

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CERTIFYING THE WOZ WAY PROJECT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT AND MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT IMPACTS, MITIGATION MEASURES AND ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND A RELATED MITIGATION MONITORING AND REPORTING PROGRAM, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED**

**WHEREAS**, the proposed Woz Way Project includes: 1) a General Plan Amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram Designation from Public/Quasi-Public to Downtown on a 3.08-acre site; and 2) a Site Development Permit to allow the development of two twenty-story office towers with up to 1,226,600 square feet of office space and 10,107 square feet of retail space on 2.93 gross acres within the 3.08-acre site in the City in San José, California (collectively referred to herein as the “Project”); and

**WHEREAS**, approval of the Woz Way Project would constitute a Project under the provisions of the California Environmental Quality Act of 1970, together with related state and local implementation guidelines and policies promulgated thereunder, all as amended to date (collectively, "CEQA"); and

**WHEREAS**, the City of San José (“City”) prepared, completed, and adopted in accordance with CEQA the Final Program Environmental Impact Report for the Downtown Strategy 2040 (“Downtown Strategy FEIR”), which updated the Downtown Strategy 2000 Final Environmental Impact Report to be consistent with the Envision San José 2040 General Plan including an increase in the amount of new commercial office and residential development capacity and revised development phasing to extend the horizon (buildout) year to 2040; and

**WHEREAS**, in connection with the adoption of a resolution approving said Downtown Strategy 2040 Plan (Planning File No. PP15-102), the City Council adopted Resolution No. 78942 on December 18, 2018 setting forth certain findings pertaining to the Downtown Strategy FEIR and adopting a mitigation monitoring and reporting program, all pursuant to the provisions of CEQA; and

**WHEREAS**, the proposed Project was evaluated and analyzed under the Downtown Strategy FEIR and it was determined a supplemental environmental impact report to the Downtown Strategy FEIR was required as further explained in the initial study and Final Supplemental Environmental Impact Report, as defined below, for the Project; and

**WHEREAS**, the City of San José (“City”) acting as lead agency under the California Environmental Quality Act of 1970, together with State and local guidelines implementing said Act, all as amended to date (collectively “CEQA”), prepared the Draft Supplemental Environmental Impact Report (“DSEIR”) for the Woz Way Project (Planning File Nos. GP19-008 and H20-004); and

**WHEREAS**, a First Amendment to the DSEIR was prepared that included responses to comments received during the public comment period, which the City posted for public review on May 27, 2021; and

**WHEREAS**, the First Amendment and the DSEIR together comprise the Final Supplemental Environmental Impact Report (FSEIR) for the Project; and

**WHEREAS**, on June 9, 2021, the Planning Commission of the City of San José reviewed the FSEIR prepared for the Woz Way Project, and recommended to the City Council that it find the environmental clearance for the proposed Project was completed in accordance with the requirements of CEQA and further recommended the City Council adopt this Resolution; and

**WHEREAS**, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid 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, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of San José as lead agency for the Project (the “Mitigation Monitoring and Reporting Program”); and

**WHEREAS**, CEQA requires that, in connection with approval of a project for which an environmental impact report has been prepared that identifies one or more significant environmental effects of the project, the decision-making body of a public agency make certain findings regarding those effects and adopt avoidance measures to minimize impacts consistent with City policies and requirements and a statement of overriding considerations for any impact that may not be reduced to a less than significant level;

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

1. That the above recitals are true and correct; and
2. That the City Council does hereby find and certify that the FSEIR has been prepared and completed in compliance with CEQA; and
3. The City Council was presented with, and has independently reviewed and analyzed, the FSEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FSEIR and the Project, prior to acting upon or approving the Project, and has found that the FSEIR represents the independent judgment of the City of San José (“City”) as lead agency for the Project, and designated the Director of Planning, Building and Code Enforcement at the Director’s office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and record of proceedings on which the decision of the City is based; and
4. That the City Council does hereby find and recognize that the FSEIR contains additions, clarifications, modifications, and other information in its response to

comments on the Draft SEIR or obtained by the City after the Draft SEIR was issued and circulated for public review and does hereby find that such changes and additional information are not significant new information as that phrase is described under CEQA because such changes and additional information do not indicate that any of the following would result from approval and implementation of the Project: (i) any new significant environmental impact or substantially more severe environmental impact not already disclosed and evaluated in the Draft SEIR, (ii) any feasible mitigation measure considerably different from those analyzed in the Draft SEIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented, or (iii) any feasible alternative considerably different from those analyzed in the Draft SEIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented; and

5. That the City Council does hereby find and determine that recirculation of the FSEIR for further public review and comment is not warranted or required under the provisions of CEQA; and
6. The City Council does hereby make the following findings with respect to the significant effects of the environment of the Project, as identified in the FSEIR, with the understanding that all of the information in this Resolution is intended as a summary of the full administrative record supporting the FSEIR, which full administrative record should be consulted for the full details supporting these findings.

## **WOZ WAY PROJECT SIGNIFICANT ENVIRONMENTAL IMPACTS**

### **Air Quality**

**Impact:** **Impact AQ-2:** Construction of the Project would result in a cumulatively considerable net increase of a criteria pollutant (ROG and Nitrous Oxide), in exceedance of the BAAQMD thresholds, for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

**Mitigation:** **MM AQ-1:** Prior to issuance of any demolition, grading permits, and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit implement a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's Designee. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.



- For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, equipment shall meet U.S. EPA Tier 4 emission standards.
- If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment.
- Ensure that diesel engines, whether for off-road equipment or on-road vehicles, are not left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). Post legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling time limit.
- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.
- Utilize low-VOC paint (50 g/L or less).

The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in this mitigation measure. The plan shall include, but not be limited to the following:

- List of activities and estimated timing.
- Equipment that would be used for each activity.
- Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure.
- How the construction contractor will ensure that the measures listed are monitored.
- How the construction contractor will remedy any exceedance of the thresholds.

- How often and the method the construction contractor will use to report compliance with this mitigation measure.

The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest).

**Finding:** With the implementation of Mitigation Measure MM AQ-1, construction-related air quality impacts to nearby sensitive receptors will be reduced to a less than significant level. **(Less Than Significant with Mitigation Incorporated)**

**Facts in Support of Finding:** As discussed in Section 4.3 of the Initial Study and the Air Quality and Health Risk Assessment (SEIR Appendix F), Project construction activities were analyzed with the assumption of Tier 4 interim equipment usage. With the implementation of mitigation MM AQ-1 and best practices required as standard conditions, the computed maximum increased lifetime residential cancer risk from construction, assuming infant exposure, would be 6.2 in one million or less, the maximum annual PM2.5 concentrations would be 0.019 µg/m<sup>3</sup>, and the acute and chronic Hazard Index would be lowered to 0.004 and 0.08. These levels are all below thresholds of significance, which are 10 in one million for residential cancer risk, 0.3 ug/m<sup>3</sup> for the maximum annual PM2.5 concentrations, and 1.0 for the acute and chronic hazard, for community risk exposure established by the Bay Area Air Quality Management District (BAAQMD) of. As a result, impacts would be reduced to less-than-significant with respect to community risk caused by construction activities.

### **Biological Resources**

**Impact:** **Impact BIO-1:** Project impacts on special status bats from future ground disturbances during on-site construction activities.

**Mitigation:** **MM BIO-1:** Mitigation measures that protect bat species from possible direct mortality are warranted. The project applicant shall implement the following measures to ensure that mortality to special status bats from future ground disturbances is avoided:

- A detailed bat survey shall be conducted by a qualified bat biologist within 14 days of building demolition to determine if bats are roosting or breeding in the buildings or trees of the disturbance footprint of the project. These surveys shall include a visual inspection of potential roosting features and a search for presence of guano within the project

site, planned construction access routes, and 50 feet around these areas. Cavities, crevices, exfoliating bark, and bark fissures that could provide suitable potential nest or roost habitat for bats shall be surveyed. If daytime surveys are inconclusive, night emergence surveys shall be employed until the qualified bat biologist can conclude presence or absence for bats. Potential roosting features found during the survey shall be flagged or marked.

- If no bats are roosting or breeding in these structures within 14 days of site demolition, then a letter report shall be prepared by the biologist and submitted to the Director of Planning, Building and Code Enforcement or Director's designee. No further action would be required, and demolition can proceed.
- If bats are found roosting outside of the nursery season (March 1 through August 31, inclusive), the qualified bat biologist shall create a bat eviction plan that ensures the safety of roosting bats and safely evicts the bats from demolition area during the appropriate time period (e.g., not when flightless young are present). The bat eviction plan shall include details for excluding bats from the roost site and monitoring to ensure that all bats have exited the roost prior to the start of activity and are unable to re-enter the roost until activity is completed. Any bat eviction shall be timed to avoid lactation and young-rearing. If bats are found roosting during the nursery season, they shall be monitored by a qualified biologist to determine if the roost site is a maternal roost. This could occur by either visual inspection of the roost bat pups, if possible, or by monitoring the roost after the adults leave for the night to listen for bat pups. Because bat pups cannot leave the roost until they are mature enough, eviction of a maternal roost cannot occur during the nursery season. Therefore, if a maternal roost is present, a 50-foot buffer zone shall be established around the roosting site within which no construction activities including tree removal or structure disturbance shall occur until after the nursery season.

The project applicant shall submit evidence of completion of habitat assessment and results to the Director of Planning, Building and Code Enforcement or Director's designee prior to issuance of a grading permit. Should a bat eviction plan be necessary, a copy of the bat eviction plan shall also be submitted to the Director or Director's designee for approval and comment prior to implementation.

