

MITIGATION MONITORING AND REPORTING PROGRAM

SAN JOSE TRIBUTE HOTEL (File Nos. H16-042, HP17-003) SEPTEMBER 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 Supplemental EIR for the San José Tribute Hotel 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 identifies those mitigation measures and how and when they will be implemented.

This document does *not* discuss those subjects for which the Supplemental EIR concluded that the impacts from implementation of the project would be less than significant.

I, Kavitha, the applicant, on the behalf of Khanna Enterprises III CTb, hereby agree to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of the Supplemental EIR 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

9/6/18

MONITORING AND REPORTING PROGRAM					
MITIGATIONS	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: The project would have a significant impact to community risk from construction emissions of toxic air pollutants, since the cancer risk is above the single-source threshold of 10.0 per million.					
MM AQ-1: The project applicant or contractor shall select equipment during construction to minimize emissions. A construction management plan shall be submitted by the project applicant for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of any grading and building permits. The construction management plan shall demonstrate that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 85 percent reduction in PM _{2.5} exhaust emissions or more. Options to achieve this reduction could include, but are not limited to, the following: - All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent. - Use of equipment that includes CARB-certified Level 3 Diesel Particulate Filters or alternatively-fueled equipment (i.e., non-diesel). - Use of added exhaust devices.	Qualified consultant to submit construction management plan demonstrating a fleet-wide average 85% reduction in diesel particulate matter emissions to the Director of Planning, Building and Code Enforcement or the Director's designee; include recommendations into construction specifications	Prior to issuance of a grading permit	Director of Planning, Building and Code Enforcement or the Director's designee	Review construction management plan and recommendations to reduce construction diesel particulate matter emissions	Prior to issuance of a grading permit; implement recommendations during construction

CULTURAL RESOURCES

Impact: Project construction has the potential to physically impact nearby historic materials and structures (i.e., Montgomery Hotel).

MM CR-1.1: Prior to any ground disturbing activities, a qualified Historic Architect shall undertake a visual conditions study of the existing hotel and shall identify nearby historic resources that have the potential to be impacted by construction of the project. The purpose of the study would be to establish the baseline condition of those buildings prior to construction. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including those physical characteristics of the resources that convey their historic significance. The documentation shall be reviewed and approved by the City of San José's Historic Preservation Officer.	Historic Architect shall provide results of the visual conditions study to the City's Historic Preservation Officer	Prior to issuance of a grading permit	Historic Preservation Officer	Review visual conditions study	Prior to issuance of a grading permit
MM CR-1.2: A qualified Historic Architect shall prepare a Historical Resources Protection Plan to protect the building fabric to remain of the City Landmark Hotel Montgomery and the nearby historic properties along North First Street. The purpose of this Plan would be to protect the buildings from direct or indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, staging, and material storage). At a minimum, the plan shall include: • guidelines for operation of construction equipment adjacent to historical resources; • requirements for monitoring and documenting compliance with the plan; and • education/training of construction workers about the significance of the historical resources around which they would be working. The plan shall be approved by the City's Historic Preservation Officer prior to any ground disturbing activities. The project sponsor shall ensure the contractor follows this plan while working near these historic resources.	Historic Architect shall submit the Historical Resources Protection Plan to the City's Historic Preservation Officer	Prior to issuance of a grading permit; implement during construction	Historic Preservation Officer; applicant (construction period)	Review and approve Historical Resources Protection Plan	Prior to issuance of a grading permit; implement during construction
MM CR-1.3: The Historic Architect and/or his/her structural engineer shall make periodic site visits to monitor the condition of the existing historic fabric at the project site and provide detailed reports noting	Historic Architect and/or structural engineer shall monitor conditions of Montgomery Hotel and	During construction	Historic Preservation Officer; applicant (construction period)	Review status reports	During construction

any concerns regarding the historic resource to remain as well as recommended corrective actions to the Historic Preservation Officer. Monitoring should include installing and monitoring any necessary instruments such as crack gauges, per approval of nearby property owners, or reviewing vibration monitoring required by other construction monitoring processes required by the approved City permits.	provide status reports to the City's Historic Preservation Officer Historic Architect shall consult a structural engineer if physical impacts to character-defining features are discovered and inform the project representative monitoring construction activities				
The Historic Architect shall consult with a structural engineer if any physical impacts to character-defining features are discovered. If in the opinion of the Historic Architect, substantial adverse impacts related to construction activities are found during construction, the Historic Architect shall so inform the project sponsor or sponsor's designated representative responsible for monitoring construction activities. The project sponsor's monitor shall respond accordingly to the Historic Architect's recommendations for corrective measures, including halting construction in situations where construction activities would imminently endanger historic resources. The monitoring team shall prepare site visit reports.	Historic Architect shall document how the project meets the <i>Secretary of the Interior's Standards</i> and preserves the character-defining features of the adjacent historic property. The documentation shall be provided to the City's Historic Preservation Officer; applicant shall make repairs as needed	During construction	Historic Preservation Officer; applicant (construction period)	Review status reports	During construction
Impact: Construction of the proposed development could impact unknown buried archaeological resources and human remains, if present on-site.					
MM CR-2.1: In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped and the Director of	Qualified archaeologist to submit results to Director of Planning, Building and Code Enforcement or the Director's	During construction	Director of Planning, Building and Code Enforcement or the Director's designee	Review findings	During construction

