MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

PROJECT NAME: Harker Middle School Expansion Project

PROJECT FILE NUMBER: PD18-040

PROJECT DESCRIPTION: The project proposes the demolition of three of the five existing classroom buildings, a portion of the existing auditorium/gymnasium, removal of the existing vehicle turnaround area, and removal of 46 trees, including 15 ordinance-sized trees. The project would allow the construction of a new two-story classroom building of approximately 38,900 square feet and a new addition to the existing auditorium/gymnasium of approximately 15,300 square feet for a total of 20,542 square feet to facilitate the operation of a middle school on the site with a maximum enrollment of 600 students. The project also includes construction of five new basketball courts, reconfiguration of the existing turf play field, a new student drop-off/pick-up area, and an emergency vehicle access road. The existing administration building, music/drama building, and two academic buildings would remain in place. Upon completion of the project, the total building square footage on the campus would be approximately 107,170 square feet.

PROJECT LOCATION: 4525 Union Avenue, San José.
ASSESSORS PARCEL NO.: 421-07-003 **COUNCIL DISTRICT:** 9

APPLICANT CONTACT INFORMATION: Mike Bassoni, Facilities Director of The Harker School; P.O. Box 9067, San Jose, CA 95157; 408-553-0377

FINDING

The Director of Planning, Building and Code Enforcement finds the project described above would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

A. **AESTHETICS** – The project would not have a significant impact on this resource, therefore no mitigation is required.

B. **AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.

C. AIR QUALITY.

Impact AIR-3: Construction activities associated with the proposed project would expose infants in proximity to the project site to temporary toxic air contaminant emissions in excess of acceptable thresholds.

MM AIR-3.1: The project applicant shall ensure that 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 3 engines with electric portable equipment (e.g. welders for this project). Alternatively, equipment that meets Tier 4 engines, equipment equipped with verified diesel emission control devices or the use of alternatively fueled equipment would meet this requirement. If any of these alternative measures are proposed, the project applicant shall include them in the construction operations plans (as stated in MM AIR-3.2, below) which includes specifications of the equipment to be used during construction prior to the issuance of any demolition, grading, or building permits, whichever occur the earliest.

MM AIR-3.2: Prior to the issuance of any demolition, grading and/or building permits (whichever occurs first), the project applicant shall submit a construction operations plan that includes specifications of the equipment to be used during construction prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest) to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth in these mitigation measures.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.

MM BIO-1.1: Avoidance. The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

MM BIO-1.2: Nesting Bird Surveys. If demolition and construction cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. 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 ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

MM BIO-1.3: Buffer Zones. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

MM BIO-1.4: Reporting. Prior to any tree removal, or approval of any 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 or Director's designee of the Department of Planning, Building and Code Enforcement.

Impact BIO-5: Construction activities could result in impacts to the health and longevity of the trees to be preserved.

MM BIO-5.1: Prior to the issuance of any tree removal, demolition, grading, or building permits (whichever occur first), the project applicant shall retain a certified arborist throughout the construction period of the project to:

- Review all future project submittals including grading, utility, drainage, irrigation, and landscape plans.
- Meet and schedule with contractors working in the vicinity of trees proposed for preservation to review all work procedures, access routes, storage areas and tree protection measures.
- Monitor all work (any grading, construction, demolition or other ground disturbance work) that is expected to encounter roots of trees to be preserved.
- Evaluate appropriate treatments if injury occurs to any tree during any ground-moving activities.

MM BIO-5.2: Prior to any ground disturbance activities, the project applicant shall submit a tree protection plan including the following, but not limited to, information:

- **Preconstruction Scope:**
  - Establish the horizontal and vertical elevation of all trees recommended for preservation and located within 25-feet of the project area. Include trunk locations and tag numbers on all plans.
- **Tree Protection Zone Protocol:**
  - Establish a tree protection zone around trees to be preserved. As a general guideline, the tree protection zone shall be the limit of work, as most trees recommended for preservation are outside the project area. For coast redwoods located along the western perimeter (#139 to #154) of the site, the tree protection zone shall be the edge of the existing sidewalk. The tree protection zone shall be installed prior to demolition, grubbing, or grading.
  - No materials, equipment, soil, waste or wash-out water may be deposited, stored, or parked within the tree protection zone (fenced area).
  - No entry is permitted into a tree protection zone without permission of the project superintendent.
  - Trees to be removed shall be cut down so as to fall away from tree protection zones and avoid pulling and breaking of roots of trees to remain. If roots are entwined, the consultant may require first severing the major woody root mass before extracting the trees, or grinding the stump below ground.
  - Fenced areas shall remain in place until all site work has been completed. Fences may not be relocated or removed without permission of the project superintendent.
  - Construction trailers, traffic and storage areas shall remain outside fenced areas at all times.
- **Maintenance During Construction:**
  - Any additional tree pruning needed for clearance during construction shall be

performed by a qualified arborist and not by construction personnel. Any roots damaged during grading or construction shall be exposed to sound tissue and cut cleanly with a saw.