**Finding:** Implementation of Mitigation Measure MM BIO-1 would reduce impacts to special status bird species to a less than significant level. **(Less Than Significant with Mitigation Incorporated)**

**Facts in Support of Finding:** Based on the analysis in the SEIR, the Project would have potentially significant impacts to special status bat species because sensitive bat species could utilize the site for foraging, roosting, and/or breeding habitat. Conducting pre-construction bat surveys for absence/presence and implementing a detailed series of performance-based avoidance strategies if they are present – identification of roosting or breeding activity, construction buffers, eviction plan prior to construction – will ensure that special species bat populations would not be adversely affected by the project. Compliance with Mitigation Measure MM BIO-1 will avoid impacts to protected bat species.

**Impact:** **Impact BIO-2:** Project would have an adverse impacts on the adjacent riparian corridor and birds utilizing the riparian corridor from potential loss of riparian habitat and/or collision with buildings.

**Mitigation:** **MM BIO-2:** To ensure non-native invasive plants do not move into the riparian corridor as a result of the proposed Project, the project applicant shall ensure that all landscaping within 100 feet of the riparian edge is comprised of locally native species. Species shall not be featured on the California Invasive Plant Council's Invasive Plant Inventory ([www.cal-ipc.org/ip/nventory](http://www.cal-ipc.org/ip/nventory)).

- To ensure any irrigation associated with the Project does not adversely impact the riparian corridor, the Project applicant shall ensure that all irrigation systems installed within 100 feet of the riparian corridor habitat shall be designed so that there is no impact to riparian habitat (i.e., no erosion or over-spray into the riparian habitat. Specifically, irrigation systems within 100 feet of the riparian corridor, as defined in this SEIR, shall be designed to result in no erosion or over-spray into the riparian habitat. These irrigation systems shall be detailed in a site-specific habitat mitigation and monitoring plan (HMMP), which must be submitted to the Director of Planning, Building and Code Enforcement, or Director's designee, for approval prior to issuance of any grading permits.
- To reduce the potential indirect impact of the buildings' presence on wildlife and to provide cover habitat and limited screening of the riparian corridor from the proposed office towers, the Project shall install native tree and large shrub plantings in the available space between the buildings and the riparian edge. This is deemed suitable for riparian birds, since planting of large shrubs and trees is regarded as the most effective method to enhance bird species richness and diversity. Areas located immediately west of the two towers, between the planned development and the riparian habitats, with a combined area of 4,470

square feet (2,560 sq. ft. and 1,910 sq. ft., respectively) shall be planted with suitable native trees and shrubs. To ensure that a suitable native habitat enhancement planting is achieved, the applicant shall develop a site-specific habitat mitigation and monitoring plan (HMMP) prepared by a qualified biologist and submitted to the Director of Planning, Building and Code Enforcement, or Director's designee, for approval prior to issuance of any grading permits. The HMMP is used to guide the on-site habitat restoration process, and shall include, at a minimum, the following elements:

- A planting plan that lists the native trees and large shrubs that shall be included in the habitat restoration effort and which describes the site preparation requirements and irrigation requirements for the restoration area. The planting palette shall include primarily trees large shrubs. Trees shall include species such as, but not limited to, big-leaf maple (*Acer macrophyllum*), box elder (*A. negundo*), California buckeye (*Aesculus californica*), coast live oak, and valley oak. Shrubs in the plant list shall be comprised of species such as, but not limited to, blueblossom ceanothus (*Ceanothus thyrsiflorus*), coffeeberry (*Frangula californica*), and toyon (*Heteromeles arbutifolia*). Species to be used shall be consistent with the City's Riparian Corridor Policy Study and the Santa Clara Valley Water District's (SCVWD's) Guidelines and Standards for Land Use Near Streams, which includes but is not limited to using seeds and propagules collected from within the Guadalupe River watershed.
- Trees shall be large format trees (e.g., 36-inch box trees or larger) at the time of installation. These large trees are preferred in this instance to jump start the visual buffer between the buildings and the riparian habitat following completion of project development.
- The plan shall identify species within the buffer area that shall not be allowed to persist, such as species listed as having a high ecological impact on the California Invasive Plant Council's Invasive Plant Inventory. Specifically, any tree-of-heaven propagules shall be eradicated as part of the mitigation effort.
- A map defining the habitat restoration area which shall include planned locations for the plantings.
- Monitoring shall occur once annually starting after the first growing season following installation of the plantings for a total of 5 monitoring years. Monitoring shall be conducted by a qualified biologist and shall focus on the health and development of the individual plantings. Target success goals shall include survivorship of trees and shrubs at 80% after 5 years with generally good to

excellent health (as determined by the monitoring biologist).

- Measures shall be included to account for failure to meet the success criteria, including replanting with additional years of monitoring, and adaptive management measures to minimize potential barriers to success.
- An irrigation plan and seasonal guidelines for watering.
- The HMMP shall also include a detailed plan for implementation of maintenance, including irrigation monitoring, plant health monitoring, vandalism prevention, and weed management. The maintenance plan shall specify restrictions on uses of pesticides and fertilizers that are considered unsafe near natural aquatic habitats.
- The HMMP shall be implemented immediately following completion of construction during the suitable installation period (typically November to April).

**Finding:** Implementation of Mitigation Measure MM BIO-2 would reduce impacts to the adjacent riparian corridor and avian habitat to a less than significant level. **(Less Than Significant with Mitigation Incorporated)**

**Facts in Support of Finding:** As analyzed in the SEIR, site development could cast higher levels of lighting into the creek habitat than current conditions, discouraging foraging of nocturnal animals, nesting of migratory birds, and creating unsafe conditions for animals. Further, landscaping near the riparian corridors could include invasive species that may result in such plants moving into the riparian corridors. These invasive species would cause adverse impacts to the plant communities up and downstream of the site. Landscaping could also include irrigation and chemical inputs (e.g. pesticides and fertilizers) that could negatively impact the riparian environment. The detailed mitigation strategy outlined in MM BIO-2 avoids impacts to the riparian corridor and bird species utilizing the riparian corridor. The mitigation measures require the planting of native species, designing irrigation systems to limit overspray and/or erosion, implementing a habitat mitigation plan with specific performance standards and reporting requirements, and a planting plan that includes larger tree specimens that would re-establish and potentially enhance avian habitat values both on- and off-site. The risk of bird strike is further mitigated through project design with the incorporation of green building measures such as treated “bird friendly” window glass and materials. The planting and irrigation plans, restrictions on pesticides and fertilizers, monitoring efforts and management practices specified in mitigation measure MM BIO-2 serve to protect and maintain the habitat values of the adjacent riparian corridor.

**Impact:** **Impact BIO-3:** Project impacts on habitat in the riparian corridor.

**Mitigation:** **MM BIO-1 and MM BIO-2 (see above).** Same findings and supporting facts apply.

**Impact:** **Impact BIO-4:** The Project would impact nesting birds through tree removals.

**Mitigation:** **MM BIO-3:**

- **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), as amended.
- **Nesting Bird Surveys:** If it is not possible to schedule demolition and construction between August 16<sup>th</sup> and January 31<sup>st</sup> (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 1<sup>st</sup> through April 30<sup>th</sup> inclusive) and no more than 30 days prior to the initiation of these activities during the late part of breeding season (May 1<sup>st</sup> through August 15<sup>th</sup> inclusive). During this survey the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.
- **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. The no-disturbance shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be
- **Reporting:** Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of any grading or building permits.

**Finding:** Implementation of Mitigation Measure MM BIO-3 would reduce impacts to nesting birds, raptors, and other migratory birds to a less than significant level. **(Less Than Significant with Mitigation Incorporated)**

**Facts in Support of Finding:** Seasonal avoidance when feasible is an extremely effective mitigation measure and preferred strategy. Regardless of season, conducting pre-construction surveys and implementing a construction-free buffer zone around any migratory bird nests will also ensure that raptor or migratory bird nests are not disturbed during Project construction, under the Migratory Bird Treaty Act and California Fish and Game Code. The size of the buffer zones will be determined by consultation between the qualified ornithologist and the CDFW and based on scientific evidence and best management practices. Compliance with these measures would be confirmed through documentation and reporting requirements. Compliance with Mitigation Measure MM BIO-3 will therefore avoid impacts to nesting birds.

### **Cultural Resources**

**Impact:** **Impact CUL-1:** Project would demolish structures located in a Candidate City Landmark District.

**Mitigation:** **MM CUL-1:** Prior to issuance of any grading, demolition, or building permits or any other approval that would allow disturbance of the Project site, the Project applicant shall prepare and submit, to the satisfaction of the Director of Planning or Director's designee evidence that the following actions have been satisfied.

Documentation: The six structures comprising the Candidate City Landmark District shall be documented in accordance with the guidelines established for the Level III Historic American Building Survey (HABS) consistent with the Secretary of the Interior's Standards for Architectural and Engineering Documentation and shall consist of the following components:

- Drawings – Prepare sketch floor plans.
- Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years.
- Written Data – HABS written documentation in short form.

An architectural historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the



sketch plans, photographs and written data. The Department of Parks and Recreation 523 forms prepared for the Project (included in Appendix G of the SEIR) can be used to fulfill the requirements for the written data report. The required documentation shall be filed with the San José Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper and must first be reviewed and approved by the Director of Planning, Building and Code Enforcement or Director's Designee. Additional copies shall be made available to other local research institutions, as requested, including History San José, and a copy with the City's Planning Division. Documents shall cover the entire Candidate City Landmark District, along with associated features, spaces, and landscaping.

Relocation by the Applicant and/or a Third Party: Prior to issuance of any demolition permits, the Project applicant, or an interested third party, shall be required to advertise the availability of the structures for relocation for a period of no less than 60 days. The advertisements must include notification in a newspaper of general circulation, on a website, and notice placed on the project site. The Project applicant shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the Director of Planning, Building and Code Enforcement or Director's Designee that this condition has been met prior to the issuance of demolition permits.

