RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CERTIFYING THE 380 NORTH FIRST STREET RESIDENTIAL PROJECT ENVIRONMENTAL IMPACT REPORT (FILE NOS. H23-007 AND ER23-075) AND MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT IMPACTS, MITIGATION MEASURES, AND ALTERNATIVES, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED

WHEREAS, the City of San José ("City"), acting as lead agency under the California Environmental Quality Act ("CEQA"), prepared an environmental impact report ("EIR") for the 380 North First Street Residential Project (File Nos. H23-007 and ER23-075); and

WHEREAS, the EIR analyzed the environmental impacts of the proposed 380 North First Street Project, which includes a Site Development Permit for development of 118 residential units on a 0.49-acre site located at 380 North First Street in the City of San José, California (the "Project"); and

WHEREAS, the City is the lead agency for the Project and has prepared a Final Environmental Impact Report for the Project pursuant to and in accordance with CEQA, which the Final EIR is comprised of the Draft EIR and the First Amendment to the Draft EIR (collectively, the "FEIR"); and

WHEREAS, on February 12, 2025, the Planning Commission of the City of San José reviewed the FEIR prepared for the Project and recommended to the City Council that it finds the environmental clearance for the proposed Project was completed in accordance with the requirements of CEQA and further recommended the City Council adopt a resolution certifying the FEIR; and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an environmental impact report has been prepared which 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 a mitigation or monitoring program and overriding statement of consideration 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. The foregoing recitals are true and correct, and are incorporated herein as if fully set forth in the body of this Resolution; and

2. The City Council finds and certifies that the FEIR has been prepared and completed in compliance with CEQA; and

3. The City Council was presented with, and has independently reviewed and analyzed the FEIR 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 FEIR and the Project, prior to acting upon or approving the Project, and has found that the FEIR represents the independent judgement of the City as lead agency for the Project, and designated the Director of Planning, Building and Code Enforcement ("Director") 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. The City Council recognizes that the FEIR contains additions, clarifications, modifications, and other information in response to comments on the Draft EIR or obtained after the Draft EIR was issued and circulated for public review and hereby finds 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 EIR, (ii) any feasible mitigation measure considerably different from those analyzed in the Draft EIR 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 EIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented; and

5. The City Council finds and determines that recirculation of the FEIR for further public review and comment is not warranted or required under the provisions of CEQA; and

6. The City Council makes the following findings with respect to potentially significant environmental impacts of the Project, as identified in the FEIR with the understanding that all of the information in this Resolution is intended as a summary of the full administrative record supporting the FEIR; which full administrative record should be consulted for the full details supporting these findings.

380 NORTH FIRST STREET RESIDENTIAL PROJECT

ENVIRONMENTAL EFFECTS FOUND NOT TO BE SIGNIFICANT

Through project scoping and the environmental analysis contained within the FEIR, it was determined that the Project would not result in a potential significant effect on the environment with respect to aesthetics, agricultural and forestry resources, energy, geology and soils, greenhouse gas emissions, hydrology and water quality, land use and planning, mineral resources, population and housing, public services, recreation, transportation, tribal cultural resources, utilities and service systems, wildfire, and unplanned growth]. A summary of the reasons for this determination can be found in Chapters [3.1, 3.2, 3.6, 3.7, 3.8, 3.10, 3.11, 3.12, 3.13, 3.14, 3.15, 3.16, 3.17, 3.18, 3.19, 3.20, and 4.0] of the Draft EIR. No further findings are required for these subject areas.

SIGNIFICANT ENVIRONMENTAL IMPACTS

Air Quality

Impact: **Impact AQ-1:** The project construction would result in health risk impacts that exceed the Bay Area Air Quality Management District (“BAAQMD”) single-source cancer risk threshold of 10 per million due to project construction diesel particulate matter (DPM) emissions.

Mitigation: **MM AQ-1:** Prior to the issuance of any demolition, grading 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 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, use equipment that meet U.S. Environmental Protection Agency (EPA) Tier 4 interim emission standards for particulate matter (PM_{10} and $PM_{2.5}$). 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 a 55 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment.
- Use of alternatively fueled or electric equipment.
- Stationary cranes and construction generator sets shall be powered by electricity.

