

# Table of Contents

MITIGATION MONITORING AND REPORTING PROGRAM .....	1
1.1 Introduction .....	1
1.2 Monitoring Program .....	1
1.3 Monitoring Program Procedures.....	1
1.4 Monitoring Checklist.....	2



# Mitigation Monitoring and Reporting Program

## 1.1 Introduction

CEQA Guidelines section 15097 requires public agencies to adopt reporting or monitoring programs when they approve projects subject to an environmental impact report or a negative declaration that includes mitigation measures to avoid significant adverse environmental effects. The reporting or monitoring program is to be designed to ensure compliance with conditions of project approval during project implementation in order to avoid significant adverse environmental effects.

The law was passed in response to historic non-implementation of mitigation measures presented in environmental documents and subsequently adopted as conditions of project approval. In addition, monitoring ensures that mitigation measures are implemented and thereby provides a mechanism to evaluate the effectiveness of the mitigation measures.

A definitive set of project conditions would include enough detailed information and enforcement procedures to ensure the measure's compliance. This monitoring program is designed to provide a mechanism to ensure that mitigation measures and subsequent conditions of project approval are implemented.

## 1.2 Monitoring Program

The basis for this monitoring program is the mitigation measures included in the project mitigated negative declaration. These mitigation measures are designed to eliminate or reduce significant adverse environmental effects to less than significant levels. These mitigation measures become conditions of project approval, which the project proponent is required to complete during and after implementation of the proposed project.

The attached checklist is proposed for monitoring the implementation of the mitigation measures. This monitoring checklist contains all appropriate mitigation measures in the mitigated negative declaration.

## 1.3 Monitoring Program Procedures

The City of Gilroy shall use the attached monitoring checklist for the proposed project. The monitoring program should be implemented as follows:

1. The Gilroy Community Development Department should be responsible for coordination of the monitoring program, including the monitoring checklist. The Community Development Department should be responsible for completing the monitoring checklist and distributing the checklist to the responsible individuals or agencies for their use in monitoring the mitigation measures.
2. Each responsible individual or agency will then be responsible for determining whether the mitigation measures contained in the monitoring checklist have been complied with. Once all mitigation measures have been complied with, the responsible individual or agency should submit a copy of the monitoring checklist to the Community Development Department to be placed in the project file. If the mitigation measure has not been complied with, the monitoring checklist should not be returned to the Community Development Department.
3. The Gilroy Community Development Department will review the checklist to ensure that appropriate mitigation measures and additional conditions of project approval included in the monitoring checklist have been complied with at the appropriate time, e.g., prior to issuance of a use permit, etc. Compliance with mitigation measures is required for project approvals.
4. If a responsible individual or agency determines that a non-compliance has occurred, a written notice should be delivered by certified mail to the project proponent within 10 days, with a copy to the Community Development Department, describing the non-compliance and requiring compliance within a specified period of time. If non-compliance still exists at the expiration of the specified period of time, construction may be halted and fines may be imposed at the discretion of the City of Gilroy.

## 1.4 Monitoring Checklist

### Step 1 – Prior to Issuance of a Grading Permit

- BIO-1 To avoid/minimize impacts to burrowing owls potentially occurring within the project site, the project applicant shall retain a biologist qualified in ornithology to conduct surveys for burrowing owl. The approved biologist shall conduct a two-visit (i.e., morning and evening) presence/absence survey at areas of suitable habitat on and adjacent to the project site boundary no less than 14 days prior to the start of construction or ground disturbance activities. Surveys shall be conducted according to methods described in the Burrowing Owl Survey Protocol and Mitigation Guidelines (California Burrowing Owl Consortium 1993) and the Staff Report on Burrowing Owl Mitigation (California Department of Fish and Wildlife 2012). The applicant shall submit evidence of completion of the preconstruction survey to the City of Gilroy Planning Department prior to issuance of a grading permit. Because burrowing owls occupy habitat year-round, seasonal no-disturbance buffers, as outlined in the Burrowing Owl Survey Protocol and Mitigation Guidelines (California Burrowing Owl Consortium 1993)

and the Staff Report on Burrowing Owl Mitigation (California Department of Fish and Wildlife 2012), shall be in place around occupied habitat prior to and during any ground disturbance activities. The following table includes buffer areas based on the time of year and level of disturbance (California Department of Fish and Wildlife 2012), unless a qualified biologist approved by the California Department of Fish and Wildlife verifies through non-invasive measures that either: 1) birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance Buffers (meters)		
		Low	Med	High
Nesting Sites	April 1 – Aug 15	200 m	500 m	500 m
Nesting Sites	Aug 16 – Oct 15	200 m	200 m	500 m
Nesting Sites	Oct 16 – Mar 31	50 m	100 m	500 m