- Trees to be preserved shall be irrigated on a regular basis. Use only herbicides safe for use around trees and labeled for that use, even below pavement.
- Trees proposed for preservation may require pruning to clean the crown and to provide clearance. All pruning shall be completed by an ISA Certified Arborist or Tree Worker and adhere to the latest editions of the American National Standards for tree work (Z133 and A300) and International Society of Arboriculture Best Management Practices, Pruning.

E. CULTURAL RESOURCES – The project would not have a significant impact on this resource, therefore no mitigation is required.

F. GEOLOGY AND SOILS – The project would not have a significant impact on this resource, therefore no mitigation is required.

G. GREENHOUSE GAS EMISSIONS – The project would not have a significant impact on this resource, therefore no mitigation is required.

H. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-2: Development of the proposed project could potentially expose construction workers and adjacent residents to levels of pesticides and pesticide-based metals such as arsenic and lead during ground disturbance activities

MM HAZ-2: Prior to issuance of any demolition or grading permits, the project applicant shall collect shallow soil samples in the near surface soil within the proposed project area and tested for organochlorine pesticides and pesticide-based metals such as arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial standard environmental screening levels. The results of soil sampling and testing shall be provided to the Director of Planning or Director's designee of the City of San José Department of Planning, Building, and Code Enforcement and Municipal Environmental Compliance Officer for review.

If pesticide contaminated soils are found in concentrations above the appropriate regulatory environmental screening levels for the proposed project, the project applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (or Department of Toxic Substances Control) under their Voluntary Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document 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 of future workers and visitors. The Plan and evidence of regulatory oversight shall be provided to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

I. HYDROLOGY AND WATER QUALITY – The project would not have a significant impact on this resource, therefore no mitigation is required.

J. **LAND USE AND PLANNING** – The project would not have a significant impact on this resource, therefore no mitigation is required.

K. **MINERAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.

L. **NOISE.**

Impact NOI-1: Sensitive receptors in the project area would be intermittently exposed to high noise levels during project construction

MM NOI-1.1: Prior to the issuance of any grading or demolition permits, the project applicant 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. The noise logistic plan shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building, and Code Enforcement prior to the issuance of any grading or demolition permits.

The noise logistic plan shall include, but is not limited to, the following best management practices:

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, 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 (San José Municipal Code Section 20.100.450).
- Pile-driving shall be prohibited.
- Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences shall be placed such that the noise barrier interrupts the line-of-sight between the noise source and receiver and shall be constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- 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 sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the

number of blows required to seat the pile.

- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at residential property lines bordering the project site.
- The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- Notify all adjacent business, residences, and other noise-sensitive 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.
- 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 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.

M. POPULATION AND HOUSING – The project would not have a significant impact on this resource, therefore no mitigation is required.

N. PUBLIC SERVICES – The project would not have a significant impact on this resource, therefore no mitigation is required.

O. RECREATION – The project would not have a significant impact on this resource, therefore no mitigation is required.

P. TRANSPORTATION / TRAFFIC

Impact TRN-2: The project exceeds the City's Vehicle Miles Traveled (VMT) threshold of 12.21 VMT per employee/student.

MM TRN-2.1: Prior to the issuance of any public works clearances, the project applicant shall implement the following Transportation Demand Management (TDM) measures:

- Free Direct Shuttle Service. The project shall provide free shuttle service from various locations in San José and the surrounding areas to the new Harker Union Avenue campus to serve the school's students and employees.
- School Carpool/Transit Pool Program. A school carpool and transit pool program shall be open to all families of Harker school and shall include carpooling and organizing small groups to travel together via public transit.
- TDM Coordinator. Contact information for the TDM coordinator shall be posted on the school's website.
- Availability. Information regarding the TDM program shall be distributed to all families of Harker students and shall be posted on the school website prior to program implementation.
- Annual Monitoring. An annual monitoring requirement establishing a trip cap of 679 AM Peak-Hour-Trip and 315 PM Peak-Hour-Trip.

A traffic engineer shall prepare and submit the TDM plan to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement, and Director's designee of the City of San Jose Department of Public Works.

Q. UTILITIES AND SERVICE SYSTEMS – The project would not have a significant impact on this resource, therefore no mitigation is required.

R. MANDATORY FINDINGS OF SIGNIFICANCE

The project would not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Thursday August 22nd, 2019** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

7/30/19
Date

Deputy

Thai-Chau Le
Environmental Project Manager

Circulation period: August 2, 2019 to August 22, 2019