
DRAFT

MITIGATION MONITORING AND REPORTING PROGRAM

This Draft Mitigation Monitoring and Reporting Program (MMRP) is formulated based upon the findings of the Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the 1005 North Park Victoria Project (project). The MMRP, which is found in Table 1, lists mitigation measures recommended in the IS/MND prepared for the proposed project and identifies mitigation monitoring requirements. The Final MMRP must be adopted when the City of Milpitas (City) makes a final decision on the project.

This MMRP has been prepared to comply with the requirements of State law (Public Resources Code Section 21081.6). State law requires the Lead Agency to adopt an MMRP when mitigation measures are required to avoid significant impacts. The MMRP is intended to ensure compliance with the mitigation measures identified in the IS/MND during implementation of the project.

The MMRP is organized in a matrix format. The first two columns identify the potential impacts and corresponding mitigation measures. The third column, entitled Timeframe for Implementation, refers to when monitoring will occur to ensure that the mitigating action is completed. The fourth column, entitled Responsibility for Implementation, refers to the party responsible for implementing the mitigation measure. The fifth column, entitled, Oversight of Implementation, refers to the party responsible for oversight or ensuring that the mitigation measure is implemented.

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Table 1: Mitigation Monitoring and Reporting Program

Impact	Mitigation Measures/Project-Specific Conditions of Approval	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
4.1 Aesthetics				
The proposed project could create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area.	AES-1: Outdoor lighting shall be designed to minimize glare and spillover to surrounding properties. The project design and building materials shall incorporate non-mirrored glass to minimize daylight glare. All lighting elements shall comply with Sections XI-10-45.15-3 of the City’s Zoning Ordinance and the proposed lighting plan shall be reviewed and approved by the City’s Planning Division prior to issuance of a building permit.	Prior to issuance of a building permit	Project Applicant	City of Milpitas Planning Department
4.3 Air Quality				
The proposed project could violate air quality standards or contribute to an existing or projected air quality violation.	AIR-1: In order to meet the BAAQMD fugitive dust threshold, the following BAAQMD Basic Construction Mitigation Measures shall be implemented: <ul style="list-style-type: none"> • All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. • All haul trucks transporting soil, sand, or other loose material off-site shall be covered. • All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. • All vehicle speeds on unpaved roads shall be limited to 15 mph. • All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. • Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. • A publicly-visible sign shall be posted with the telephone number and person to contact at the City of Milpitas regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD’s phone number shall also be visible to ensure compliance with applicable regulations 	During all phases of construction	Project Applicant/ Construction Contractor	City of Milpitas Planning Department

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<p>The proposed project could expose sensitive receptors to substantial pollutant concentrations as a result of its proximity to Interstate 680.</p>	<p>Project-Specific Condition of Approval AIR-1: The following measures shall be required to reduce TACs and particulate matter indoors to a level sufficient to achieve compliance with BAAQMD health risk thresholds:</p> <ul style="list-style-type: none"> • The project applicant shall provide a heating, ventilation, and air conditioning (HVAC) system with a control efficiency sufficient to result in a reduction of a minimum 75.0 percent of particulates of 2.5 microns or less, such as Minimum Efficiency Reporting Value (MERV)-12 filters or greater, for indoor air filtration systems. The ventilation system shall be certified to achieve the stated performance effectiveness from indoor areas. • The project applicant shall locate all air intakes as far away from I-680 as feasible. • The project applicant shall disclose to potential occupants of the project that the proximity of the project site to the freeway could result in increased long-term health risks. The disclosure shall indicate the specifications for the installed air filtration system. 	<p>Prior to issuance of a building permit</p>	<p>Project Applicant</p>	<p>City of Milpitas Planning Department City of Milpitas Public Works Department</p>
<p>4.4 Biological Resources</p>				
<p>The proposed project could have a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.</p>	<p>BIO-1: To the extent feasible, vegetation removal shall be conducted during the non-nesting season for birds (i.e., between September 1 and January 31). If vegetation removal occurs during the nesting season (February 1 to August 31), suitable nesting habitat within the project site shall be surveyed by a qualified biologist (biologist) no more than 14 days prior to ground disturbing/vegetation removal activities and again within 2 days (48 hours) of such activities. Areas outside the project site shall not be surveyed for active nests unless nests are visible from the project site.</p> <p>If an active nest is found, the biologist shall identify a no-work buffer around the nest until the young have fledged or the nest has otherwise become inactive. The minimum buffer should be 25 feet, but this distance may be modified due to site-specific conditions. Buffer distances for bird nests would be site specific and an appropriate distance, as determined by the biologist. The buffer distances shall be specified to protect the bird's normal behavior to prevent nesting failure or abandonment. The buffer distance recommendation shall be developed after field investigations that evaluate the bird(s) apparent distress in the presence of people or equipment at various distances. Abnormal nesting behaviors that may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed toward project personnel, standing up from a</p>	<p>Prior to vegetation removal, vegetation trimming, or ground-disturbing activities</p>	<p>Project Applicant/ Construction Contractor</p>	<p>City of Milpitas Planning Department</p>