If burrowing owl is found and avoidance is not possible, burrow exclusion may be conducted by qualified biologists only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. Occupied burrows shall be replaced with artificial burrows at a ratio of one collapsed burrow to one constructed artificial burrow (1:1). Evicted burrowing owls may attempt to colonize or re-colonize an area that would be impacted, thus ongoing surveillance during project activities shall be conducted at a rate sufficient to detect burrowing owls if they return.

If surveys locate occupied burrows in or near construction areas, consultation with the CDFW shall occur to interpret survey results and develop a project-specific avoidance and minimization approach.

*Party Responsible for Implementation:*      *Project Applicant*

*Party Responsible for Monitoring:*      *City of Gilroy Planning Department*

**Monitoring Notes:**

---



---



---

BIO-2      To avoid impacts to nesting birds during the nesting season (January 15 through September 15), to the extent feasible, construction activities that include any vegetation

removal or ground disturbance (such as grading or grubbing) shall be conducted between September 16 and January 14, which is outside of the bird nesting season. If construction activities commence during the bird nesting season, then a qualified biologist shall conduct a pre-construction survey for nesting birds to ensure that no nests would be disturbed during project construction.

If construction activities are scheduled during the nesting season (February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors), a qualified biologist shall conduct nesting bird surveys. Two surveys for active nests of such birds shall occur within 10 days prior to start of construction, with the second survey conducted with 48 hours prior to start of construction. Appropriate minimum survey radius surrounding the work area is typically 250 feet for passerines, 500 feet for smaller raptors, and 1,000 feet for larger raptors. Surveys shall be conducted at the appropriate times of day to observe nesting activities.

If no nesting activity is observed, a report shall be submitted to the City of Gilroy and disturbance activities may commence. If the qualified biologist documents active nests within the project site or in nearby surrounding areas, a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors shall be established. The buffer shall be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist shall conduct baseline monitoring of each nest to characterize “normal” bird behavior and establish a buffer distance, which allows the birds to exhibit normal behavior. The qualified biologist shall monitor the nesting birds daily, or as otherwise required by the California Department of Fish and Wildlife, during construction activities and increase the buffer if birds show signs of unusual or distressed behavior (e.g., defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist or construction foreman shall have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active. This measure shall be implemented by the developer prior to start of construction activities.

*Party Responsible for Implementation:*            *Project Developer*

*Party Responsible for Monitoring:*            *City of Gilroy Planning Department*

**Monitoring Notes:**

---

---

---

GEO-1 and HYDRO-2      The developer shall prepare an erosion control plan that details appropriate methods to prevent and/or minimize erosion. The erosion control plan shall illustrate how the project’s grading phases would prevent or minimize erosion and siltation on- and off-site, such as the inclusion of Best Management Practices. The erosion control plan is subject to the review and approval of the City of Gilroy Public Works Department prior to the issuance of a grading permit.

*Party Responsible for Implementation:*      *Project Developer*

*Party Responsible for Monitoring:*      *City of Gilroy Public Works Department*

**Monitoring Notes:**

---

---

---

GEO-2      Prior to issuance of a grading permit, the developer shall include the following recommendations in project improvement plans and implement them as outlined in the geotechnical report prepared for the proposed project including, but not limited to:

- Recompact the surface soils;
- Fill material to be excavated and stockpiled so that the native soils can be prepared properly, with inspection of the bottom of the excavation by a qualified geotechnical engineer to verify no additional removal is required; and
- Replace the upper 30 inches of soil within slab-on-grade and exterior flatwork areas with non-expansive fill to reduce the potential soil movement.

*Party Responsible for Implementation:*      *Project Developer*

*Party Responsible for Monitoring:*      *City of Gilroy Public Works Department*

**Monitoring Notes:**

---

---

---

HYDRO-1 All stormwater on the project site must be treated aboveground in an approved low-impact development treatment device prior to entering stormwater chambers. The developer shall include this measure in project improvement plans and must show proof of compliance with this requirement on the project plans prior to issuance of a grading permit with approval by the City of Gilroy Public Works Department.

