

**PERALTA COMMUNITY COLLEGE DISTRICT
Resolution No. 20/21-50**

RESOLUTION OF THE BOARD OF TRUSTEES OF PERALTA COMMUNITY COLLEGE DISTRICT ADOPTING THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION, CEQA FACTS AND FINDINGS, MITIGATION MEASURES, AND THE MITIGATION MONITORING AND REPORTING PROGRAM FOR THE BERKELEY CITY COLLEGE 2118 MILIVA STREET EXPANSION PROJECT (PROJECT), AND APPROVING THE PROJECT.

WHEREAS, Peralta Community College District (“District”) is proposing construction of a new six-story, 60,000-gross-square-foot education facility – 2118 Milvia Street Expansion Project to replace an existing building owned by the District comprising about 25,000-gross-square-feet. The new energy efficient facility will provide eleven (11) general education classrooms, an anthropology laboratory, two (2) art studios, a communications classroom & laboratory, student services, learning resource center, learning communities, wellness center, restrooms, and office space for faculty & administration. The proposed Project footprint adapts to the site topography and will roughly cover the entire 0.26 acre site of the existing building. The proposed building will be six (6) stories and would be approximately 90 feet in height. Exterior building materials would include exterior glazing systems and other finishes consistent with the City of Berkeley environment, as further described in the Project Description of the Initial Study/Mitigated Negative Declaration (the “Project”); and

WHEREAS, the District is the lead agency for the Project, and the Board of Trustees (“Board”) is the decision-making body for the proposed Project; and

WHEREAS, prior to commencement of work on the Project, the District must comply with the California Environmental Quality Act of 1970, as amended, Public Resources Code sections 21000, *et seq.* (“CEQA”); and

WHEREAS, the District retained Rincon Consultants, Inc. to prepare an Initial Study and a Mitigated Negative Declaration for the Project in accordance with the requirements of CEQA and the CEQA Guidelines (14 Cal. Code Regs. 15000, *et seq.*); and

WHEREAS, the scope of the Project analyzed under the Initial Study/Mitigated Negative Declaration is further described in the Initial Study/Mitigated Negative Declaration. A copy of the Initial Study/Mitigated Negative Declaration is attached hereto as **Exhibit “A”** and incorporated herein by reference; and

WHEREAS, the Initial Study/Mitigated Negative Declaration concludes that implementation of the Project will not result in a significant effect on the environment because the mitigation measures described in the Initial Study/Mitigated Negative Declaration are included in the Project to reduce potential impacts to a less than significant level; and

WHEREAS, pursuant to CEQA Guidelines section 15072 and Public Resources Code sections 21091 and 21092, the Initial Study/Mitigated Negative Declaration was made available to the public on June 28, 2021 and August 23, 2021. Likewise, on June 25 and August 23, the District posted a Notice of Intent (“NOI”) on the District’s Build Peralta website and on the Berkeley City College’s website, as well as published the NOI in the

Oakland Tribune on June 25, 2021. The NOI and a hard copy of the Initial Study/Mitigated Negative Declaration was provided to the County Clerk for posting during the public review period, which commenced on August 23, 2021, and ran until September 22, 2021. A copy of the NOI is attached hereto as **Exhibit "B"** and incorporated herein by reference; and

WHEREAS, the Board has evaluated any comments received from the public or other interested agencies regarding the Initial Study/Mitigated Negative Declaration that were received by the District during the public review period; and

WHEREAS, the District held a properly noticed public hearing at the regular Board Meeting on October 12, 2021, to solicit public comments on the Initial Study/Mitigated Negative Declaration, during which the Board head, received, and considered all oral and written testimony and evidence that was made, presented, or filed, and all persons present at the meeting were given an opportunity to hear and be heard with respect to any matter related to the Initial Study/Mitigated Negative Declaration, Facts and Findings, proposed MMRP, and the Project; and

WHEREAS, in connection with the approval of a project involving an Initial Study/Mitigated Negative Declaration that identifies one or more potentially significant environmental effects, CEQA requires the decision making body of the lead agency to incorporate feasible mitigation measures that would reduce those potentially significant environmental effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid potentially significant effects on the environment, CEQA also requires a lead agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during project implementation. A copy of the Mitigation Monitoring and Reporting Program ("MMRP") for the Project, which defines the measures which would be imposed on the Project to mitigate or avoid potentially significant environmental impacts, is attached hereto as **Exhibit "C"** and incorporated herein by reference; and