Alternatively, the project applicant shall develop a plan that reduces on- and near-site construction diesel particulate matter emissions by a minimum of 55 percent or greater. The plan shall be reviewed and approved by the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).

Finding: With implementation of MM AQ-1, the Project's construction-related cancer risk would be reduced below the BAAQMD single-source threshold (10 per million). Therefore, the project's health risk impacts from construction, with mitigation, would not cause significant adverse health impacts. (Less Than Significant Impact with Mitigation Incorporated)

Facts in Support of the Finding: With implementation of MM AQ-1, the Project's construction-related cancer risk would be reduced by a minimum of 55 percent or greater from 20.30 per million to 2.01 per million. Therefore, the impact of the Project's operations would be reduced to a less than significant level.

Biological Resources

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

Mitigation: **MM BIO-1:** Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall schedule tree removal, 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 1 through August 31 (inclusive).

MM BIO-1.2: If tree removal, demolition, and construction cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests are 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 through April 30 inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31 inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

MM BIO-1.3: 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 to ensure that bird nests shall not be disturbed during project construction.

MM BIO-1.4: Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of Planning, Building and Code Enforcement or Director's designee.

Finding: Implementation of MM BIO-1.1 through BIO-1.4 would reduce impacts to migratory birds to a less than significant level. (Less Than Significant with Mitigation Incorporated)

Facts in Support of the Finding: Implementation of mitigation measure MM BIO-1.1 would ensure that construction-related activities of the project take place outside of the nesting season, thus avoiding any incidental loss of fertile eggs or nestlings, or nest abandonment. Alternatively, if tree removals, demolition, and/or construction cannot be scheduled between September 1 and January 31, the implementation of mitigation measures MM BIO-1.2 through MM BIO-1.4 would identify and protect all active nests within the project's area of effect from being disturbed during construction. Therefore, with implementation of mitigation measures MM BIO-1.1 through MM BIO-1.4, the project would not result in significant impacts to nesting birds.

Cultural Resources

Impact: **Impact CUL-2:** Project ground disturbing activities could result in a substantial adverse change in the significance of an archaeological resource.

MM CUL-2.1: Cultural Sensitivity Training. Prior to issuance of any grading permit, the project applicant shall be required to conduct a Cultural Awareness Training for construction personnel. The training shall be facilitated by a qualified archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. Documentation verifying that Cultural Awareness Training has been conducted shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

MM CUL-2.2: Archaeological Monitoring Plan. Prior to the issuance of any demolition, grading, or building permits, a qualified archaeologist shall prepare an Archaeological Monitoring Plan (AMP) that details the types of archaeological resources that could be found within the Project Area during demolition and construction, and the procedures to follow should any archaeological material be encountered. The AMP shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee. The AMP shall:

- provide procedures and guidelines for proper notification to Tribes, agencies, and stakeholders, as needed,
- a plan for the evaluation and treatment of archaeological resources that may be encountered, as well as a curation plan.

MM CUL-2.3: Archaeological Monitoring. A qualified archaeologist shall be presented during below grade construction. The archaeological monitor shall be empowered to halt construction activities at the location of a discovery to review possible archaeological material and to protect the resource while it is being assessed. Archaeological monitoring shall continue until, in the archaeologist's judgment, archaeological resources are no longer likely to be encountered. A report shall also be prepared to document the findings after construction is completed.

Finding: With Implementation of MM CUL-2.1 through CUL-2.3, the Project's potential impacts to unrecorded subsurface cultural resources would be less than significant. (Less Than Significant with Mitigation Incorporated)

Facts in Support of the Finding: Development of the Project would require construction activities such as grading and excavation, which could result in the accidental destruction or disturbance of Native American and historic-era archaeological deposits. Implementation of MM CUL-2.1 through CUL-2.3 would reduce impacts to archaeological resources to less than significant levels by requiring retention of a qualified archeologist, cultural sensitivity training, and retention of a qualified Native American Monitor to be present during earthmoving activities like trenching, initial or full grading, boring on-site, or major landscaping. Moreover, procedures for the disposition of Native American or historic-era archeological materials recovered, if any, will be implemented in the event that archaeological materials are recovered from the Project site during construction.

