

Emergency Interim Housing Programs Project
Initial Study/Mitigated Negative Declaration
(File Number: ER22-198)

**Responses to Public Comments, Errata, and Text
Revisions**

September 2023



City of San José
Planning, Building and Code
Enforcement, Planning Division
200 East Santa Clara Street, Third Floor
San José, California 95113

In Consultation with:

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San José, California 95126
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Appendix A: Comment Letters

Section 1.0 Introduction

The Initial Study/Mitigated Negative Declaration (IS/MND) for the Emergency Interim Housing Programs Project was prepared in compliance with the requirements of the California Environmental Quality Act (CEQA). The 20-day public comment period for the IS/MND started June 5, 2023, and ended June 26, 2023. The Notice of Intent to Adopt a Mitigated Negative Declaration was published in the *Mercury News* on June 5, 2023, filed with the Santa Clara County Clerk-Recorder, posted on the Office of Planning and Research's CEQANet, posted on the City's website, and emailed to all agencies and individuals who expressed interest in the project. The following pages contain responses to comments submitted by agencies, organizations, and individuals during the IS/MND public review period. Copies of the comment letters are attached to this document in Appendix A.

Pursuant to CEQA Guidelines §15073.5, the recirculation of the MND is required when the document must be "substantially revised" after public notice of its availability. A "substantial revision" is defined as:

- (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance; or
- (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

CEQA does not require formal responses to comments on an IS/MND and the decision-making body shall adopt the proposed MND only if it finds on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment and the MND reflects the lead agency's independent judgment and analysis [CEQA Guidelines §15074(b)].

Section 2.0 Responses to Comments Received on Draft IS/MND

Comments are organized under headings containing the source of the letter and its date. The specific comments from each of the letters and/or emails are presented, with each response to that specific comment directly following. Copies of the letters and emails received by the City of San José are included in their entirety in Appendix A of this document. Comments received on the Draft IS/MND are listed below.

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Regional and Local Agencies

A. California Department of Transportation (dated June 26, 2023)

Comment A.1: Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the EIH Housing Program. We are committed to ensuring that impacts to the State’s multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the June 2023 IS/MND.

Project Understanding

The proposed project would implement a program whereby the City of San José would select up to 15 EIH sites to provide temporary housing and supportive services for individuals, couples, and families experiencing homelessness. The IS/MND analyzes the most conservative option whereby the city would construct two-story modular buildings, each containing up to six units. Construction activities would last approximately 12 months per site and be limited to surface grading and utility trenching. An average EIH site size is typically two to three acres with a service population of approximately 50 to 200 individuals.

Response A.1: This comment correctly summarizes the proposed project. No response is required.

Comment A.2: Travel Demand Analysis

Caltrans supports collaboration with local agencies to work towards a safe, functional, interconnected, multi-modal transportation network integrated through efficient and equitable land use planning and policies.

The project VMT analysis and significance determination are undertaken in a manner consistent with the Office of Planning and Research’s (OPR) Technical Advisory. Per the IS, this project is found to have a less than significant vehicle miles traveled (VMT) impact, therefore working towards meeting the State’s VMT reduction goals.

Response A.2: This comment acknowledges the consistency of the VMT analysis with OPRs Technical Advisory and does not identify any inadequacies of the IS/MND. No further response is required.

Comment A.3: Affordable Housing Program

Caltrans commends the Lead Agency in developing and implementing the EIH Programs to provide temporary housing and supportive service for people experiencing homelessness.

The IS/MND mentions that the city may partner with Caltrans on the potential site acquisition. Please contact the staff from Office of Right Way below for assistance if needed.

- Jim Bozionelos, District Branch Chief, jim.bozionelos@dot.ca.gov for short term or temporary programs such as emergency shelters installation
- Resham Haddow, District Office Chief, Resham.haddow@dot.ca.gov for long term or permanent affordable housing program

Caltrans also encourages the city to consider and explore the potential of excess state-owned property for affordable housing development projects, per Executive Order N-06-19.