WHEREAS, the Board has carefully reviewed and considered the final Initial Study/Mitigated Negative Declaration for the Project, which includes, without limitation, the draft Mitigated Negative Declaration, the Initial Study, comments from the public and interested agencies (if any), together with proposed mitigation measures, Mitigation Monitoring and Reporting Program for the Project, and all other relevant information contained in the administrative record for the Project, at its regularly scheduled Board Meeting on October 12, 2021; and

WHEREAS, based on the CEQA facts and findings, mitigation measures, and other findings set forth in this Resolution, and based on staff's recommendations, public and agency input, evidence received, and all other evidence in the administrative record, the Board desires to adopt the Initial Study/Mitigated Negative Declaration and the MMRP; and

WHEREAS, the Board further desires to approve the Project; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution and the approval of the Project have occurred.

NOW, THEREFORE, the Board of Trustees of the Peralta Community College District hereby finds, determines, declares, orders, and resolves as follows:

SECTION 1 – Recitals. That all of the recitals set forth above are true and correct and are incorporated herein by reference.

SECTION 2 – Compliance with CEQA. That the Board has, to its satisfaction, independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the administrative record and has considered the information contained therein prior to acting upon or approving the Project. Based on all evidence in the administrative record for the Project, the Board hereby makes the following specific findings:

- (1) Finding 1: The Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and the CEQA Guidelines.

Evidence: The relevant documents used in the preparation the Initial Study/Mitigated Negative Declaration are filed in the Project record. The Initial Study/Mitigated Negative Declaration was made available to the public in accordance with CEQA on June 28, 2021 and August 23, 2021. The District provided notice to the public through preparation of a Notice of Intent ("NOI"), which was published in the Oakland Tribune on June 25, 2021, as well as on the District's Build Peralta and Berkeley City College websites. The NOI and a hardcopy of the Initial Study/Mitigated Negative Declaration were provided to the County Clerk for posting. The public review period commenced August 23, 2021 through September 22, 2021.

- (2) Finding 2: The Initial Study/Mitigated Negative Declaration prepared for the Project contains a complete and accurate reporting of the environmental impacts associated with the Project.

Evidence: The Initial Study/Mitigated Negative Declaration describes the Project and evaluates potential environmental impacts of the Project across 20 environmental topics in accordance with the CEQA Guidelines.

- (3) Finding 3: The Board has considered the Initial Study/Mitigated Negative Declaration, together with all comments received during the public review process, and all other relevant information contained in the record for the Project.

Evidence: Public review of the Initial Study/Mitigated Negative Declaration was conducted from June 28, 2020 through July 28, 2020. Additionally, the District held a public hearing to solicit public comments on the Initial Study/Mitigated Negative Declaration and the proposed Project at its regular Board Meeting on October 12, 2021. At the October 12, 2021, Board Meeting, the Board considered all information provided in the Initial Study/Mitigated Negative Declaration and all other information in the administrative record, including public comments from the public and interested agencies, and District response to public comments, together with the proposed mitigation measures, CEQA findings, MMRP for the Project, and all other relevant information contained in the record for the Project.

- (4) Finding 4: The Initial Study/Mitigated Negative Declaration represents the independent judgment and analysis of the District as lead agency for the Project.

Evidence: The District, assisted by Rincon Consultants, Inc., a professional environmental consultant, prepared and circulated the Initial Study/Mitigated Negative Declaration. The District independently reviewed the Initial Study/Mitigated Negative Declaration, and exercised overall control and direction of the CEQA review process for the Project. The Board considered and reviewed the Initial Study/Mitigated Negative Declaration and considered all public comments and information received, prior to taking action on the Initial Study/Mitigated Negative Declaration. The Board, exercising its independent judgment and analysis, decided to adopt the Initial Study/Mitigated Negative Declaration.

- (5) Finding 5: The Project will not result in a significant effect upon the environment because the mitigation measures described in the MMRP have been added to the Project.