Hazards and Hazardous Materials

Impact: **Impact HAZ-1:** The development of the Project could result in exposure to construction workers, neighboring properties, and the environment from soils that have the potential to contain, arsenic, lead, pesticides, and polynuclear aromatic hydrocarbons (PAHs), and other contaminants associated with a historic railroad track being located adjacent to the north boundary of the subject property.

Mitigation: **MM HAZ-1:** Prior to the issuance of any demolition or grading permit (whichever occurs earliest), the project applicant shall retain an environmental professional to collect and analyze shallow soil samples for arsenic, lead, organochlorine pesticides, CAM 17 metals, total petroleum hydrocarbons as diesel and oil, volatile organic compounds, polychlorinated bipheynls (PCBs), and polynuclear aromatic hydrocarbons (PAHs) on the subject property to determine whether elevated concentrations of contaminants in the soil exceed environmental screening levels (ESLs) due to a historic railroad track being located just north to the subject property. The results of soil sampling and testing shall be provided to the City's Supervising Planner of the Planning, Building and Code Enforcement Department and the Municipal Compliance Officer of the City of San José Environmental Services Department for review.

If contaminants are found in concentrations above regulatory ESLs, the applicant shall obtain regulatory oversight from Santa Clara County Department of Environmental Health (SCCDEH) or the Department of Toxic Substances Control (DTSC) under their Site Cleanup Plan (SCP). In addition, a Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified hazardous materials consultant. The plan shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health

of future workers and visitors. The plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José Environmental Services Department

Finding: With implementation of MM HAZ-1.1, the Project will have a less than significant hazardous materials impact from contaminated soils. (Less Than Significant with Mitigation Incorporated)

Facts in Support of the Finding: With implementation of mitigation measure MM HAZ-1.1, contaminated soils on-site would be properly identified, characterized, removed, and disposed of prior to ground-disturbing activities, thus preventing exposure of construction workers, nearby sensitive receptors, future occupants, and the environment to soil contaminants from construction of the project.

Noise

Impact: **Impact NOI-1:** Construction of the proposed project would result in substantial noise generating activities above the City's noise construction threshold for more than 12 months and occurring within 500 feet of residential uses and 200 feet of commercial uses.

Mitigation: **MM NOI-1:** Prior to the issuance of any demolition or grading permits (whichever occurs the earliest), a qualified acoustical consultant shall develop and submit a construction noise logistics plan to the Director of Planning, Building and Code Enforcement or the Director's designee. The construction noise logistics plan shall include noise reduction measures to prevent substantial noise disturbances of affected sensitive receptors. A typical construction noise logistics plan shall include, but not be limited to, the following measures to reduce construction noise levels as low as feasible:

- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- 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.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- 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.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- 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 shall 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.

Finding: With implementation of MM NOI-1, construction of the Project will have a less than significant noise impact. (Less Than Significant Impact with Mitigation Incorporated)

Facts in Support of the Finding: The heaviest noise-generating construction activities would occur at the ground level during the first year of construction. With the implementation of GP Policy EC-1.7, Municipal Code requirements, and mitigation measure MM NOI-1.1, construction noise levels during the first year of construction would be reduced to less than 80 dBA Leq by using best available noise suppression devices and techniques. After the first year, construction activities are not expected to exceed 80 dBA Leq at the property line of the nearest residential uses. Therefore, the temporary construction noise impact would be reduced to a less than significant level.

Impact: **Impact NOI-2:** Construction of the Project would generate vibration levels that would exceed the City’s vibration limit of 0.2 in/sec PPV for conventional buildings adjoining the project site.

Mitigation: **MM NOI-2.1:** Prior to issuance of any demolition or grading permits (whichever occurs earliest), the project applicant shall contract with a licensed Professional Structural Engineer in the State of California to

prepare a construction vibration monitoring plan that includes measures to reduce vibration impacts to achieve vibration limit of 0.2 in/sec Peak Particle Velocity (PPV). During construction, the project applicant shall implement the following vibration reduction measures:

- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams, clam shovel drop, and vibratory roller, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.
- Place operating equipment on the construction site at least 10 feet from the project site boundaries shared with the existing substation and restroom buildings to the north.
- Smaller equipment to minimize vibration levels to below 0.2 in/sec PPV shall be used at the property lines adjoining adjacent buildings. For example, a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, could be used when compacting materials within 30 feet of the existing substation and restroom buildings to the north.
- Avoid using vibratory rollers and clam shovel drops within 30 feet of the existing substation and restroom buildings to the north.
- Select demolition methods not involving impact tools.
- Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of the existing substation and restroom buildings to the north.
- Designate a Disturbance Coordinator responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

The requirements of the construction vibration monitoring plan shall be printed on all construction documents, contracts, and project plans and 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 or grading permits. The project contractors shall adhere to the measures of the construction vibration monitoring plan for all phases of construction.