Response A.3: This comment provides contact information for Caltrans staff and recommends the City consider state-owned property as part of the EIH Program. The comment does not identify any inadequacies of the IS/MND. No further response is required.

B. County of Santa Clara – Roads and Airports (dated June 21, 2023)

Comment B.1: Our Comment on this project is that we would like to ask the City to provide a Local Transportation Analysis for those sites within a half-mile radius of County facilities.

Response B.1: The City’s Department of Public Works, Transportation Department, and San José Fire Department will review the plans for all EIH sites to ensure that they are consistent with the City’s standards for ingress and egress, sight distance, emergency vehicle access, and safety. In the event adverse effects are identified, the City may require that a Local Transportation Analysis (LTA) be prepared for the project. This would be done on a project-by-project basis. The comment does not identify any inadequacies of the IS/MND. No further response is required.

C. Santa Clara Valley Water District (dated June 26, 2023)

Comment C.1: The Santa Clara Valley Water District (Valley Water) has reviewed the Mitigated Negative Declaration (MND) for the Emergency Interim Housing Programs (ER-22-198), in San José, received on June 5, 2023.

Based on our review, we have the following comments:

1. Valley Water owns property throughout the City of San José. If the City of San José selects Valley Water property as a potential Emergency Interim Housing (EIH) site, in accordance with Valley Water’s Water Resources Protection Ordinance, a Valley Water encroachment permit will be needed. Along with a permit, a lease will need to be established with Valley Water.

Response C.1: Text has been added to the IS/MND including a description of Valley Water’s Water Resource Protection Ordinance and clarification that future development would be required to obtain an encroachment permit from Valley Water if located on a Valley Water easement or facility (refer to Section 3.0 Draft IS/MND Text Revisions). The text revision does not change the results of the IS/MND or result in new or increased impacts requiring additional mitigation.

Comment C.2: 2. In accordance with Valley Water’s Water Resources Protection Ordinance, if a potential EIH site contains a Valley Water easement or facility, a Valley Water encroachment permit will be required for the project. Please see our website at the following link to learn more:
<https://www.valleywater.org/contractors/doing-businesses-with-the-district/permits-working-district-land-or-easement/encroachment-permits>

Please let me know if you have any questions regarding the comments. This has been assigned to Valley Water File 34976.

Response C.2: Refer to Response C.1.

Section 3.0 Draft IS/MND Errata and Text Revisions

This section contains revisions to the text of the Emergency Interim Housing Programs Project IS/MND dated June 2023. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Page 4 The following paragraphs are added to the end of Section 3.1 Background Information:

Assembly Bill 932 amended the Shelter Crisis Act (California Government Code section 8698 et seq.) to add section 8698.4 which authorizes public entities upon a declaration of a shelter crisis, to locate or construct homeless shelters, in new or existing structures on public entity owned or leased property, and in lieu of compliance with state and local building laws, to adopt by ordinance, reasonable local standards for the design, site development, and operation of homeless shelters and associated structures and facilities to the extent that it is determined at the time of adoption that strict compliance with State and local standards or laws in existence at the time of that adoption prevent, hinder, or delay the mitigation of the effects of the shelter crisis.

Assembly Bill 143 (2019-20) amended Government Code section 8698.4, which effective January 1, 2020, added the City to the public entities authorized under that section to adopt an ordinance and upon a declaration of a shelter crisis, to locate or construct homeless shelters consistent with its terms.

On December 7, 2018, the California Department of Housing and Community Development (HCD) adopted new emergency building standards related to emergency housing and facilities in response to the housing crisis and other emergencies in voluntary Appendix O to the 2019 California Building Code and voluntary Appendix X to the 2019 California Residential Code which are now found at Appendices P and AZ, respectively in the 2022 versions of these codes (collectively, the “Emergency Housing Appendices to the California Building Code and California Residential Code”).