If the Project applicant or third party agrees to relocate the structure(s), the following measures must be followed:

1. The Director of Planning, Building, and Code Enforcement, or Director's designee must determine that the receiver site is suitable for the building(s).
2. Prior to relocation, the Project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study that establishes the baseline condition of the building(s) prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or Director's designee prior to the structure being moved. Documentation already completed shall be used to the extent possible to avoid repetition in work.

3. To protect the building(s) during relocation, the Project applicant or third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine if the building(s) needs to be reinforced/stabilized before the move.

4. Once moved, the building(s) shall be repaired and restored, as needed, by the Project applicant or third party in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long-term preservation of these features.

Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure(s) were completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and that all character-defining features were preserved. The Project applicant shall submit a memo report to the Director of Planning, Building and Code Enforcement or Director's designee documenting the relocation.

Salvage: If the project applicant and/or no third party agrees to relocate the structures, the structures shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the City's Historic Preservation Officer. The project applicant must provide evidence to the City's Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits.

Commemoration: The historic structures and associated features on the project site within the Candidate City Landmark District, shall be commemorated and curated to include:

- Physical remnants from the site
- Oral histories
- Research
- Historic photographs
- Historic maps
- Historic displays
- Historic Marker consistent with the City's Marker Program for history

The Project applicant shall submit an Action Plan to the Director of Planning, Building and Code Enforcement or Director's designee, proposing how the Candidate City Landmark District will be commemorated. The proposal will be reviewed and approved by the Director of Planning, Building and Code Enforcement or Director's designee. Following completion of the action, the Project applicant shall submit a memo report documenting the commemoration.

**Finding:** Implementation of mitigation measure MM CUL-1 is designed to specifically address the site as a Candidate City Landmark District. Level III Historic American Building Survey (HABS) documentation and commemorative efforts would provide a permanently recorded physical record of the six structures comprising the candidate District. Opportunities for relocation could result in physical preservation of individual structures; however, relocation is dependent upon several unknown factors and therefore not assured. Salvage opportunities could assist with the contextual restoration of other sites but would not mitigate the project. For these reasons, project implementation would result in significant and unavoidable effects upon this candidate District regardless of full application of mitigation measures.  
**(Significant and Unavoidable Impact)**

**Facts in Support of Finding:** An Historic Resources Technical Report was prepared by MacRostie Historic Advisors (January 2020, SEIR Appendix G). The City of San José's interpretation of that study concluded that six of the individual properties evaluated are considered contributors to a Candidate City Landmark District, while none of the buildings on the Project site are considered eligible for City Landmark designation individually.

The historic assessment concluded that none of the buildings on the Project site are eligible for listing in the National Register of Historic Places (NRHP), California Register of Historic Resources (CRHR), and City Landmark Designation Criteria. MacRostie Historic Advisors and the City of San José maintain a difference in expert opinion on the eligibility of 515 Vine Street, 527 Vine Street, 533 Vine Street, 541 Vine Street, 547 Vine Street and 553 Vine Street. The City of San José concluded that the subject properties are contributors to a Candidate City Landmark District. The City of San José concluded that the subject properties provide a harmonious, familiar streetscape appearance which provides a historical connection to downtown San José's past as a residential subdivision. The grouping of houses visually relates the early residential development in San José with the history of architectural styles. The properties exhibit commonalities and variations which illustrate the evolution of historic architecture in this period of rapid residential and suburban growth in San José and the early

formation of areas into neighborhoods. Based on Sanborn maps they are the first homes in this subdivision and appear to be the historical equivalent of today's "model homes." The subject properties remain unified in architectural styles and characteristic of the early twentieth century residential development period in San José. The houses vary and have distinct features and forms in both the Neoclassical Cottage architectural style, popular in San José in the 1905 to 1910 period and the Craftsman style popular in San José in the 1908 to 1929 period (refer to style guides in YOUR OLD HOUSE, and local context statements). The houses exhibit a high quality of design and attention to detail. Information about the original designers and builders is unknown at this time, but the careful attention to detail and craftsmanship along with their uniformity along the streetscape, indicates the builders and/or designers put care into the construction. The grouping of houses exhibits interesting variations on a theme, with consistency in key forms and features that makes each building eligible as a contributor to a City Landmark Historic District.

Consistent with Section 15064(g) of the CEQA Guidelines, if there is disagreement among expert opinion supported by the facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR. Preparation of the SEIR satisfies this requirement. Based on the Lead Agency's standard of review, the resulting effect of project implementation is significant and unavoidable.

**Impact:** **Cumulative Impact CUL-1:** Project construction would result in a cumulatively considerable contribution to the Downtown Strategy's previously identified significant impacts to historic resources.

**Mitigation:** **MM CUL-1 (see above).** Same findings and supporting facts apply.

### **Noise and Vibration**

**Impact:** **Impact NOI-1:** Project impact on noise levels from generation of temporary increase in ambient noise levels in the vicinity of the project. Construction noise levels would potentially exceed 5 dBA above ambient noise levels and exceed 60 dBA for more than 12 months.

**Mitigation:** **MM NOI-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. As a part of the noise logistic plan and project, construction activities for the proposed project shall include, but is not limited to, the following best management practices:

- In accordance with Policy EC-1.7 of the City's General Plan, utilize the best available noise suppression devices and techniques during construction activities.
- Construction activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m., 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).
- Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line of sight between the noise source and receiver and if the barrier is 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.

- Pile-driving is prohibited.
- 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 existing residences 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.

**MM NOI-2:** Prior to the issuance of any development permits, the project applicant shall prepare a noise logistic plan that includes measures to reduce noise from construction occurring outside of the allowable hours of 7:00 a.m. to 7:00 p.m., Monday through Friday within 500 feet of existing residential land uses including concrete pouring during nighttime hours. The noise logistic plan shall be submitted to the Director of Planning Building and Code Enforcement or Director's designee prior to the issuance of any grading permits. The following measures would reduce nighttime noise impacts at nearby noise-sensitive residences and shall be included in the noise logistics plan:

- Limit the active equipment to as few pieces of equipment as possible.

- To the extent consistent with applicable regulations and safety considerations, operation of back-up beepers shall be avoided near sensitive receptors during nighttime hours, and/or the work sites shall be arranged in a way that avoids the need for any reverse motions of trucks or the sounding of any reverse motion alarms during nighttime work. If these measures are not feasible, equipment and trucks operating during the nighttime hours with reverse motion alarms must be outfitted with SAE J994 Class D alarms (ambient-adjusting, or “smart alarms” that automatically adjust the alarm to 5 dBA above the ambient near the operating equipment).
- Limit nighttime concrete pouring to the northern location or a minimum distance of 270 feet from the sensitive receptor, where feasible. Restrict concrete trucks and pumps along Almaden Boulevard near sensitive receptor during all nighttime activities. Nighttime concrete trucks located closer than 270 feet shall install a temporary barrier with a minimum height of eight feet around the property line of the adjacent residence.
- If nighttime construction noise continues to result in excessive disruption to nearby neighbors, implement a construction noise monitoring plan, which includes a provision for noise monitoring at the nearby receptors to confirm that nighttime construction noise levels meet nighttime noise level thresholds at the adjoining single-family residential. Construction monitoring shall occur for the first two days of construction for period of nighttime construction work to demonstrate that the nighttime construction activities are compliant with the construction noise level thresholds (68 dBA Leq exterior noise level at the adjacent residence). These thresholds are based on existing ambient conditions. Additional noise monitoring shall be completed on a more frequent basis if needed, in response to complaints. In the event of noise complaints, the Project applicant will provide information to the Director of Planning, Building and Code Enforcement or Director’s designee within 48 hours of being notified of the complaint, regarding the noise levels measured and activities that correspond to the complaints, as well as the proposed changes at the site to reduce the noise levels to below the thresholds.
- Sensitive receptors identified by the noise-monitoring with the potential to be exposed to nighttime construction noise levels exceeding 68 dBA Leq at the adjacent residence shall be provided with vouchers for alternate accommodations for the duration of the nighttime construction.
- Residences or other noise-sensitive land uses within 500 feet of construction sites should be notified of the nighttime construction schedule, in writing, prior to the beginning of construction. This notification shall specify the dates for all nighttime construction.

Designate a “construction liaison” that would be responsible for responding to any local complaints about nighttime construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site.

**Finding:** With implementation of the noise mitigation measures and standard conditions of approval, construction noise impacts would be reduced to a less than significant level. Based on City impact thresholds, construction noise would therefore be less than significant at the closest receptors with implementation of mitigation. **(Less than Significant with Mitigation Incorporated)**

**Facts in Support of Finding:** Per General Plan Policy EC-1.7, a Project would result in a significant construction noise impact if the Project is located within 500 feet of residential uses or 200 feet of commercial or office uses and would involve substantial noise generating activities (such as grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. The highest anticipated construction noise level for the adjoining residential uses are jack hammers during demolition phase and cranes during the building construction phase. The majority of the construction does not occur near the sensitive receptor and instead would occur at least 50 feet away where noise levels would attenuate to 88 dBA. The phases with substantial noise generating activities (demolition, site preparation, excavation, grading, and paving) would last longer than 11 months but would not last more than 12 months.