Finding: With implementation of MM NOI-2, construction vibration from the Project will be below the City's threshold of 0.2 in/sec PPV. (Less Than Significant Impact with Mitigation Incorporated)

Facts in Support of the Finding: Implementation of MM NOI-2.1 would reduce construction vibration generated by the project below the City's vibration limits and to a less than significant level by implementing a vibration monitoring plan and best available vibration suppression techniques that would ensure that construction-related vibration is below the City's threshold of 0.2 in/sec PPV.

SIGNIFICANT UNAVOIDABLE ENVIRONMENTAL IMPACTS

Cultural Resources

Impact: **Impact CUL-1**: Implementation of the proposed Project would result in the demolition of the building at 380 North First Street, a Candidate City Landmark listed on the San José Historic Resources Inventory and is also eligible for listing on the California Register of Historical Resources ("CRHR").

Mitigation: **MM CUL-1.1:** Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permittee shall prepare and submit a Historic Resources Mitigation Action Plan (Action Plan) that outlines the specific steps, methodology and timing for how the following documentation will be approached and prepared. The Action Plan shall include roles and responsibilities between the Permittee, City staff, and outside individuals, groups, firms, and consultants. The Action Plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer prior to its implementation.

MM CUL-1.2: Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permittee shall submit Historic American Building Survey (HABS) documentation for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer. The documentation shall be prepared by a qualified architectural historian meeting the Secretary of the Interior's Professional Qualification Standards. The documentation shall be prepared in accordance with the guidelines established for the Level III HABS documentation 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 of the building to help explain the building.
- **Photographs –** Photograph the exterior and interior with 35 mm digital photography to clearly depict the appearance of the property and areas of significance. Photographs shall include each elevation of the building, architectural details, and prominent interior spaces and features keyed to the sketch floor plans that meet the digital photography specifications for Level III HABS documentation.
- **Written Data –** Prepare expanded history of the property and architectural significance to supplement the photographs by explaining what is not readily visible.

Following review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer, the documentation shall be submitted to and filed with the San José Library's California Room, History San José, and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System.

MM CUL-1.3: Prior to the issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permittee shall submit 3D laser scans of the building to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer. The 3D laser scanning shall include an as-built survey of the existing conditions of the building utilizing 3D Laser Scanning techniques to capture the building's exterior to create a 3D point cloud model for digital documentation/archival purposes.

MM CUL-1.4: Relocation: Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permittee shall advertise the availability of the building for relocation for a period of no less than 60 days. The advertisement must include notification in a newspaper of general circulation, on a website, and notice placed adjacent to the public right of way on the project site to maximize visibility. The Permittee shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the Director of Planning, Building and Code Enforcement or the Director's designee that this condition has been met.

If the Permittee or a third party agrees to relocate the building, the following measures must be followed:

1. The Director of Planning, Building and Code Enforcement or the Director's designee, based on consultation with the City's Historic

Preservation Officer, must determine that the receiver site is feasible for the building.

2. Prior to relocation, the Permittee 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 structure 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 City's Historic Preservation Officer prior to the structure being moved.

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

4. Once moved, the Permittee or third party shall repair and rehabilitate the building, as needed, Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be retained in a manner that preserves the integrity of the building for long-term preservation and reuse.

Upon completion of the repairs, a qualified architectural historian shall document and confirm that work was completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and character-defining features were preserved. The Permittee or third party shall submit a memo report to the City's Historic Preservation Officer documenting the relocation, repair, and reuse prior to issuance of any occupancy permits for the project.

MM CUL-1.5: Salvage: If the Permittee or a third party does not relocate the structure within an agreed upon time, the structure shall be made available for salvage to companies facilitating the reuse of historic building materials. Prior to issuance of any grading, demolition, or building permits, the Permittee shall advertise the availability of the building for salvage for a period of no less than 30 days. The Permittee shall provide evidence to the Director of Planning, Building and Code Enforcement, or the Director's designee, that this condition has been met.