Evidence: After consideration of the Initial Study/Mitigated Negative Declaration, public comments received, MMRP, and other information in the record, the Board has found that the proposed mitigation measures will reduce potential effects to less than significant and that no new evidence has been presented to the Board to indicate that revisions to the proposed mitigation measures or the Project will reduce potentially significant effects to less than significant. The Initial Study/Mitigated Negative Declaration has not been substantially revised since public notice of its availability was provided, and no mitigation measures or Project revisions were added or required. In particular, the Board finds:

(a) ENVIRONMENTAL EFFECTS OF THE PROJECT THAT DO NOT REQUIRE FINDINGS

Environmental effects that the Initial Study/Mitigated Negative Declaration found to be Less Than Significant without mitigation do not require findings under CEQA. These effects include the following:

- Project Impacts on Recreation
- Project Impacts on Utilities and Service Systems
- Project Impacts on Agriculture and Forestry Resources
- Project Impacts on Greenhouse Gas Emissions
- Project Impacts on Land Use and Planning
- Project Impacts on Population and Housing
- Project Impacts on Transportation
- Project Impacts on Wildfire
- Project Impacts on Energy
- Project Impacts on Hazards and Hazardous Materials
- Project Impacts on Mineral Resources
- Project Impacts on Public Services

(b) ENVIRONMENTAL EFFECTS OF THE PROJECT THAT REQUIRE FINDINGS

The environmental effects that were found by the Initial Study/Mitigated Negative Declaration to be significant and/or potentially significant prior to the application of mitigation measures include the effects listed below. As required by CEQA, the Board must make findings with respect to each of these significant effects. The Board's findings, and the evidence in support of those findings, are detailed below:

The proposed project structure could conflict with the visual character of the urban context, and significantly impact visual resources, including historic context.

EFFECT: Replacement of the three-story, contemporary style office structure with a six-story educational structure with a rooftop patio and solar installation could significantly impact the City's Downtown visual resources, including historic context.

MITIGATION: Implementation of Mitigation Measure AES-1 identified in the Initial Study/Mitigated Negative Declaration would ensure proposed designs and plans conform to the form, massing, and style reinforce and enhance the built environment character of downtown Berkeley.

FINDING: Implementation of Mitigation Measure AES-1 identified in the Initial Study/Mitigated Negative Declaration would fully mitigate potentially significant impacts on visual character. (Initial Study pages 22-23).

The construction of a taller structure with more floors could impact lighting and glare.

EFFECT: The proposed project would construct a taller structure with more floors, which would incrementally increase the amount of nighttime light over existing conditions. Architectural design could potentially include glass windows that could result in transitory glare conditions during the day, or features that could reflect the sun in a way that is potentially significant.

MITIGATION: Mitigation Measures AES-2 and AES-3 identified in the Initial Study/Mitigated Negative Declaration specify that the design and plans shall be reviewed by District staff to ensure lighting standards be applied and non-reflective materials be used.

FINDING: Implementation of Mitigation Measures AES-2 and AES-3 would reduce impacts on lighting and glare to a less than significant level (Initial Study page 28).

The project would result in temporary construction emissions.

EFFECT: The project would not exceed BAAQMD short-term construction thresholds, but to control dust and exhaust during construction, the BAAQMD has also identified feasible fugitive dust control measures for construction activities in the CEQA Guidelines.

MITIGATION: Mitigation Measure AQ-1 identified in the Initial Study/Mitigated Negative Declaration would require compliance with BAAQMD Basic Construction Mitigation during the construction phase.

FINDING: Implementation of Mitigation Measure AQ-1 would reduce impacts on construction emissions to a less than significant level (Initial Study page 38).

Project design and construction could adversely impact bird nests and birds.

EFFECT: Project demolition and construction could adversely impact bird nests and birds in existing trees in or adjacent to the project site. Furthermore, the proposed

structure could potentially result in bird strikes depending on its ultimate design, and pose as a hazard to birds.

MITIGATION: Mitigation Measures BIO-1 and BIO-2 identified in the Initial Study/Mitigated Negative Declaration would ensure pre-construction nesting bird surveys be conducted, and that the project incorporate bird-safe design.

FINDING: Implementation of Mitigation Measures BIO-1 and BIO-2 would reduce impacts on birds to a less than significant level (Initial Study pages 44-45).

Project construction activities could uncover significant archaeological resources.

EFFECT: The project site has the potential for Holocene to historic period occupation, and the site's proximity to water and presence of prehistoric archaeological sites indicate the potential for surface or buried sites within the project site. Construction activities could result in unanticipated finds of archaeological resources.

MITIGATION: Mitigation Measures CUL-1, CUL-2 and CUL-3 identified in the Initial Study/Mitigated Negative Declaration would require an archaeological testing program, archaeological and Native American monitoring, and would provide instructions on encountering archaeological resources.