As discussed in Section 3.3 of the SEIR and the supporting Noise and Vibration Assessment prepared for the Project (Appendix I), the Project would be constructed over approximately 31 months, with the more substantial noise occurring longer than 11 months but not more than 12 months. As evidenced by the noise assessment, construction noise is generated by similar types of equipment, and noise levels are highly predictable at given distances. Based on these predictions of construction noise levels, mitigation measures NOI-1 and NOI-2 require a logistics plan designed to minimize the degree and duration of noise sources. Hours of operation, duration of construction and related activity, noise barriers, equipment location and maintenance, prohibition of pile driving and similar measures – combined with standard City conditions – would effectively mitigate temporary noise levels at the nearest residential uses consistent with adopted thresholds.



**Impact:** **Impact NOI-2:** Project impact on vibration levels from generation of excessive groundborne vibration. Project construction activities could reach levels of 0.523 in/sec PPV which would exceed the 0.08 in/sec PPV threshold.

**Mitigation:** **MM NOI-3:** Prior to the issuance of any grading permits, the Project applicant shall provide a Vibration Management Plan or other evidence acceptable to the City of San José that demonstrates that vibration control of demolition and construction activities shall be implemented wherever possible. The Project applicant shall prepare a list of all high vibratory equipment to be used and shall submit the list to the City's Director of Planning, Building and Code Enforcement or Director's Designee for review and approval. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and shall identify methodologies and tasks to effort require for continuous vibration monitoring. This includes performing high-vibration activities during the middle of the day and spaced as far apart as possible to avoid multiple high-vibration activities at once. Vehicle routes should avoid sensitive receptor area as much as possible. Pile-driving is prohibited.

**MM NOI-4:** Prior to issuance of any demolition or grading permits, the project applicant shall prepare and implement a Construction Vibration Monitoring, Treatment, and Reporting Plan to document conditions at the adjacent historic sensitive receptor prior to, during, and after vibration generating construction activities. The project applicant shall submit the Plan to the City's Director of Planning, Building and Code Enforcement or Director's Designee prior to issuance of any demolition or grading permits for review and approval. All plan tasks shall be conducted under the direction of a Professional Structural Engineer licensed in the State of California and be in accordance with industry accepted standard methods. The Plan shall include, but is not limited to, the following:

- A photo survey, elevation survey, and crack monitoring survey for the historic residence. 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. Frequency of intervals shall be recommended by the Professional Structural Engineer and shall be approved by the City.
- A contingency section or 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 further document before and after construction period. Construction contingencies would be identified for when vibration levels approach the limits.

- If vibration levels approach limits (0.08 in/sec PPV), 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 City's Director of Planning, Building and Code Enforcement or Director's Designee and the Historic Preservation Officer 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 on the construction site.

**Finding:** With implementation of the proposed mitigation measures MM NOI-3 and MM NOI-4, the Project would have a less than significant vibration impact on the adjacent uses and structures, including contributors to the Candidate City Landmark District. **(Less Than Significant Impact with Mitigation Incorporated)**

**Facts in Support of Finding:** Per Section 3.3 of the SEIR and the supporting Noise and Vibration Assessment (Appendix I), the nearest structure to the Project construction zone is within 5 feet. At this distance, Project construction activities could reach levels of 0.523 in/sec PPV which would exceed the 0.08 in/sec PPV threshold of significance for potential impacts to historic buildings in General Plan Policy EC-2.3. Groundborne vibration decreases rapidly with distance. Other buildings within the vicinity are calculated to be below the City's conventional vibration limit of 0.2 in/sec PPV. The implementation of the mitigation measures MM NOI-3 and NOI-4, including

implementation of a construction management plan would reduce a potential impact to a less-than-significant level. These measures are designed to manage the timing and use of equipment, provide continuous monitoring of vibration levels, prohibit pile driving, provide a treatment and response plan with performance standards, and provide for survey of structures and repairs if warranted. These measures provide for adequate contingencies for the effects of groundborne vibration.

### **Cumulative Impacts**

Please see findings for Impact AQ-2 and CUL-1 above. All related findings and supporting facts apply to cumulative effects.

## **FINDINGS CONSIDERING ALTERNATIVES**

In order to comply with the purposes of CEQA, it is important to identify alternatives that reduce the significant impacts that are anticipated to occur if the Project is implemented and to try to meet as many of the Project's objectives as possible. The CEQA Guidelines emphasize a common sense approach -- the alternatives should be reasonable, should "foster informed decision making and public participation," and should focus on alternatives that avoid or substantially lessen the significant impacts.

The alternatives analyzed in the FSEIR were developed with the goal of being at least potentially feasible, given Project objectives and site constraints, while avoiding or reducing the Project's identified environmental effects. The following are evaluated as alternatives to the proposed Project:

1. No Project – No Development Alternative
2. 100-Foot Setback Alternative
3. Historic District Relocation Alternative

### **1. No Project-No Development Alternative**

**A. Description of Alternative:** The No Project – No Development Alternative would retain the existing single-family residential units. The No Project – No Development Alternative would retain the current General Plan land use designation, existing buildings, and continue the current operations. The Project office and retail towers would not be built.

- B. Comparison of Environmental Impacts:** The No Project – No Development Alternative will avoid all the new environmental impacts identified in the SEIR.
- C. Finding:** Implementation of the “No Project” No Development alternative would avoid the significant impacts identified in this SEIR. The “No Project” alternative would, however, allow for new development to be proposed on the Project site consistent with the Envision San José 2040 General Plan and the Downtown Strategy 2040 Plan goals, which considered that the Project site could be developed with Public/Quasi-Public uses including schools, colleges, corporation yards, homeless shelters, supportive housing for the homeless, libraries, fire stations, water treatment facilities, convention centers and auditoriums, and museums. Any proposed development on the Project site under the “No Project” alternative would be subject to separate environmental review and could result in different significant impacts. Development allowed under the “No Project” alternative would not, however, meet any of the Project objectives. Therefore, this alternative is rejected.

## **2. 100-Foot Setback Alternative**

- A. Description of Alternative:** This alternative considers restricting development within 100-feet of the riparian edge. Under this alternative, the Project would be designed to observe a 100-foot setback from the riparian corridor top of bank. This alternative would propose two office towers of the same height and uses as the Project, but would have a reduced size (i.e. smaller floor plates resulting in less office space and less retail space). Two access points (Woz Way and Almaden Boulevard) are needed for the Project site to ensure users are not unsafely congested at one access driveway, or the surrounding off-site intersections.
- B. Comparison of Environmental Impacts:** Observing a 100-foot setback of the riparian would require relocation of the planned access driveway along Woz Way to be further east than the current placement. With the understanding that the Woz Way driveway cannot be fully eliminated and would need to be redesigned further east (i.e. closer to the Woz Way/Almaden Boulevard intersection), the only possible configuration would be to place it where the Project’s north tower is planned. This would require further reductions to the building size, and potentially unsafe circulation conditions when considering the nearby intersection and the Woz Way access driveway to the proposed Almaden Office project immediately north of the Project site.

Compared to the Project, this alternative would not avoid any significant unavoidable impacts. This alternative would still result in significant unavoidable impacts to cultural resources due to the demolition of a Candidate City Landmark District. Like the Project, this alternative would have a potentially significant impact to the Guadalupe River riparian corridor, but mitigation measures would reduce

this potential effect to a less than significant level. Further, the Santa Clara Valley Habitat Agency reviewed the exception request to reduce the riparian setbacks to 35-feet. The Habitat Agency approved the exception because site-specific conditions for the Project, including the presence of existing legal development within the setback, combined with Project design features, warrant a conclusion that observing a 35-foot setback of the riparian corridor is sufficient to minimize impacts to the riparian environment. The riparian habitat is highly modified. As concluded in the Biological Technical Report and SEIR, the adjacent reach of riparian habitat of the Guadalupe River is highly disturbed by human inputs. The edge of the low-flow channel is armored with gabions, and weedy introduced plant species occur along the lower banks. The bank of the river includes terraced plantings within concrete and paver stone planter areas. Accordingly, this alternative would have little biological benefit because the riparian corridor adjacent to the project site is a highly degraded riparian corridor of the Guadalupe River.

- C. Finding:** This alternative may result in unsafe circulation conditions, would have minimal environmental or biological benefit and would not meet Project Objectives described below due to the reduced floor plates for the proposed office development.

This alternative would not meet the following Project objectives:

- Objective 1: Provide a development that implements the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan by locating high-density development on infill sites in downtown San José to foster transit use and improving the efficiency of urban services.
- Objective 2: Provide a development that offers large office space within the downtown core, strengthening downtown as a regional job destination.
- Objective 5: Provide an office development that meets the needs of high-tech and/or biomedical tenants, as these industries have a high demand for office space and these industries provide good paying jobs.
- Objective 6: Provide adequate parking and vehicular access, compatible with a high-quality office campus environment, that meet the needs of future employees, while encouraging the use of transit, bicycle, and other alternative modes of transportation.
- Objective 12: Create an enhanced interface with the Guadalupe River Park to enhance opportunities for pedestrian and bicycle mobility and connectivity in and around Downtown.

Because this alternative would not meet the objectives listed above, it was rejected.

### **3. Historic District Relocation Alternative**

- A. Description of Alternative:** Under this alternative, the Project would relocate five of the six contributing structures of the Candidate City Landmark District from the Project site to a single receiver site that would maintain their spacial relationships to one another. Only five of the six homes would be relocated because the sixth structure (541 Vine Street, APN 264-31-042) is not under the project applicant's ownership. However, should the sixth structure (541 Vine Street, APN 264-31-042) come under ownership of the project applicant, all the contributing structures that comprise the Candidate City Landmark District would be relocated from the Project site to a single receiver site. Following the relocation of the contributing the structures to a receiver site, the Project site would be developed with the same development as the proposed Project.
- B. Comparison of Environmental Impacts:** As the site would be developed as proposed by the Project, all impacts of the Project, apart from the impact to historical resources, would be the same as the Project. The Relocation Analysis conducted for the Project found that the buildings that contribute to the Candidate Landmark District, if moved, could continue to convey integrity of design through the hipped and front facing gable roofs and elevated porches. As stated in the Relocation Analysis of the Draft SEIR on page 178, the Candidate City Landmark District contributors, if moved, would lose integrity of location and setting. However, the receiver site would otherwise be an appropriate location for retaining some historic significance of the relocated Candidate City Landmark.
- C. Finding:** Despite retaining some historic significance, the relocation alternative would not avoid the significant and unavoidable impact to the Candidate City Landmark District. While relocating the district as a whole would minimize the effects of the Project, by allowing the relocated district to retain some historic significance, it would still result in the removal of the historical resource from the Project site. This would not reduce or otherwise mitigate the impact of the project and would still produce a significant and unavoidable impact due to demolition of a Candidate City Landmark District.