MM CUL-1.6: Commemoration and Public Interpretation: Prior to the issuance of any grading or building permits, the Permittee shall retain a

qualified historic resources consultant to develop a concept commemorative interpretive program, exhibit, and/or display including, but not limited to interpretive text and historic photographs, art or sculpture, video, interactive media, or oral histories. Prior to the issuance of any occupancy permits, the proposal and design of the commemoration and public interpretation shall be designed by a qualified consultant and submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and approval. The final product shall be implemented by the Permittee in coordination with the City. If a physical object, the commemoration and public interpretation shall be installed in a suitable publicly accessible location on the site as agreed upon by the City.

Finding: No feasible mitigation would reduce the impact of the Project to the property which is individually eligible for listing under the CRHR and the San José Historic Resources Inventory as a Candidate City Landmark. (Significant and Unavoidable Impact)

Facts in Support of Finding: As discussed in Section 3.5.2.2 of the EIR, even with implementation of the identified mitigation measures (MM CR-1.1—1.6), demolition, relocation, or salvage of the site's historic building would constitute a significant impact to the building because it would be permanently lost or relocated. While the mitigation measures would reduce the magnitude of the impact, they will not reduce the residual effect of removal of a historic resource from its historic context on the Project site to a less than significant level.

FINDINGS CONCERNING ALTERNATIVES

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 Draft EIR 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. Six alternatives were explored, including two alternatives that were rejected and not analyzed. The following four alternatives were fully analyzed as alternatives to the proposed Project:

1. No Project, No Development Alternative
2. No Project, Redevelopment Alternative

3. Preservation Alternative, Preservation of Historic Resource On-Site
4. Reduced Density, Preservation Alternative

Project Objectives

The objectives for the Project are as follows:

1. Provide a financially feasible plan for redevelopment of an underutilized surface parking lot and low-rise office building into housing.
2. Implement the City's General Plan Major Strategy #9: Destination Downtown, by contributing to focused development within the Downtown to support the General Plan's economic, fiscal, environmental, and urban design/placemaking goals.
3. Create an economically integrated neighborhood with new housing units, featuring both affordable and market rate rental apartments.
4. Develop as much housing as possible and feasible in a multi-story high-density building.
5. Provide a variety of unit plans suited for multiple family types - including studios, one bedroom units, and two bedroom units.
6. Establish bicycle and pedestrian friendly connectivity to public transit, recreation open spaces, and downtown San José.
7. Build new safe streets and promote pedestrian activity with active programs on the ground level with effective lighting.
8. Incorporate green and healthy development principles that include:

    - Green construction and energy efficient building (i.e., 100 percent electric, PV panels, etc.),
    - Reduced parking to promote walkable neighborhoods,
    - Stormwater management, and
    - Meeting Green Building Ordinance and the City's Reach Code.

Selection of Alternatives

CEQA, the CEQA Guidelines, and case law on the subject have found that feasibility can be based on a wide range of factors and influences. The CEQA Guidelines advise that such factors can include (but are not necessarily limited to) the suitability of an alternative site, economic viability, availability of infrastructure, consistency with the general plan or other plans or regulatory limitations, jurisdictional boundaries, and whether the project proponent can "reasonably acquire, control or otherwise have access to the alternative site" (Section 15126.6[f][1]).

1. No Project, No Development Alternative

A. Description of Alternative: Under the No Project, No Development Alternative, the existing 12,000 square foot office building would be retained. The No Project, No Development Alternative would avoid the project's impacts but would not meet any of the project objectives.

B. Comparison of Environmental Impacts: The No Project, No New Development Alternative would avoid the project's mitigated and significant unavoidable impacts to the environment, because it would not change existing conditions. The building at 380 North First Street, a Candidate City Landmark listed on the San José Historic Resources Inventory and which is also eligible for listing on the CRHR, would remain in place, thereby avoiding the significant unavoidable impact. With no construction activities occurring on the site, impacts to air quality, biological resources, cultural resources, hazardous materials, and noise would not occur and, therefore, no mitigation would be required.