*Party Responsible for Implementation: Project Developer*

*Party Responsible for Monitoring: City of Gilroy Public Works Department*

**Monitoring Notes:**

---

---

---

HYDRO-3 The project proponent shall prepare and submit a Storm Water Pollution Prevention Plan for review and approval by the City of Gilroy Public Works Department prior to issuance of a grading permit. The Storm Water Pollution Prevention Plan shall identify construction and post-construction Best Management Practices to prevent water pollution at the source.

*Party Responsible for Implementation: Project Developer*

*Party Responsible for Monitoring: City of Gilroy Public Works Department*

**Monitoring Notes:**

---

---

---

## **Step 2 - Prior to Issuance of Building Permits**

GHG-2 The fast-food developer shall:

- a. Prepare a Greenhouse Gas (GHG) Reduction Plan which identifies one or more GHG reduction actions that will be taken to reduce GHG emissions from the proposed fast food use by a minimum of 28.9 MT CO<sub>2</sub>e per year to offset



emissions produced by using natural gas. The GHG Reduction Plan shall prioritize on-site GHG reduction design features.

In lieu of or in addition to one or more of the on-site measures above, the applicant may make direct investments in off-site GHG reduction activities/programs in the vicinity. Examples include building retrofit programs that pay for cool roofs, solar panels, solar water heaters, smart meters, energy efficient lighting energy efficient windows, and insulation. Other examples include financing programs for installing electric vehicle charging stations, electrifying school buses, or planting local urban forests.

The applicant may retain a qualified air quality / GHG professional to quantify the GHG reductions from implementing the Reduction Plan using substantial evidence to be included in the Reduction Plan.

If the applicant elects to quantify the GHG emissions reductions from on-site measures and/or investments in off-site reduction programs and the reductions are less than insufficient to reduce project emissions by a minimum of 28.9 MT CO<sub>2</sub>e per year, the applicant may secure the reduction balance by purchasing and retiring carbon offset credits. The carbon offset credits shall meet the following standards:

- Carbon offset credits shall be issued by a recognized, reputable and accredited registry that mandates the use of established protocols for quantifying and issuing the offset credits. Credits issued based on protocols approved by the California Air Resources Board should be prioritized. Examples of such registries include the Climate Action Reserve, American Carbon Registry, and Vierra.
- The carbon offset credits should be generated from projects developed in the United States. Credits from projects developed internationally should not be used unless the applicant demonstrates with substantial evidence that sufficient carbon offsets from projects in the United States are unavailable. International offsets must be quantified and issued using established protocols that are recognized in the United States and that are issued by recognized, reputable and accredited registries.
- All carbon offset credits purchased to reduce GHG emissions, must meet the criteria of being real, quantifiable, permanent, verifiable, enforceable, and additional, consistent with the standards set forth in Health and Safety Code section 38562, subdivisions (d)(1) and (d)(2).

Prior to the City issuing a building permit for the fast food use, the applicant shall submit the GHG Reduction Plan for review and approval of the City of Gilroy. If carbon offsets are proposed, prior to approval of a building permit, the applicant

shall provide an executed contract or other certification to the City Planner that the requisite volume carbon offset credits have been purchased.

- b. The planned fast food use shall include all electricity pre-wiring necessary so that the building is ready for a future retrofit to all-electric supply infrastructure sufficient to replace natural gas use in the future. Prior to issuing a building permit for the fast food use, the City shall verify that project improvement plans meet the pre-wiring requirement.

*Party Responsible for Implementation:*      *Project Developer*

*Party Responsible for Monitoring:*      *City of Gilroy Planning Department*

**Monitoring Notes:**

---

---

---

GHG-1 The proposed project shall be designed to meet the following performance standards:

- a. With exception of the planned fast-food use, no permanent natural gas infrastructure shall be permitted as part of the improvement plans for any other individual project uses. These uses shall be all electric; and
- b. Electric vehicle infrastructure (e.g., electric vehicle parking spaces, charging station infrastructure, chargers, etc.) consistent with CALGreen Tier 2 mandatory standards in effect at the time individual building permits are issued, shall be installed at each individual proposed use.

*Party Responsible for Implementation:*      *Project Developer*

*Party Responsible for Monitoring:*      *City of Gilroy Planning Department*

**Monitoring Notes:**

---

---

---

N-1 Prior to issuance of a building permit for the two proposed hotels, the building plans shall include air conditioning or mechanical ventilation, subject to review and approval by the building department.

*Party Responsible for Implementation: Project Developer*

*Party Responsible for Monitoring: City of Gilroy Building Department*

**Monitoring Notes:**

---

---

---