This alternative would not meet the Project objectives focused on infill and commercial development within the downtown core because the relocated single-family homes would occupy a site that could otherwise be entitled for denser infill development. Specifically, this alternative would not meet the following Project Objectives:

- Objective 1: Provide a development that implements the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan by locating high-density development on infill sites in downtown San José to foster transit use and improving the efficiency of urban services.
- Objective 2: Provide a development that offers large office space within the downtown core, strengthening downtown as a regional job destination.
- Objective 3: Maximize use of an infill site by providing retail and offices in an area served by various modes of public transportation; thereby reducing vehicle miles traveled and lowering overall greenhouse gas emissions.
- Objective 6: Provide adequate parking and vehicular access, compatible with a high-quality office campus environment, that meet the needs of future employees, while encouraging the use of transit, bicycle, and other alternative modes of transportation.
- Objective 10: Revitalize this downtown gateway location with a strong and complementary office development that promotes economic, community and visitor activity thereby improving connections and utilization of the adjacent Guadalupe River Park.
- Objective 11: Create an innovative, active, and connected work and gathering place with vitality in design that integrates and encourages walking and cycling and that is compatible with, and complementary to, recent well-designed projects adjacent to the Project site.
- Objective 13: Create a new development that provides positive economic and fiscal benefits to the City of San José, local school districts, Santa Clara County, and the region as a whole.
- Objective 14: Create an active, inviting, safe and comfortable place for people to work downtown, proximate to and commensurate with the City's plans for expanding Diridon Station.

Because this alternative would not meet the objectives listed above, it was rejected.

### **Environmentally Superior Alternative**

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. If the environmentally superior alternative is the No Project Alternative, the EIR shall identify an environmentally superior alternative among the other alternatives.

The environmentally superior alternative is the 100-Foot Setback Alternative because it would result in reduced impacts to biological resources as compared to development under the proposed Project or other alternatives. This alternative would still require demolition of the contributing structures to the Candidate City Landmark District on-site and would retain the potential to impact the historical resource. This is environmentally superior because the Historic District Relocation Alternative would not avoid the Project's significant unavoidable impact to the Candidate City Landmark District. Accordingly, the 100-foot setback alternative would only minimize potential effects to the adjacent riparian corridor but only to the extent that a setback exception from the Habitat Agency would not be required.

However, this alternative would not achieve the objectives of the proposed Project as follows:

- Objective 1: Provide a development that implements the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan by locating high-density development on infill sites in downtown San José to foster transit use and improving the efficiency of urban services.
- Objective 2: Provide a development that offers large office space within the downtown core, strengthening downtown as a regional job destination.
- Objective 5: Provide an office development that meets the needs of high-tech and/or biomedical tenants, as these industries have a high demand for office space and these industries provide good paying jobs.
- Objective 6: Provide adequate parking and vehicular access, compatible with a high-quality office campus environment, that meet the needs of future employees, while encouraging the use of transit, bicycle, and other alternative modes of transportation.
- Objective 12: Create an enhanced interface with the Guadalupe River Park to enhance opportunities for pedestrian and bicycle mobility and connectivity in and around Downtown.

### **MITIGATION MONITORING AND REPORTING PROGRAM**

Attached to this Resolution as Exhibit "A" and incorporated and adopted as part of this Resolution herein is the Mitigation Monitoring and Reporting Program ("MMRP") for the Project required under Section 21081.6 of the CEQA Statute and Section 15097(b) of the CEQA Guidelines. The MMRP identifies impacts of the Project, corresponding mitigation,



designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

## STATEMENT OF OVERRIDING CONSIDERATIONS

- A. **Significant Unavoidable Impacts.** With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project will result in significant unmitigated or unavoidable impacts, as set forth above, associated with historical resources due to impacts to contributing buildings within a Candidate City Landmark District.
- B. **Overriding Considerations.** The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant, unavoidable impacts of the Project are acceptable in light of the economic, legal, environmental, social, technological or other considerations noted below, because the benefits of the Project outweigh its significant adverse environmental impact of the Project. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent basis for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record that includes, but is not limited to, the Envision San José 2040 General Plan and Downtown Strategy 2040.
- C. **Benefits of the Project.** The City Council has considered the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the following substantial public benefits:

### 1) Envision San José 2040 General Plan Strategies, Goals, and Policies.

- Major Strategy #3 Focused Growth: The Project site is located within an identified Growth Area, as specified in the Envision San José 2040 General Plan. The project proposes to significantly intensify the site with an office development with a supporting commercial component with a pedestrian-friendly design within one-half mile of Santa Clara Valley Transportation Authority light rail stations (Light Rail Children's Discovery Museum Station and Convention Center Station) and bus stops, employment centers, educational institutes, artistic centers, and other commercial services. The proposed addition of up to 1,226,600 square feet of office space and 10,107

square feet of retail space would add approximately 4,130 new jobs to the downtown area. Planning such sites for higher intensity office development enables the City to provide economic and employment benefits consistent with the community objectives of the Envision San José 2040 General Plan.

- Major Strategy #9 Destination Downtown and #11 Design for a Healthful Community: The Project introduces new employment opportunities by providing up to 1,226,600 square feet of office space and 10,107 square feet of retail space at the ground floor, consistent with the rhythm and activities of the downtown area. Employees will partake in the activities and contribute to business growth in the downtown area by increasing the customer base for downtown businesses.
- General Plan Land Use Policies LU-1.1, LU-1.2, LU-3.1, and LU-5.7: The Project encourages the use of alternative transportation options by locating an office development within one-half mile of multiple forms of transit, and the inclusion of bicycle parking for employees and retail users. The Project would increase the number of employees that continuously visit the downtown area, which would increase the survivability of retail and encourage new retail services and amenities to locate in the area. The ground floor uses will also provide easier and more direct access to the Guadalupe River Trail. Ground floor retail amenities will not only serve the employees, but also workers and residents in the downtown area. The project will also increase jobs and economic development and increase the City's jobs-to-employed ratio, providing approximately 4,130 new jobs.

## **2) Downtown Urban Design Guidelines and Policies**

- Downtown Urban Design Policy CD-6.1, CD-6.2, CD-6.3 and CD-6.6: The Project has a floor-area ratio (FAR) of 10.4, representing a high intensity office development, particularly given the FAA restrictions on height for the project site. The Project's intensity will contribute to the Downtown's growth as a vibrant urban area, and help the City actualize its vision for the downtown core. The Project has undergone extensive design review so that its scale, quality, and character strengthen downtown's status as an urban center. The proposed development will be a recognizable development from the sky, has a strong design presence and connectivity at street level, and offers a unique connected tower approach to development in Downtown San José.

## **3) Other Direct and Indirect Economic Benefits.**

The Project would create a new office and retail development that provides positive economic and fiscal benefits to the City of San José, local businesses,

local school districts, Santa Clara County, and the region through impact fees and tax revenue.

**4) Create a Downtown Gateway.**

The Project would revitalize this downtown gateway location, providing an iconic statement of the built environment and entrance to downtown that promotes economic, community, and visitor activity.

The City Council has weighed each of the above benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the Final Environmental Impact Report and hereby determines that those benefits outweigh the risks and adverse environmental effects of the Project and, therefore, further determines that these risks and adverse environmental effects are acceptable and overridden.

**LOCATION AND CUSTODIAN OF RECORDS**

The documents and other materials that constitute the record of proceedings on which the City Council based the foregoing findings and approval of the Project are located at the City's Department of Planning, Building and Code Enforcement, San José City Hall, 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113. The City Council hereby designates the City's Director of Planning, Building, and Code Enforcement at the Director's office at 200 East Santa Clara Street, 3rd Floor Tower, San José California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

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ADOPTED this \_\_\_ day of \_\_\_\_\_, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

# **MITIGATION MONITORING AND REPORTING PROGRAM**

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## **Woz Way Project** **File Nos. GP19-008 and H20-004** **March 2021**

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## 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 Environmental Impact Report prepared for the Woz Way General Plan Amendment and Office Tower Project 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 addresses those measures in terms of how and when they will be implemented.

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

I, Mark Tesini, the applicant, on the behalf of Woz Way, LLC, hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of a Supplemental Environmental Impact Report 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.