Page 6 The following paragraph is added to the beginning of Section 3.3 Project Description:

The City proposes to adopt an ordinance amending Title 5 of the San José Municipal Code to add Chapter 5.12 adopting reasonable local standards for the design, site development, and operation of homeless shelters and associated structures and facilities in lieu of existing State and local standards and standards for emergency housing, in accordance with Assembly Bills 932 and 143.

Page 34 The following text is added after the Regional and Local Heading, and before the Santa Clara Valley Habitat Plan/Natural Community Conservation Plan subheading:

Water Resources Protection Ordinance and Manual

Valley Water's Water Resources Protection Ordinance requires projects to obtain an encroachment permit prior to making modifications on or within a Valley Water facility or easement. Valley Water integrated the Guidelines and Standards for Land Use Near Streams into their permitting process by adopting the Water Resources Protection Manual as a framework for evaluating permit applications and setting permit conditions under the Water Resources Protection Ordinance. The Water Resources Protection Manual includes recommendations to protect riparian corridors such as preserving in and near-stream existing riparian vegetation whose canopies provide shade and nutrients to aquatic wildlife, protecting stream characteristics for suitable fish habitat, avoiding nighttime lighting within riparian corridors, and locating paved areas and active recreational areas outside of riparian corridors.

Page 38 The following text is added to the discussion under checklist question e:

In addition, if future development would result in modifications within Valley Water property or easements, an encroachment permit would be required from Valley Water and subject to the Water Resources Protection Ordinance. With adherence to the above Standard Permit Conditions and compliance with Valley Water's Water Resources Protection Ordinance, future development would not conflict with any local policies or ordinances protecting biological resources. **(Less than Significant Impact)**

Page 83 The following text is added to the discussion under checklist question e:

Future EIH projects would comply with the BHC Ordinance, which requires conformity with the requirements of all NPDES permits (see Appendix B). In addition, if future development would result in modifications within Valley Water property or easements, an encroachment permit would be required from Valley Water and subject to the Water Resources Protection Ordinance. Therefore, the proposed project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **(Less than Significant Impact)**

Section 4.0 Conclusion

As discussed in Section 3.0, above, the addition of the proposed ordinance amending Title 5 of the San José Municipal Code to the Project Description will not result in any physical changes to the environment because it is a City administrative function. This addition to the Project Description does not constitute a “substantial revision” pursuant to the CEQA Guidelines Section 15073.5 and recirculation of the MND is not required.

The comments received on the IS/MND did not raise any new issues about the project’s environmental impacts or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. Minor clarifications were added to the text of the IS/MND (refer to Section 3.0 Draft IS/MND Text Revisions). The text revisions do not constitute a “substantial revision” pursuant to CEQA Guidelines Section 15073.5 and recirculation of the MND is not required.

Appendix A: Comment Letters

California Department of Transportation

DISTRICT 4
OFFICE OF REGIONAL AND COMMUNITY PLANNING
P.O. BOX 23660, MS-10D | OAKLAND, CA 94623-0660
www.dot.ca.gov



June 26, 2023

File #: ER22-198
GTS #: 04-SCL-2023-01208
GTS ID: 29984
Co/Rt/Pm: SCL/VAR/VAR

Reema Mahamood, Environmental Project Manager
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

Re: Emergency Interim Housing (EIH) Programs – Initial Study/Mitigated Negative Impact (IS/MND)

Dear Reema Mahamood:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the EIH Housing Program. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the June 2023 IS/MND.

Project Understanding

The proposed project would implement a program whereby the City of San Jose would select up to 15 EIH sites to provide temporary housing and supportive services for individuals, couples, and families experiencing homelessness. The IS/MND analyzes the most conservative option whereby the city would construct two-story modular buildings, each containing up to six units. Construction activities would last approximately 12 months per site and be limited to surface grading and utility trenching. An average EIH site size is typically two to three acres with a service population of approximately 50 to 200 individuals.

