City of

San José's Department of Planning, Building and Code Enforcement website, 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, 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. ER22-068). 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 City of San José Department of Planning, Building and Code Enforcement website, and (2) available for inspection by any interested person.

ADOPTED this ____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

New Fire Station No. 32 Project File No. ER22-068

May 2023



P R E F A C E

EXHIBIT "A"
(File No. ER22-068)

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

The Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the New Fire Station No. 32 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 Initial Study/Addendum 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 would be 20.0 per million, which exceeds the single-source significance threshold of 10 per million, at the residence with maximum impact, assuming infant exposure.					
Mitigation Measure AIR-1: Tier 4 Engines. 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: <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-certified Level 3 Diesel Particulate Filters 	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.	Prior to the start of construction activities	Director of Public Works or the Director's designee	Review and approve construction operations plan	Prior to the start of construction activities

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<p>or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement</p> <ul style="list-style-type: none"> • Provide electric power if feasible to avoid use of diesel-powered generator sets and other portable equipment. <p>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.</p> <p>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.</p> <p>Implementation of Mitigation Measure AIR-1 using construction equipment meeting Tier 4 interim engine</p>					

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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.					
BIOLOGICAL RESOURCES					
Impact BIO-1: Demolition, grading, and construction activities and tree removal during the nesting season could impact migratory birds.					
Mitigation Measure BIO-1: Nesting Bird Protection Measures. • Avoidance: To the extent possible, the project proponent shall schedule all 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). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching. • Nesting Bird Surveys: If construction activities cannot be scheduled between	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.	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.	Director of Public Works or the Director’s designee	Confirm receipt of executed contract with a qualified biologist to perform pre-construction surveys prior to the start of any construction activities. Receive and review survey documentation, as well as monitoring	Executed contract with qualified biologist must be submitted prior to the start of any construction activities. Within 14 days prior to the start of vegetation removal, tree trimming and

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<p>September 1st and January 31st (inclusive), pre-construction nesting bird surveys shall be completed by a qualified biologist to ensure that active nests are not disturbed by construction activities. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the 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 31st inclusive). During this survey, the biologist shall inspect all trees and other possible nesting habitats on-site and within 250 feet of the site for nests.</p> <ul style="list-style-type: none"> • Buffer Zone: If an active nest is found within 250 feet of the project area to be disturbed by construction, the ornithologist/biologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent 		<p>Also during and after construction work if active nests are identified.</p>		<p>reports and a final report if active nests are identified.</p>	<p>removal, ground disturbance, and demolition or after any construction breaks of 14 days or more. Also during and after construction work if active nests are identified.</p>

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<p>of a construction-free buffer zone to be established around the nest (typically 250 feet for raptors and 100 feet for other birds) to ensure that nests are not be disturbed during construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or if the nesting season ends. If construction ceases for two days or more 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.</p> <ul style="list-style-type: none"> • Reporting: Prior to any construction activities, the ornithologist/biologist shall submit a report indicating the results of the surveys and any designated buffer zones to the satisfaction of the Director of the Department of Planning, Building and Code Enforcement or the Director's designee. 					

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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.					
CULTURAL RESOURCES					
Impact CUL-1: Project ground disturbing activities could result in a substantial adverse change in the significance of an unrecorded archaeological resource.					
Mitigation Measure CUL-1: Cultural Resources Awareness Training. Prior to the start of construction activities, the project proponent shall be required to submit evidence that a Cultural Awareness Training will be provided to construction personnel prior to ground disturbances. The training shall be facilitated by the project archaeologist in coordination with a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally	A Secretary of the Interior—qualified archaeologist and a culturally affiliated Native American representative shall conduct a training program for all construction and field personnel.	Submit training documents for review and approval prior to start of construction activities. Submit confirmation training conducted prior to start of construction activities.	Director of Public Works or the Director's designee	Review and approve training documents. Prior to construction, receive documentation to confirm training conducted.	Prior to the start of construction activities.

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<p>affiliated with the geographic area as described in Public Resources Code Section 21080.3.</p> <p>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.</p>					
HAZARDS AND HAZARDOUS MATERIALS					
<p>Impact HAZ-1: Development of the proposed project could potentially expose construction workers and the public to soil, soil vapor and/ or groundwater contamination from former onsite underground storage tank (USTs) or an off-site leaking underground storage tank (LUST) source during the demolition and construction phases of the project, and future site occupants to soil vapor contamination after construction.</p>					
<p>Mitigation Measure HAZ-1: Site Management Plan and Vapor Intrusion Measures.</p> <p>Prior to the commencement of construction activities, the City shall enter into an agreement with the Santa Clara County Department of Environmental Health (SCDEH) under their Site</p>	<p>Enter into an agreement with the Santa Clara County Department of Environmental under their Site Cleanup Program and perform additional soil, soil gas</p>	<p>Submit the Plan, vapor intrusion mitigation measures, and evidence of regulatory oversight for</p>	<p>Director of Public Works, or the Director's designee, and the Environmental Compliance Officer in the City of San</p>	<p>Review the Plan, vapor intrusion mitigation measures, and evidence of regulatory oversight.</p>	<p>Prior to the start of any construction activities.</p>

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<p>Cleanup Program. The proponent shall meet with the SCCDEH and perform additional soil, soil gas and/or groundwater sampling and testing to adequately define the known and suspected contamination from past agricultural use and former onsite underground storage tank (USTs) and an off-site leaking underground storage tank (LUST). 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 (including sampling protocols) to ensure construction worker safety and the health of future workers and visitors. The SMP shall include a plan for management of soil during demolition/construction, dust control measures, and waste management. A management survey and test pit investigation shall also be performed to identify the potential presence of buried metallic objects, such as USTs or piping.</p>	<p>and/or groundwater sampling and testing to adequately define the known and suspected contamination from past uses of concern.</p> <p>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 Public Works or the Director's designee.</p>	<p>review and approval prior to the commencement of construction activities.</p>	<p>José's Environmental Services Department</p>		

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<p>Additionally, based on the results of soil vapor samples, the planned structure shall incorporate vapor intrusion mitigation measures (VIMS) to help reduce the potential for vapor intrusion into the future structure in accordance with SCCDEH oversight and recommendations.</p> <p>The Plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José’s Environmental Services Department.</p> <p>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.</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.					
Mitigation Measure NOI-1: Construction Phasing. Prior to the start of construction 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. <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.	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.	Submit construction noise logistics plan for review prior to the start of construction activities. 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	Director of Public Works, or the Director’s designee	Review and approve construction noise logistics plan. Prior to construction, receive documentation to confirm noise disturbance coordinator is in place.	Prior to start of construction activities.

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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. Notify all adjacent businesses, residences, and other noise-sensitive 		impacts on neighboring residents and other uses.			

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<p>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.</p> <ul style="list-style-type: none"> • 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. • 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 					

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<p>notice sent to neighbors regarding the construction schedule.</p> <ul style="list-style-type: none"> 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 Planned Development Permit would allow for such construction activities, subject to conditions of approval, including 					

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<p>performance standards, imposed by the City to limit noise impacts.</p> <p>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) .</p>					

Source: Initial Study for the New Fire Station No. 32 Project, May 2023.