Project Applicant's Signature Mark E. Tesini

Date 5/24/21



*Planning, Building and Code Enforcement*  
 ROSALYNN HUGHEY, DIRECTOR

**EXHIBIT "A"**  
**(File Nos. GP19-008; H20-004)**

Woz Way Project  
 File Nos. GP19-008 and H20-004

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	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
<b>Air Quality</b>					
<b>Impact AQ-2: Construction of the Project would result in a cumulatively considerable net increase of a criteria pollutant (ROG and Nitrous Oxide) , in exceedance of the BAAQMD thresholds, for which the project region is non-attainment under an applicable federal or state ambient air quality standard.</b>					
<b>MM AQ-1:</b> Prior to issuance of any demolition, grading permits, and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director’s Designee. 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 below. <ul style="list-style-type: none"> <li>• For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, equipment shall meet U.S. EPA Tier 4 emission standards.</li> <li>• If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent</li> </ul>	Prepare a Construction Management Plan	Prior to construction.	Director of Planning, Building and Code Enforcement or Director’s designee	Review and approve Construction Management Plan.  Review evidence of completion of Construction Management Plan	Prior to issuance of any grading permit



MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	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
<p>reduction in particulate matter exhaust in comparison to uncontrolled equipment.</p> <ul style="list-style-type: none"> <li>• Ensure that diesel engines, whether for off-road equipment or on-road vehicles, are not left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). Post legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling time limit.</li> <li>• Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.</li> <li>• Utilize low-VOC paint (50 g/L or less).</li> </ul> <p>The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in this mitigation measure. The plan shall include, but not be limited to the following:</p> <ul style="list-style-type: none"> <li>• List of activities and estimated timing.</li> <li>• Equipment that would be used for each activity.</li> <li>• Manufacturer’s specifications for each equipment that provides the emissions level; or the manufacturer’s specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure.</li> </ul>					



MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	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
<ul style="list-style-type: none"> <li>How the construction contractor will ensure that the measures listed are monitored.</li> <li>How the construction contractor will remedy any exceedance of the thresholds.</li> <li>How often and the method the construction contractor will use to report compliance with this mitigation measure.</li> </ul> <p>The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest).</p>					
<b>Biological Resources</b>					
<b>Impact BIO-1: The Project would have an adverse impact on special status bats from ground disturbances during on-site construction activities.</b>					
<b>MM-BIO-1:</b> Prior to the issuance of any grading permits, the project applicant shall implement the following measures to ensure that mortality to special status bats from future ground disturbances is avoided: <ul style="list-style-type: none"> <li>A detailed bat survey shall be conducted by a qualified bat biologist within 14 days of building demolition to determine if bats are roosting or breeding in the buildings or trees of the disturbance footprint of the project. These surveys shall include a visual inspection of potential</li> </ul>	A detailed bat survey shall be conducted by a qualified bat biologist. If no bats are roosting or breeding in the structures, then a letter report shall be prepared by the biologist.	14 days prior to building demolition.  Assessment provided to Director of Planning, Building and Code Enforcement or Director's designee prior to implementation.	Director of Planning, Building and Code Enforcement or Director's designee	Review and approve bat eviction plan.  Receive copy of final assessment and results	Prior to issuance of any grading permit  Prior to implementation.

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<p>roosting features and a search for presence of guano within the project site, planned construction access routes, and 50 feet around these areas. Cavities, crevices, exfoliating bark, and bark fissures that could provide suitable potential nest or roost habitat for bats shall be surveyed. If daytime surveys are inconclusive, night emergence surveys shall be employed until the qualified bat biologist can conclude presence or absence of bats. Potential roosting features found during the survey shall be flagged or marked.</p> <ul style="list-style-type: none"> <li>• If no bats are roosting or breeding in these structures within 14 days of site demolition, then a letter report shall be prepared by the biologist and submitted to the Director of Planning, Building and Code Enforcement or Director's designee. No further action would be required, and demolition can proceed.</li> <li>• If bats are found roosting outside of the nursery season (March 1 through August 31, inclusive), the qualified bat biologist shall create a bat eviction plan that ensures the safety of roosting bats and safely evicts the bats from demolition area during the appropriate time period (e.g., not when flightless young are present). The bat</li> </ul>	<p>If bats are found roosting outside of the nursery season, the qualified bat biologist shall create a bat eviction plan.</p>				



*Planning, Building and Code Enforcement*  
 ROSALYNN HUGHEY, DIRECTOR

**EXHIBIT "A"**  
**(File Nos. GP19-008; H20-004)**

Woz Way Project  
 File Nos. GP19-008 and H20-004

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
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<p>eviction plan shall include details for excluding bats from the roost site and monitoring to ensure that all bats have exited the roost prior to the start of activity and are unable to re-enter the roost until activity is completed. Any bat eviction shall be timed to avoid lactation and young-rearing. If bats are found roosting during the nursery season, they shall be monitored by a qualified biologist to determine if the roost site is a maternal roost. This could occur by either visual inspection of the roost bat pups, if possible, or by monitoring the roost after the adults leave for the night to listen for bat pups. Because bat pups cannot leave the roost until they are mature enough, eviction of a maternal roost cannot occur during the nursery season. Therefore, if a maternal roost is present, a 50-foot buffer zone shall be established around the roosting site within which no construction activities including tree removal or structure disturbance shall occur until after the nursery season.</p> <p>The project applicant shall submit evidence of completion of habitat assessment and results to the Director of Planning, Building and Code Enforcement or Director's designee prior to issuance of a grading permit. Should a bat eviction plan be necessary, a copy of the bat eviction plan</p>					





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**EXHIBIT "A"**  
**(File Nos. GP19-008; H20-004)**

Woz Way Project  
File Nos. GP19-008 and H20-004

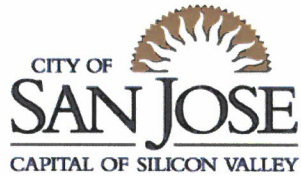
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shall also be submitted to the Director or Director's designee for approval and comment prior to implementation.					
<b>Impact BIO-2: The Project would have an adverse impact on the adjacent riparian corridor and birds utilizing the riparian corridor from potential loss of riparian habitat and/or collision with buildings.</b>					
<p><b>MM-BIO-2:</b> To ensure non-native invasive plants do not move into the riparian corridor as a result of the proposed Project, the project applicant shall ensure that all landscaping within 100 feet of the riparian edge is comprised of locally native or non-invasive species that are not featured on the California Invasive Plant Council's Invasive Plant Inventory (<a href="http://www.cal-ipc.org/ip/nventory">www.cal-ipc.org/ip/nventory</a>).</p> <p>To ensure any irrigation associated with the Project does not adversely impact the riparian corridor, the project applicant shall ensure that all irrigation systems installed within 100 feet of the riparian corridor habitat shall be designed so that there is no impact to riparian habitat (i.e., no erosion or over-spray into the riparian habitat. Specifically, irrigation systems within 100 feet of the riparian corridor, as defined in this SEIR, shall be designed to result in no erosion or over-spray into the riparian habitat. These irrigation systems shall be detailed in a site-specific habitat mitigation and monitoring plan (HMMP), which must be submitted to the Director of Planning, Building and Code Enforcement, or Director's designee, for approval prior to issuance of grading permits.</p>	A site-specific habitat mitigation and monitoring plan (HMMP) shall be prepared by a qualified biologist and approved by the Director of Planning, Building and Code Enforcement.	<p>Prior to issuance of any grading permit..</p> <p>Implemented immediately following completion of construction during the suitable installation period.</p>	Director of Planning, Building and Code Enforcement or Director's designee .	Approve HMMP.	Prior to issuance of any grading permit.



*Planning, Building and Code Enforcement*  
 ROSALYNN HUGHEY, DIRECTOR

**EXHIBIT "A"**  
**(File Nos. GP19-008; H20-004)**  
 Woz Way Project  
 File Nos. GP19-008 and H20-004

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<p>To reduce the potential indirect impact of the buildings' presence on wildlife and to provide cover habitat and limited screening of the riparian corridor from the proposed office towers, the project applicant shall install native tree and large shrub plantings in the available space between the buildings and the riparian edge. Areas located immediately west of the two towers, between the planned development and the riparian habitats, with a combined area of 4,470 square feet (2,560 sq. ft. and 1,910 sq. ft., respectively) shall be planted with suitable native trees and shrubs. To ensure that a suitable native habitat enhancement planting is achieved, prior to issuance of any grading permits, the project applicant shall develop a site-specific habitat mitigation and monitoring plan (HMMP) prepared by a qualified biologist and submitted to the Director of Planning, Building and Code Enforcement or Director's designee for approval prior to issuance of any grading permits. The HMMP is used to guide the on-site habitat restoration process, and shall include, at a minimum, the following elements:</p> <ul style="list-style-type: none"> <li>A planting plan that lists the native trees and large shrubs to be included in the habitat restoration effort and which describes the site preparation requirements and irrigation requirements for the restoration area. The planting palette shall include primarily trees large shrubs. Trees shall include species such as, but not limited to, big-leaf maple (<i>Acer macrophyllum</i>), box elder (<i>A. negundo</i>),</li> </ul>					



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<p>California buckeye (<i>Aesculus californica</i>), coast live oak, and valley oak. Shrubs in the plant list shall be comprised of species such as, but not limited to, blueblossom ceanothus (<i>Ceanothus thyrsiflorus</i>), coffeeberry (<i>Frangula californica</i>), and toyon (<i>Heteromeles arbutifolia</i>). Species to be used shall be consistent with the City’s Riparian Corridor Policy Study and the Santa Clara Valley Water District’s (SCVWD’s) Guidelines and Standards for Land Use Near Streams, which includes but is not limited to using seeds and propagules collected from within the Guadalupe River watershed.</p> <ul style="list-style-type: none"> <li>• Trees shall be large format trees (e.g., 36-inch box trees or larger) at the time of installation.</li> <li>• The plan shall identify species within the buffer area that shall not be allowed to persist, such as species listed as having a high ecological impact on the California Invasive Plant Council’s Invasive Plant Inventory. Specifically, any tree-of-heaven propagules shall be eradicated as part of the mitigation effort.</li> <li>• A map defining the habitat restoration area which shall include planned locations for the plantings.</li> </ul>					





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**EXHIBIT "A"**  
**(File Nos. GP19-008; H20-004)**  
 Woz Way Project  
 File Nos. GP19-008 and H20-004