A.1

Travel Demand Analysis

Caltrans supports collaboration with local agencies to work towards a safe, functional, interconnected, multi-modal transportation network integrated through efficient and equitable land use planning and policies.

A.2

The project VMT analysis and significance determination are undertaken in a manner consistent with the Office of Planning and Research's (OPR) Technical Advisory. Per the IS, this project is found to have a less than significant vehicle miles traveled (VMT) impact, therefore working towards meeting the State's VMT reduction goals.

A.2

Affordable Housing Program

Caltrans commends the Lead Agency in developing and implementing the EIH Programs to provide temporary housing and supportive service for people experiencing homelessness.

The IS/MND mentions that the city may partner with Caltrans on the potential site acquisition. Please contact the staff from Office of Right Way below for assistance if needed.

A.3

- Jim Bozionelos, District Branch Chief, jim.bozionelos@dot.ca.gov for short term or temporary programs such as emergency shelters installation
- Resham Haddow, District Office Chief, resham.haddow@dot.ca.gov for long term or permanent affordable housing program

Caltrans also encourages the city to consider and explore the potential of excess state-owned property for affordable housing development projects, per Executive Order N-06-19.

Sincerely,



YUNSHENG LUO
Acting District Branch Chief
Local Development Review

c: State Clearinghouse

Mahamood, Reema

From: Aghegnehu, Ben <ben.aghegnehu@rda.sccgov.org>
Sent: Wednesday, June 21, 2023 11:48 AM
To: Mahamood, Reema
Subject: RE: Notice of Intent to Adopt a Mitigated Negative Declaration - Emergency Interim Housing Programs (ER22-198)

[External Email]

Hi Reema

Our Comment on this project is that we would like to ask the City to provide a Local Transportation Analysis for those sites within a half-mile radius of County facilities.

Thanks!

Ben Aghegnehu

Associate Transportation Planner
County of Santa Clara | [Roads & Airports](#)
101 Skyport Rd | San Jose, CA, 95110
408-573-2462 (o)

B.1

From: Mahamood, Reema <reema.mahamood@sanjoseca.gov>
Sent: Monday, June 5, 2023 9:53 AM
To: Mahamood, Reema <reema.mahamood@sanjoseca.gov>
Subject: [EXTERNAL] Notice of Intent to Adopt a Mitigated Negative Declaration - Emergency Interim Housing Programs (ER22-198)

PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA

Project Name: Emergency Interim Housing Programs

File No.: ER22-198

Description: The proposed project would implement a program whereby the City would select up to 15 Emergency Interim Housing (EIH) sites in order to provide temporary housing and supportive services for individuals, couples, and families experiencing homelessness. Potential EIH sites would be selected based on guidelines established in accordance with requirements set forth by the State law, City Ordinance No. 30199, and project Siting Guidelines. The project would construct two-story modular buildings, each containing up to six units. Construction activities would last approximately 12 months per site and be limited to surface grading and utility trenching. An average EIH site size is typically two to three acres with a service population of approximately 50 to 200 individuals. The estimated average service population per site is expected to be 100 individuals. The expected minimum stay is four months with a maximum stay of 12 months.

Location: City-owned or City-leased sites Citywide. Individual sites will be selected based on guidelines established in accordance with requirements set forth by the State law and City Ordinance No. 30199.

Assessor's Parcel No.: N/A

Council District: All

Applicant Contact Information: City of San José, Housing Department, 200 East Santa Clara Street, San José CA 95113

The City has performed an environmental review of the project. The environmental review examines the nature and extent of any adverse effects on the environment that could occur if the project is approved and implemented. Based on the review, the City has prepared a Draft Mitigated Negative Declaration (MND) for this project. An MND is a statement by the City that the project will not have a significant effect on the environment because the project will include mitigation measures that will reduce identified project impacts to a less than significant level. No project sites have been selected at this time, but future project sites would not be located on any list pursuant to Section 65962.5 of the California Government Code.