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<i>BIO-1 continued</i>	<p>brooding position, and/or flying away from the nest. The biologist shall have the authority to stop project activities if a bird exhibits abnormal behavior that may cause reproductive failure such as nest abandonment and loss of eggs and/or young until an appropriate buffer is established.</p> <p>The qualified biologist shall monitor at least weekly the behavior of the adult and young birds, when present, at the nest site to ensure that they are not disturbed by project work. Nest monitoring shall continue during project work until the young have fully fledged and have completely left the nest site and are no longer being fed by the parents, as determined by the qualified biologist. If necessary, the biologist shall consult with CDFW regarding appropriate action to comply with the California Fish and Game Code.</p> <p>If a lapse in project-related work of 7 days or longer occurs, another focused nest survey shall be required before project work resumes.</p>			
The proposed project could conflict with the City's Tree Preservation Ordinance	<u>BIO-2</u> : Prior to the issuance of a demolition or grading permit, the Planning Director, or designated Planning Department staff person, shall confirm that the project applicant has obtained a tree removal permit for any tree to be removed from the project site and has complied with the City of Milpitas Tree Preservation Ordinance.	Prior to the issuance of a demolition or grading permit	Project Applicant	City of Milpitas Planning Department
4.5 Cultural Resources				
The proposed project could cause a substantial adverse change in the significance of a historical resource.	<u>CULT-1</u> : Should an archaeological deposit be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. If the deposit is found to be significant (i.e., eligible for listing in the California Register of Historical Resources), the applicant shall be responsible for funding and implementing appropriate mitigation measures. Mitigation measures may include recordation of the archaeological deposit, data recovery and analysis, and public outreach regarding the scientific and cultural importance of the discovery. Upon completion of the selected mitigations, a report documenting methods and findings shall be prepared and submitted to the City for review, and the final report shall be submitted to the Northwest	Prior to any ground disturbing activities	Project Applicant/ Construction Contractor	City of Milpitas Planning Department

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<i>CULT-1 continued</i>	<p>University. Significant archaeological materials shall be submitted to an appropriate curation facility and used for public interpretive displays, as appropriate and in coordination with a local Native American tribal representative.</p> <p>The applicant shall inform its contractor(s) of the sensitivity of the project area for archaeological deposits and shall verify that the following directive has been included in the appropriate contract documents:</p> <p><i>“The subsurface of the construction site may be sensitive for Native American archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist contacted to assess the situation, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include shellfish remains; bones; flakes of, and tools made from, obsidian, chert, and basalt; and mortars and pestles. Contractor acknowledges and understands that excavation or removal of archaeological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”</i></p> <p>Work stoppage in the event of an archaeological discovery would ensure that: (1) if archaeological cultural resources are identified during excavation, these would be evaluated, documented, and studied in accordance with standard archaeological practice; and (2) archaeological deposits and human remains would be treated in accordance with appropriate State codes and regulations. As such, implementation of the above mitigation measures would reduce the project’s potential impacts to archaeological historical resources to a less-than-significant level.</p>			
4.7 Geology and Soils				
The proposed project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	<u>GEO-1</u> : Should paleontological resources be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation measure, a	During all ground disturbing activities	Project Applicant/ Construction Contractor	City of Milpitas Planning Department

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<p><i>GEO-1 continued</i></p>	<p>“qualified paleontologist” shall be an individual with the following qualifications: (1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; (2) at least two years of professional experience related to paleontology; (3) proficiency in recognizing fossils in the field and determining their significance; (4) expertise in local geology, stratigraphy, and biostratigraphy; and (5) experience collecting vertebrate fossils in the field. If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate. The project applicant shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract documents:</p> <p><i>“The subsurface of the construction site may be sensitive for fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Ancient marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones.</i></p> <p><i>Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”</i></p>			