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<ul style="list-style-type: none"> <li>Monitoring shall occur once annually starting after the first growing season following installation of the plantings for a total of 5 monitoring years. Monitoring shall be conducted by a qualified biologist and shall focus on the health and development of the individual plantings. Target success goals shall include survivorship of trees and shrubs at 80% after 5 years with generally good to excellent health (as determined by the monitoring biologist).</li> <li>Measures shall be included to account for failure to meet the success criteria, including replanting with additional years of monitoring, and adaptive management measures to ameliorate potential barriers to success.</li> <li>An irrigation plan and seasonal guidelines for watering.</li> <li>The HMMP shall also include a detailed plan for implementation of maintenance, including irrigation monitoring, plant health monitoring, vandalism prevention, and weed management. The maintenance plan shall specify restrictions on uses of pesticides and fertilizers that are considered unsafe near natural aquatic habitats.</li> </ul>					



*Planning, Building and Code Enforcement*  
ROSALYNN HUGHEY, DIRECTOR

**EXHIBIT "A"**  
**(File Nos. GP19-008; H20-004)**

Woz Way Project  
File Nos. GP19-008 and H20-004

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<ul style="list-style-type: none"> <li>The HMMP shall be implemented immediately following completion of construction during the suitable installation period (typically November to April).</li> </ul>					
<b>Impact BIO-4: The Project would impact nesting birds through tree removals.</b>					
<b>MM BIO-3:</b> <ul style="list-style-type: none"> <li><u>Avoidance:</u> 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), as amended.</li> <li><u>Nesting Bird Surveys:</u> If it is not possible to schedule demolition and construction between August 31st 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 breeding season (May 1st through August 15th inclusive). During this survey the ornithologist shall inspect all trees and other possible nesting</li> </ul>	If construction cannot be scheduled from February 1st through August 31st (inclusive), then an ornithologist's report indicating the results of the survey and any designated buffer zones shall be submitted for review and approval of the Director of Planning, Building and Code Enforcement, or the Director's designee.	Prior to any tree removal, or approval of any grading permits (whichever occurs first)	Director of Planning, Building and Code Enforcement or Director's designee	If construction cannot be scheduled from February 1st through August 31st (inclusive), the Director of Planning, Building and Code Enforcement, or the Director's designee, shall review and approve the ornithologist's report	Prior to any tree removal, or approval of any grading permits (whichever occurs first)





*Planning, Building and Code Enforcement*  
 ROSALYNN HUGHEY, DIRECTOR

**EXHIBIT "A"**  
**(File Nos. GP19-008; H20-004)**  
 Woz Way Project  
 File Nos. GP19-008 and H20-004

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<p>habitats immediately adjacent to the construction areas for nests.</p> <ul style="list-style-type: none"> <li>• <b>Buffer Zones:</b> 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. The no-disturbance shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.</li> <li>• <b>Reporting:</b> Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of any grading or building permits.</li> </ul>					



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<b>Cultural Resources</b>					
<b>Impact CUL-1: The Project would have an adverse impact on a Candidate City Landmark District, comprised of six on-site structures, from the demolition of existing structures that contribute to the Candidate City Landmark District.</b>					
<p><b>MM CUL 1:</b> Prior to issuance of any grading, demolition, or building permits, the project applicant shall prepare and submit, to the satisfaction of the Director of Planning, Building and Code Enforcement or Director’s designee evidence that the following actions have been satisfied.</p> <p><u>Documentation:</u> The six structures comprising the Candidate City Landmark District shall be documented in accordance with the guidelines established for the Level III Historic American Building Survey (HABS) consistent with the Secretary of the Interior’s Standards for Architectural and Engineering Documentation and shall consist of the following components:</p> <p style="padding-left: 40px;">Drawings – Prepare sketch floor plans.</p> <p style="padding-left: 40px;">Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years.</p> <p style="padding-left: 40px;">Written Data – HABS written documentation in short form.</p> <p>An architectural historian meeting the Secretary of the Interior’s Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written</p>	<p>Document structures in drawings, photographs and written data</p>	<p>Prior to issuance of any grading, demolition, or building permits.</p> <p>Prior to issuance of any grading, demolition, and/or building permit</p>	<p>Director of Planning, Building and Code Enforcement or Director’s designee</p> <p>The City’s Historic Preservation Staff</p>	<p>Review and approve evidence documenting the satisfactory completion of actions required.</p> <p>Review and approve documentation for submittal on archival paper</p>	<p>Prior to issuance of any grading, demolition, or building permits.</p> <p>Prior to issuance of any demolition permit</p>

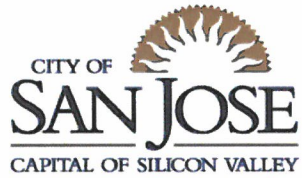


*Planning, Building and Code Enforcement*  
 ROSALYNN HUGHEY, DIRECTOR

**EXHIBIT "A"**  
**(File Nos. GP19-008; H20-004)**  
 Woz Way Project  
 File Nos. GP19-008 and H20-004

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<p>data. The California Department of Parks and Recreation 523 forms prepared for the Project (included in Appendix G of the SEIR) can be used to fulfill the requirements for the written data report. The required documentation shall be filed with the San José Library’s California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper and must first be reviewed and approved by the Director of Planning, Building and Code Enforcement or Director’s Designee. Additional copies shall be made available to other local research institutions, as requested, including History San José, and a copy with the City’s Planning Division. Documents shall cover the entire Candidate City Landmark District, along with associated features, spaces, and landscaping.</p> <p><u>Relocation by the Applicant and/or a Third Party:</u> Prior to issuance of any demolition permits, the project applicant, or an interested third party, shall be required to advertise the availability of the structures for relocation for a period of no less than 60 days. The advertisements must include notification in a newspaper of general circulation, on a website, and notice placed on the project site. The project applicant shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the Director of Planning, Building and Code Enforcement or Director’s Designee that this condition has been met prior to the issuance of demolition permits.</p>	<p>Advertise structures available for relocation and provide evidence of advertisement.</p> <p>If relocation is proposed to occur, prepare and submit for</p>	<p>For at least 60 days prior to issuance of any demolition permit</p> <p>Prior to issuance of any demolition permit</p>	<p>Director of Planning, Building and Code Enforcement or Director’s designee</p> <p>City Historic Preservation Staff</p>	<p>Review and approve evidence of advertisement</p> <p>Review and approve receiver site, existing conditions study, structural engineer assessment and rehabilitation plan</p>	<p>Prior to issuance of any demolition permit.</p> <p>Prior to issuance of any moving permit.</p>





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<p>If the project applicant or third party agrees to relocate the structure(s), the following measures must be followed:</p> <ol style="list-style-type: none"> <li>1. The Director of Planning, Building and Code Enforcement or Director’s designee must determine that the receiver site is suitable for the building(s).</li> <li>2. Prior to relocation, the project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study that establishes the baseline condition of the building(s) prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or Director’s designee prior to the structure being moved. Documentation already completed shall be used to the extent possible to avoid repetition in work.</li> <li>3. To protect the building(s) during relocation, the project applicant or third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine if</li> </ol>	<p>review a relocation and preservation plan, including measures 1-4.</p> <p>If relocation occurs, submit a memo report documenting the compliance with the relocation measures.</p> <p>If no relocation, make buildings available for salvage.</p>	<p>Prior to issuance of any grading permit</p>		<p>Review and approve memo report.</p>	<p>Prior to issuance of any grading permit.</p>



*Planning, Building and Code Enforcement*  
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**EXHIBIT "A"**  
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Woz Way Project  
 File Nos. GP19-008 and H20-004

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<p>the building(s) needs to be reinforced/stabilized before the move.</p> <p>4. Once moved, the building(s) shall be repaired and restored, as needed, by the project applicant or third party in conformance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long-term preservation of these features. Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure(s) were completed in conformance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties and that all character-defining features were preserved. The project applicant shall submit a memo report to the Director of Planning, Building and Code Enforcement or Director’s designee documenting the relocation.</p> <p><u>Salvage:</u> If the project applicant and/or no third party agrees to relocate the structures, the structures shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the Director of Planning, Building and Code Enforcement or Director’s</p>	<p>Advertise structures available for salvage</p> <p>Submit Action Plan outlining how the historical resource will be commemorated.</p> <p>Complete approved Action Plan and submit a memo report</p>	<p>Prior to issuance of any demolition permit</p> <p>Prior to issuance of any demolition permit</p>	<p>City Historic Preservation Staff</p> <p>Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>If no relocation following a minimum of 60 days, establish timeframe for salvage.</p> <p>Establish time frame for salvage and review and approve evidence of advertisement of availability.</p>	<p>Prior to issuance of any demolition permit</p> <p>Prior to issuance of any demolition permit</p>



*Planning, Building and Code Enforcement*  
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Woz Way Project  
 File Nos. GP19-008 and H20-004

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<p>designee. The project applicant must provide evidence to the Director of Planning, Building and Code Enforcement or Director’s designee that this condition has been met prior to the issuance of demolition permits.</p> <p><u>Commemoration:</u> The historic structures and associated features on the project site within the Candidate City Landmark District shall be commemorated and curated to include:</p> <ul style="list-style-type: none"> <li>• Physical remnants from the site</li> <li>• Oral histories</li> <li>• Research</li> <li>• Historic photographs</li> <li>• Historic maps</li> <li>• Historic displays</li> <li>• Historic Marker consistent with the City’s Marker Program for history</li> </ul> <p>The project applicant shall submit an Action Plan to the Director of Planning, Building and Code Enforcement or Director’s designee, proposing how the Candidate City Landmark District will be commemorated. The proposal will be reviewed and approved by the Director of Planning, Building and Code Enforcement or Director’s designee. Following completion of the action, the project applicant shall submit a memo report documenting the commemoration.</p>	documenting the commemoration.	<p>Prior to issuance of building permits</p> <p>Prior to Occupancy</p>	<p>Director of Planning, Building and Code Enforcement or Director’s designee</p> <p>City Historic Preservation Staff</p> <p>Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Review and approve commemoration Action Plan,</p> <p>Review and approve memo report.</p>	<p>Prior to issuance of Building Permits</p> <p>Prior to Occupancy.</p>