The public is welcome to review and comment on the Draft MND. The public comment period for this Draft MND begins on **June 5, 2023** and ends on **June 26, 2023**. The Draft MND, Initial Study, and reference documents are available online at: www.sanjoseca.gov/negativedeclarations

Hard copies of the document are available during normal business hours at the City of San José Department of Planning, Building and Code Enforcement, located at City Hall, 200 East Santa Clara Street; and at the Dr. Martin Luther King, Jr. Main Library, located at 150 E. San Fernando Street.

Reema Mahamood
Planner III, Environmental Review

City of San José | Planning, Building & Code Enforcement
200 E. Santa Clara St., T-3
San José, CA 95113
d - 408.535.6872
reema.mahamood@sanjoseca.gov

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Mahamood, Reema

From: Matthew Sasaki <MSasaki@valleywater.org>
Sent: Monday, June 26, 2023 9:06 AM
To: Mahamood, Reema
Subject: RE: Notice of Intent to Adopt a Mitigated Negative Declaration - Emergency Interim Housing Programs (ER22-198)

You don't often get email from msasaki@valleywater.org. [Learn why this is important](#)

[External Email]

Hi Reema,

The Santa Clara Valley Water District (Valley Water) has reviewed the Mitigated Negative Declaration (MND) for the Emergency Interim Housing Programs (ER22-198), in San Jose, received on June 5, 2023.

Based on our review, we have the following comments.

1. Valley Water owns property throughout the City of San Jose. If the City of San Jose selects Valley Water property as a potential Emergency Interim Housing (EIH) site, in accordance with Valley Water's Water Resources Protection Ordinance, a Valley Water encroachment permit will be needed. Along with a permit, a lease will need to be established with Valley Water.
2. In accordance with Valley Water's Water Resources Protection Ordinance, if a potential EIH site contains a Valley Water easement or facility, a Valley Water encroachment permit will be required for the project. Please see our website at the following link to learn more: <https://www.valleywater.org/contractors/doing-businesses-with-the-district/permits-working-district-land-or-easement/encroachment-permits>

Please let me know if you have any questions regarding the comments. This has been assigned to Valley Water File 34976.

Thank you,

MATT SASAKI

Pronouns: he/him
Assistant Engineer II
Community Projects Review Unit
msasaki@valleywater.org
Tel. (408) 630-3776

Santa Clara Valley Water District is now known as:



Clean Water • Healthy Environment • Flood Protection

From: Mahamood, Reema <reema.mahamood@sanjoseca.gov>
Sent: Monday, June 5, 2023 9:53 AM
To: Mahamood, Reema <reema.mahamood@sanjoseca.gov>
Subject: Notice of Intent to Adopt a Mitigated Negative Declaration - Emergency Interim Housing Programs (ER22-198)

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**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project Name: Emergency Interim Housing Programs

File No.: ER22-198

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Location: City-owned or City-leased sites Citywide. Individual sites will be selected based on guidelines established in accordance with requirements set forth by the State law and City Ordinance No. 30199.

Assessor's Parcel No.: N/A

Council District: All

Applicant Contact Information: City of San José, Housing Department, 200 East Santa Clara Street, San José CA 95113

The City has performed an environmental review of the project. The environmental review examines the nature and extent of any adverse effects on the environment that could occur if the project is approved and implemented. Based on the review, the City has prepared a Draft Mitigated Negative Declaration (MND) for this project. An MND is a statement by the City that the project will not have a significant effect on the environment because the project will include mitigation measures that will reduce identified project impacts to a less than significant level. No project sites have been selected at this time, but future project sites would not be located on any list pursuant to Section 65962.5 of the California Government Code.

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Hard copies of the document are available during normal business hours at the City of San José Department of Planning, Building and Code Enforcement, located at City Hall, 200 East Santa Clara Street; and at the Dr. Martin Luther King, Jr. Main Library, located at 150 E. San Fernando Street.

Reema Mahamood

Planner III, Environmental Review

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