Planning, Building and Code Enforcement or the Director's designee and Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. Project personnel shall not collect or move any resources.	designee and Historic Preservation Officer; if resources are Native American, results shall be submitted to NAHC	and Historic Preservation Officer; NAHC			
- The Native American Heritage Commission (NAHC) is unable to identify a most likely descendant (MLD) or the MLD failed to make a recommendation within 24 hours after being notified by the NAHC. - The MLD identified fails to make a recommendation; or - The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.					
MM CR-2.2: The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and 2) make appropriate recommendations regarding the disposition of such finds prior to issuance of any occupancy permits. If the finds do not meet the definition of a historical or archaeological resource, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then project activities shall avoid it. Project personnel shall not collect or move any cultural material. Fill soils that may be used for construction purposes shall not contain archaeological materials.	Qualified archaeologist shall submit results to Director of Planning, Building and Code Enforcement or the Director's designee and City's Historic Preservation Officer	During construction	Director of Planning, Building and Code Enforcement or the Director's designee and City's Historic Preservation Officer	Review results and approve recommendations	During construction
MM CR-2.3: If avoidance is not feasible, adverse effects to such resources shall be mitigated in accordance with the recommendations of the archaeologist. Recommendations shall include, but are not limited to, collection, recordation, and analysis of any significant cultural materials. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. Data recovery shall include excavation and exposure of features, field documentation, and recordation. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and Historic	Qualified archaeologist shall submit findings report to Director of Planning, Building and Code Enforcement or the Director's designee and City's Historic Preservation Officer	During construction	Director of Planning, Building and Code Enforcement or the Director's designee and City's Historic Preservation Officer	Review and approve recommendations	During construction

Preservation Officer and the Northwest Information Center prior to issuance of occupancy permits.					
MM CR-2.4: If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who will then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American.	Applicant shall notify the Director of Planning, Building and Code Enforcement or the Director's designee; qualified archaeologist to notify the Santa Clara County Coroner	During construction	Director of Planning, Building and Code Enforcement or the Director's designee	Review notification	During construction
MM CR-2.5: If the remains are believed to be Native American, the Coroner will contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. MM CR-2.6: If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance: • The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being notified by the NAHC. • The MLD identified fails to make a recommendation; or • The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.	Qualified archaeologist shall submit results to City's Historic Preservation Officer; if resources are Native American, results shall be submitted to NAHC	During construction	Historic Preservation Officer and NAHC	Review findings	During construction

HAZARDS & HAZARDOUS MATERIALS

Impact: Development of the proposed project could potentially expose construction workers and the public to residual soil and groundwater contaminants during the construction phase of the project

MM HAZ-1: Prior to demolition or issuance of grading permits, the project applicant shall retain a qualified consultant to prepare a Phase II investigation to evaluate potential contamination issues. The Phase II investigation shall include a thorough investigation for potential shallow soil contamination from the historic foundry activity, including the wood and coal storage areas, in addition to the PCB and contaminated soil removal effort. Contaminants of concern include arsenic, lead, CAM 17 metals, VOCs, total petroleum hydrocarbons (TPHs), polynuclear aromatic hydrocarbons (PAHs), and PCBs. The potential for vapor intrusion shall be evaluated and investigated if necessary. The results shall be compared to established construction worker safety and residential environmental screening levels. The results of soil sampling and testing shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee, and City's Municipal Environmental Compliance Officer for review.	A qualified consultant shall submit results of soil sampling and testing to Director of Planning, Building and Code Enforcement or the Director's designee and City's Municipal Environmental Compliance Officer Applicant shall consult with SCCDEH and provide documentation of consultation with SCCDEH or DTSC to Director of Planning, Building and Code Enforcement or the Director's designee and City's Municipal Environmental Compliance Officer and include all remediation requirements in final plans	Prior to the issuance of grading permit. Remediation measures, if required, shall be printed on all plans and contracts prior to the issuance of grading permit	Director of Planning, Building and Code Enforcement or the Director's designee and City's Municipal Environmental Compliance Officer and SCCDEH or DTSC	Review report and any remediation actions required; review SCCDEH or DTSC documentation	Prior to the issuance of grading permit; implement remediation measures per SCCDEH or DTSC documentation
If contaminated soils are found in concentrations above regulatory thresholds, the applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (SCCDEH) or Department of Toxic Substances Control (DTSC) under their Voluntary Cleanup Program. The SCCDEH or DTSC will determine which documents are required such as a Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document that shall be prepared by a qualified hazardous materials consultant. The plan shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health and safety of future workers and residents. The Plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee, and the City's Municipal Environmental Compliance Officer.					