FINDING: Implementation of Mitigation Measures CUL-1, CUL-2 and CUL-3 would reduce impacts on archaeological resources to a less than significant level (Initial Study pages 52-54).

The project could directly or indirectly cause potential substantial adverse effects involving strong seismic ground shaking.

EFFECT: The project site is susceptible to strong seismic ground shaking in the event of a major earthquake.

MITIGATION: Mitigation Measure GEO-1 identified in the Initial Study/Mitigated Negative Declaration would ensure building design addresses seismic ground shaking by requiring a final geotechnical investigation.

FINDING: Implementation of Mitigation Measure GEO-1 would reduce impacts to seismic ground shaking to a less than significant level (Initial Study pages 65-66).

The project could result in substantial soil erosion or the loss of topsoil.

EFFECT: Temporary erosion could occur during project construction due to ground-disturbing activities, resulting in increased erosion and sediment transport by stormwater and wind.

MITIGATION: Mitigation Measure GEO-2 identified in the Initial Study/Mitigated Negative Declaration would require the implementation of an Erosion Control Plan for construction activities to minimize soil erosion.

FINDING: Implementation of Mitigation Measure GEO-2 would reduce impacts on soil erosion to a less than significant level (Initial Study pages 67-68).

The project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

EFFECT: Paleontological resources may be encountered during ground-disturbing activities, and may result in the destruction, damage, or loss of undiscovered scientifically important paleontological resources.

MITIGATION: Mitigation Measure GEO-3 identified in the Initial Study/Mitigated Negative Declaration would provide instructions on encountering paleontological resources.

FINDING: Implementation of Mitigation Measure GEO-3 would reduce impacts on paleontological resources to a less than significant level (Initial Study pages 68-69).

The project could generate substantial temporary noise and vibration during construction.

EFFECT: Project construction would involve the use of loud construction equipment that could adversely affect sensitive receivers and exceed Berkeley Municipal Code limits without implementation of noise reduction measures.

MITIGATION: Mitigation Measure NOI-1 identified in the Initial Study/Mitigated Negative Declaration would ensure construction noise occurs within reduced daytime hours and that noise levels would be reduced to the extent feasible. Mitigation NOI-2 would provide foundation pile noise and vibration reduction measures.

FINDING: Implementation of Mitigation Measures NOI-1 and NOI-2 would reduce impacts on construction-related noise and vibration to a less than significant level (Initial Study pages 106-107).

The project could cause a substantial adverse change in the significance of a tribal cultural resource.

EFFECT: There is the possibility of encountering undisturbed subsurface tribal cultural resources during construction, especially the grading phase.

MITIGATION: Mitigation Measure TCR-1 identified in the Initial Study/Mitigated Negative Declaration would provide instructions on encountering tribal cultural resources.

FINDING: Implementation of Mitigation Measure TCR-1 would reduce impacts on unidentified tribal cultural resources to a less than significant level (Initial Study page 122).

Section 3 - Location and Custodian of Records. The location and custodian of records with respect to all of the relevant documents and any other material which constitutes the administrative record for the Initial Study/Mitigated Negative Declaration are as follows:

Atheria Smith
Interim Vice Chancellor of General Services

Peralta Community College District
333 East Eighth
Street Oakland, CA
94606

The Initial Study/Mitigated Negative Declaration and MMRP are: (1) on file in at the District Office, located at 333 East Eighth Street, Oakland, CA 94607; and (2) available for inspection by any interested person.

Section 4 - Adoption of Initial Study/Mitigated Negative Declaration and MMRP.

That the Board hereby adopts the Initial Study/Mitigated Negative Declaration and the MMRP including all of the mitigation measures set forth in the MMRP.

Section 5- Approval of Project. The Board hereby approves the Project as identified and evaluated in the Initial Study/Mitigated Negative Declaration and authorizes the Interim Chancellor, or authorized designee, to take all steps necessary to proceed with the Project.

Section 6 - Notice of Determination. That the Board hereby directs District staff to file a Notice of Determination, attached hereto as **Exhibit "D"** within five (5) working days after the Board's adoption of the Initial Study/Mitigated Negative Declaration.

APPROVED, PASSED AND ADOPTED at a regular meeting of the Board of Trustees of the Peralta Community College District, City of Oakland, State of California, held on this 12th day of October 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

By: _____
**President, Board of Trustees
Peralta Community College District**

Attest:

**Secretary, Board of Trustees
of the Peralta Community College District**