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4.8 Greenhouse Gas Emissions				
The proposed project may be inconsistent with the City's adopted Climate Action Plan.	<p>GHG-1: The project applicant shall demonstrate compliance with the applicable measures to the City Planning Division prior to the issuance of a building permit. The following measures are considered to be applicable, feasible, and effective in reducing greenhouse gas emissions generated by the project:</p> <ul style="list-style-type: none"> • Install Energy Star appliances. • Install on-site renewable energy, such as solar panels. • Use water-efficient irrigation systems and use reclaimed water, when available. • Provide plug-in hybrid and electric vehicle home charging stations. • Provide accessible exterior electrical outlets to charge electric-powered lawn and garden equipment. 	Prior to issuance of a building permit	Project Applicant	City of Milpitas Planning Department
4.10 Hydrology and Water Quality				
The proposed project could violate water quality standards or waste discharge requirements.	<p>HYD-1: Prior to construction, the project applicant shall prepare and implement a SWPPP, meeting Construction General Permit requirements (State Water Resources Control Board Order No. 2009-000-DWQ, as amended) designed to reduce potential adverse impacts to surface water quality through the project construction period. The SWPPP shall be submitted to the City for review and approval prior to the issuance of any permits for ground disturbing activities.</p> <p>The SWPPP shall be prepared by a Qualified SWPPP Developer in accordance with the requirements of the Construction General Permit. These include: BMPs for erosion and sediment control, site management/housekeeping/waste management, management of non-stormwater discharges, run-on and runoff controls, and BMP inspection/maintenance/repair activities. BMP implementation shall be consistent with the BMP requirements in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction.</p> <p>The SWPPP shall include a construction site monitoring program that identifies requirements for dry weather visual observations of pollutants at all discharge locations, and as appropriate (depending on the Risk Level), sampling of the site effluent and receiving waters. A Qualified SWPPP Practitioner shall be responsible for implementing the BMPs at the site and performing all required monitoring and inspection/maintenance/repair activities.</p>	Prior to the issuance of grading permits	Project Applicant	City of Milpitas Planning Department

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<p>The proposed project could violate water quality standards or waste discharge requirements.</p>	<p><u>HYD-2:</u> The project applicant shall fully comply with the Water Board stormwater permit requirements, including Provision C.3 of the MRP. The project applicant shall prepare and implement a SCP for the project. The SCP shall be submitted to the City for review and approval prior to the issuance of any permits for ground disturbing activities. The SCP would act as the overall program document designed to provide measures to mitigate potential water quality impacts associated with the operation of the proposed project. At a minimum, the SCP for the project shall include:</p> <ul style="list-style-type: none"> • An inventory and accounting of existing and proposed impervious areas. • Low Impact Development (LID) design details incorporated into the project. Specific LID design may include, but is not limited to: using pervious pavements and green roofs, dispersing runoff to landscaped areas, and/or routing runoff to rain gardens, cisterns, swales, and other small-scale facilities distributed throughout the site. • Measures to address potential stormwater contaminants. These may include measures to cover or control potential sources of stormwater pollutants at the project site. • A Draft Stormwater Facility Operation and Maintenance Plan for the project site, which will include periodic inspection and maintenance of the storm drainage system. Persons responsible for performing and funding the requirements of this plan shall be identified. This plan must be finalized prior to issuance of building permits for the project. 	<p>Prior to the issuance of grading permits</p>	<p>Project Applicant</p>	<p>City of Milpitas Planning Department</p>
4.13 Noise				
<p>The proposed project could expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.</p>	<p><u>NOI-1:</u> The project contractor shall implement the following measures during construction of the project:</p> <ul style="list-style-type: none"> • Equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturers' standards. • Place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the active project site. • Locate equipment staging in areas that would create the greatest possible distance between construction-related noise sources and noise-sensitive receptors nearest the active project site during all project construction. • Ensure that all general construction related activities are restricted to 7:00 a.m. and 7:00 p.m. 	<p>During all phases of construction</p>	<p>Project Applicant/ Construction Contractor</p>	<p>City of Milpitas Planning Department</p>

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<i>NOI-1 continued</i>	<ul style="list-style-type: none"> Designate a "disturbance coordinator" at the City of Milpitas who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler) and would determine and implement reasonable measures warranted to correct the problem. 			
The proposed project could conflict with the City's noise and land use compatibility standards.	<p><u>NOI-2:</u> In order to comply with the City's noise and land use compatibility standards, the following measures shall be implemented:</p> <ul style="list-style-type: none"> The proposed project shall include the installation of air conditioning which would allow hotel room windows to remain closed. Standard building construction requirements consisting of windows and doors with a minimum rating of STC-27 are incorporated. 	Prior to the issuance of a building permit	Project Applicant	<p>City of Milpitas Planning Department</p> <p>City of Milpitas Public Works Department</p>

Source: LSA 2019.

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