NOISE & VIBRATION

Impact: Given the proximity of noise-sensitive uses to the project site and lack of sufficient details about the mechanical equipment, mechanical rooms, and rooftop screen wall at this time, there is the potential for noise from mechanical equipment to exceed 55 dBA DNL at noise-sensitive land uses in the immediate project vicinity.

MM NSE-1: Prior to the issuance of building permits, the project applicant shall select mechanical equipment that is designed to reduce noise levels affecting surrounding uses to meet the City's noise standards. The project applicant shall retain a qualified acoustical consultant to review mechanical equipment noise to determine specific noise reduction measures necessary to comply with the City's 55 dBA DNL noise limit at the shared property line. Noise reduction measures could include, but are not limited to, selection of equipment that emit low noise levels and installation of noise barriers such as enclosures and parapet walls to block the line of sight between the noise source and the nearest receptors. The qualified acoustical consultant shall submit a report that lists the equipment selected and any necessary reduction measures to the Director of Planning, Building and Code Enforcement, or the Director's designee.	A qualified acoustical consultant shall submit noise reduction measures for proposed mechanical equipment systems to the Director of Planning, Building and Code Enforcement, or the Director's designee	Report shall be submitted for review prior to the issuance of grading permit; measures shall be printed on all plans and contracts prior to the issuance of grading permit	Director of Planning, Building and Code Enforcement, or the Director's designee	Review recommendations for proposed mechanical equipment systems	Prior to the issuance of grading permit; measures shall be printed on all plans and contracts
--	---	---	--	---	--

Impact: Construction of the project would generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV at the historic Montgomery Hotel, and such vibration levels would be capable of cosmetically damaging the hotel building.

MM NSE-2: The project applicant shall implement the following measures prior to and during construction: 1. Prohibit impact, sonic, or vibratory pile driving methods. Drilled piles cause lower vibration levels where geological conditions permit their use. 2. Limit other vibration-inducing equipment to the extent feasible. 3. A list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring.	Qualified acoustical consultant to submit construction vibration monitoring plan to the Director of Planning, Building and Code Enforcement, or the Director's designee	Report shall be submitted for review prior to the issuance of the grading permit. Measures shall be printed on all plans and contracts prior to the issuance of the grading permit.	Director of Planning, Building and Code Enforcement, or the Director's designee	Review construction vibration monitoring plan	Prior to the issuance of a grading permit; measures shall be printed on all plans and contracts
---	--	--	--	--	--

4. A construction vibration monitoring plan shall be developed to document conditions at the historic Montgomery Hotel prior to, during, and after vibration generating construction activities. The plan shall be approved by the Director of Planning, Building and Code Enforcement, or the Director's designee, prior to ground disturbance activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry accepted standard methods. The vibration monitoring plan, including a vibration velocity limit (as determined based on a detailed review of the building), method (including locations and instrumentation) for monitoring vibrations during construction, and method for alerting responsible persons who have the authority to halt construction should limits be exceeded or damaged observed. The vibration limits shall be reduced if movement or cracking is detected.					
The construction vibration monitoring plan shall be implemented to include the following tasks: a. Identification of sensitivity to ground-borne vibration of the Montgomery Hotel. A vibration survey (generally described below) would need to be performed by a qualified acoustical consultant, licensed historical architect, or licensed Professional Structural Engineer in the State of California. b. Performance of a photo survey, elevation survey, and crack monitoring survey for the historic Montgomery Hotel. Surveys shall be performed prior to, in regular intervals during, and after completion of vibration generating construction activities and shall include internal and external crack monitoring in the structure, settlement, and distress and shall document the condition of the foundation, walls, and other structural elements in the interior and exterior of said structure. c. Development of a vibration monitoring and construction contingency plan to identify where monitoring would be conducted, set					

up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction. Construction contingencies would be identified for when vibration levels approach the limits. If vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structure. - Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities. - Summarize the results of all vibration monitoring and submit results in a report after completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims. The report shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee two weeks after completion of each phase identified in the project schedule. - Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted in one or more locations at the construction site.					
--	--	--	--	--	--

Source: Supplemental EIR for San Jose Tribute Hotel, May 2019.