*Planning, Building and Code Enforcement*  
 ROSALYNN HUGHEY, DIRECTOR

**EXHIBIT "A"**  
**(File Nos. GP19-008; H20-004)**

Woz Way Project  
 File Nos. GP19-008 and H20-004

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<b>Noise and Vibration</b>					
<b>Impact NOI-1: The Project would impact the on-site residential uses from the generation of a temporary increase in ambient noise levels, outside of the allowable hours of 7:00 a.m. to 7:00 p.m., Monday through Friday during construction.</b>					
<p><b>MM NOI-1:</b> 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. As a part of the noise logistic plan and project, construction activities for the proposed project shall include, but is not limited to, the following best management practices:</p> <ul style="list-style-type: none"> <li>• In accordance with Policy EC-1.7 of the City's General Plan, utilize the best available noise suppression devices and techniques during construction activities.</li> <li>• Construction activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a</li> </ul>	<p>Prepare and submit a noise logistics plan</p>	<p>Prior to the issuance of any grading and/or demolition permits</p>	<p>Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Review and approve the noise logistics plan</p>	<p>Prior to the issuance of any grading or demolition permits</p>



*Planning, Building and Code Enforcement*  
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<p>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).</p> <ul style="list-style-type: none"> <li>• Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.</li> <li>• Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.</li> <li>• Unnecessary idling of internal combustion engines shall be strictly prohibited.</li> <li>• 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.</li> <li>• Utilize "quiet" air compressors and other stationary noise sources where technology exists.</li> <li>• Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and</li> </ul>					





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**EXHIBIT "A"**  
**(File Nos. GP19-008; H20-004)**

Woz Way Project  
File Nos. GP19-008 and H20-004

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<p>noise-sensitive receptors nearest the project site during all project construction.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Pile-driving is prohibited.</li> <li>• Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile.</li> <li>• Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.</li> <li>• Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.</li> <li>• 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.</li> <li>• 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</li> </ul>					



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Woz Way Project  
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<ul style="list-style-type: none"> <li>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.</li> </ul>					
<p><b>MM NOI-2:</b> Prior to the issuance of any development permits, the project applicant shall prepare a noise logistic plan that includes measures to reduce noise from construction occurring outside of the allowable hours of 7:00 a.m. to 7:00 p.m., Monday through Friday within 500 feet of existing residential land uses, including concrete pouring during nighttime hours. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading. The following measures would reduce nighttime noise impacts at nearby noise-sensitive residences and shall be included in the noise logistics plan:</p> <ul style="list-style-type: none"> <li>Limit the active equipment to as few pieces of equipment as possible.</li> <li>To the extent consistent with applicable regulations and safety considerations, operation of back-up beepers shall be avoided near sensitive receptors during nighttime hours, and/or the work sites shall be arranged in a way that avoids the</li> </ul>	Prepare and submit a noise logistics plan	Prior to the issuance of a Grading Permit for construction occurring outside of the allowable hours of 7:00 a.m. to 7:00 p.m	Director of Planning, Building and Code Enforcement or Director's designee	Review and approve the noise logistics plan	Prior to the issuance of a Grading Permit for construction occurring outside of the allowable hours of 7:00 a.m. to 7:00 p.m



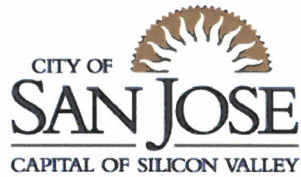
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**EXHIBIT "A"**  
**(File Nos. GP19-008; H20-004)**

Woz Way Project  
 File Nos. GP19-008 and H20-004

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<p>need for any reverse motions of trucks or the sounding of any reverse motion alarms during nighttime work. If these measures are not feasible, equipment and trucks operating during the nighttime hours with reverse motion alarms must be outfitted with SAE J994 Class D alarms (ambient-adjusting, or “smart alarms” that automatically adjust the alarm to 5 dBA above the ambient near the operating equipment).</p> <ul style="list-style-type: none"> <li>• Limit nighttime concrete pouring to the northern location or a minimum distance of 270 feet from the sensitive receptor, where feasible. Restrict concrete trucks and pumps along Almaden Boulevard near sensitive receptor during all nighttime activities. Nighttime concrete trucks located closer than 270 feet shall install a temporary barrier with a minimum height of eight feet around the property line of the adjacent residence.</li> <li>• If nighttime construction noise continues to result in excessive disruption to nearby neighbors, implement a construction noise monitoring plan, which includes a provision for noise monitoring at the nearby receptors to confirm that nighttime construction noise levels meet nighttime noise level thresholds at the adjoining single-family residential. Construction monitoring shall occur for the first two days of construction for period of nighttime construction work to demonstrate that</li> </ul>					





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Woz Way Project  
 File Nos. GP19-008 and H20-004

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<p>the nighttime construction activities are compliant with the construction noise level thresholds (68 dBA Leq exterior noise level at the adjacent residence). These thresholds are based on existing ambient conditions. Additional noise monitoring shall be completed on a more frequent basis if needed, in response to complaints. In the event of noise complaints, the Project applicant will provide information to the Director of Planning, Building and Code Enforcement or Director's designee within 48 hours of being notified of the complaint, regarding the noise levels measured and activities that correspond to the complaints, as well as the proposed changes at the site to reduce the noise levels to below the thresholds.</p> <ul style="list-style-type: none"> <li>• Sensitive receptors identified by the noise-monitoring with the potential to be exposed to nighttime construction noise levels exceeding 68 dBA Leq at the adjacent residence shall be provided with vouchers for alternate accommodations for the duration of the nighttime construction.</li> <li>• Residences or other noise-sensitive land uses within 500 feet of construction sites should be notified of the nighttime construction schedule, in writing, prior to the beginning of construction. This notification shall specify the dates for all nighttime construction. Designate a "construction liaison" that would be responsible for responding</li> </ul>					



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 File Nos. GP19-008 and H20-004

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<p>to any local complaints about nighttime construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site.</p>					
<p><b>Impact NOI-2: The Project would impact an existing historical structure on-site that is a contributing element to the Candidate City Landmark District from a temporary increase in vibration levels due to construction equipment.</b></p>					
<p><b>MM NOI-3:</b> Prior to the issuance of any grading permits, the project applicant shall provide a Vibration Management Plan or other evidence acceptable to the City of San José that demonstrates that vibration control of demolition and construction activities shall be implemented. The project applicant shall prepare a list of all high vibratory equipment to be used and shall submit the list to the City’s Director of Planning, Building and Code Enforcement or Director’s Designee for review and approval. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and shall identify methodologies and tasks to effort require for continuous vibration monitoring. This includes performing high-vibration activities during the middle of the day and spaced as far apart as possible to avoid multiple high-vibration activities at once. Vehicle routes should avoid sensitive receptor area as much as possible. Pile-driving is prohibited.</p>	<p>Prepare a Vibration Management Plan</p>	<p>Prior to issuance of any grading permit.</p>	<p>Director of Planning, Building and Code Enforcement or Director’s designee</p>	<p>Approve Vibration Management Plan</p>	<p>Prior to issuance of any grading permit.</p>



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Woz Way Project  
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MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<p><b>MM NOI-4:</b> Prior to issuance of any demolition or grading permits, the project applicant shall prepare and implement a Construction Vibration Monitoring, Treatment, and Reporting Plan to document conditions at the adjacent historic sensitive receptor prior to, during, and after vibration generating construction activities. The project applicant shall submit the Plan to the City’s Director of Planning, Building and Code Enforcement or Director’s Designee prior to issuance of any demolition or grading permits for review and approval. All plan tasks shall be conducted under the direction of a Professional Structural Engineer licensed in the State of California and be in accordance with industry accepted standard methods. The Plan shall include, but is not limited to, the following:</p> <ul style="list-style-type: none"> <li>A photo survey, elevation survey, and crack monitoring survey for the historic residence. 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. Frequency of intervals shall be recommended by the Professional Structural Engineer and shall be approved by the City.</li> </ul>	<p>Prepare and implement a Construction Vibration Monitoring, Treatment, and Reporting Plan</p>	<p>Prior to issuance of any demolition or grading permits</p>	<p>Director of Planning, Building and Code Enforcement or Director’s designee .</p>	<p>Approve Construction Vibration Monitoring, Treatment, and Reporting Plan</p>	<p>Prior to issuance of any demolition or grading permits</p>





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Woz Way Project  
 File Nos. GP19-008 and H20-004

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<ul style="list-style-type: none"> <li>• A contingency section or 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 further document before and after construction period. Construction contingencies would be identified for when vibration levels approach the limits.</li> <li>• If vibration levels approach limits (0.08 in/sec PPV), suspend construction and implement contingencies to either lower vibration levels or secure the affected structure.</li> <li>• 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.</li> <li>• 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</li> </ul>					



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<p>included together with proper documentation supporting any such claims. The report shall be submitted to the City’s Director of Planning, Building and Code Enforcement or Director’s Designee and the Historic Preservation Officer two weeks after completion of each phase identified in the project schedule.</p> <ul style="list-style-type: none"> <li>Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.</li> </ul>					

*Source: Woz Way Draft Supplemental Environmental Impact Report. (March 2021).*