C. Finding: This alternative would avoid all of the Project's environmental impacts by maintaining the baseline conditions for the Project site described in the FEIR. However, this Alternative would not meet any of the Project's specific objectives, which include providing planned housing.

2. No Project – Redevelopment Alternative

A. Description of Alternative: The No Project, Redevelopment Alternative assumes that if the project were not approved, the site would be developed with an alternative development consistent with what is allowed the General Plan Land Use designation and Zoning District. Since the proposed project is consistent with the General Plan land use designation and Zoning District, impacts under this alternative were found to be similar to those of the proposed project and would likely not fully meet the project's objectives.

B. Comparison of Environmental Impacts: Given that this alternative would still result in the future redevelopment of the Project site, the alternative's construction-related air quality and noise impacts would be comparable to the project because amount of demolition and grading and proximity to sensitive receptors would be the same.

Other identified mitigated impacts to archaeological and historic resources, biological resources and hazardous materials would remain the same as the project because this alternative would also include grading and excavation, as well as removal of all landscaping trees on-site. It would also be speculative to assume this alternative would avoid demolition of the existing building.

C. **Finding:** The No Project, Redevelopment Alternative would result in similar environmental impacts as the project (refer to Table 7.2-1 of the EIR). Since the No Project, Redevelopment Alternative could consist of a variety of use types allowed under the General Plan and Zoning District, it would be speculative to assume that only housing would be developed on the site. The project's objectives are centered on providing a high-density residential building in proximity to transit. Any type of development that did not provide housing would not meet the project's objectives (Objectives 1 and 3 through 5). It is possible that this alternative could meet Objectives 2, and 6 through 8.

3. Preservation Alternative, Preservation of Historic Resource On-Site

A. **Description of Alternative:** Under this alternative, it is assumed that the existing building on-site would be converted to residential use, yielding approximately 12 to 14 new units. A new 12-story residential building with reduced footprint would be constructed on the remainder of the site. However, conversion of the building into residential use would require improvements and building code updates that would necessitate alterations to the building that might not conform with Secretary of the Interior Standards for Treatment of Historic Properties and in accordance with the California Historic Building Code.

B. **Comparison of Environmental Impacts:** This alternative would have similar impacts to those of the proposed project but would likely reduce the project's significant unavoidable impact to historic resources. Under this alternative, construction air quality and noise impacts would be similar to those of the proposed project. Excavation for the alternative would result in slightly reduced air quality impacts since parking would be provided in one level of ground floor parking (compared to the one level of below grade parking assumed for the proposed project). However, as the proposed building would be taller than the proposed project, it could also result in an extended construction timeframe depending on the total number of floors to be constructed.

This alternative's impacts to biological resource would remain the same as the proposed project. This alternative would have the same impact on nesting birds on or in the vicinity of the site due to tree removal. This alternative would avoid demolition or relocation of the building. Additional mitigation measures would be required to ensure the historic building would not be damaged during construction. This alternative would still be required to implement all other mitigation measures, Standard Permit Conditions, and Conditions of Approval identified for the proposed project. As a result, the impacts to noise, hazardous waste, biological resources, and subsurface cultural resources would be reduced to a less than significant level consistent with the proposed project. Construction of this alternative would still

require substantial excavation and construction that would contribute to cancer risk for nearby sensitive receptors.

This alternative would likely reduce the project's significant unavoidable impact to historic resources. However, conversion of the building into residential would require improvements and building code updates that would necessitate alterations to the building that may or may not done in conformance with the Secretary of the Interior Standards for Treatment of Historic Properties and in accordance with the California Historic Building Code.

C. **Finding:** The Preservation Alternative – Preservation of Historic Resource On-Site would meet all the objectives for the proposed project. The alternative would avoid the significant unavoidable impact to the historic building, which would be preserved on-site and would meet all the project objectives. In order to still provide the proposed 118 rental units, the new building that would be built on the reminder of the site would need to be a minimum of 12 stories (including one level of ground floor parking). The 12-story building would need to be of Type I-A concrete and steel construction instead of Type III-A wood-framed construction as the proposed 7-story building. The 12-story building components and system would also need to meet the life and safety standards of a high-rise building, which would significantly increase construction costs, thereby rendering the project economically infeasible.

4. Reduced Density, Preservation Alternative

A. **Description of Alternative:** This alternative would retain the historic building and construct a new residential building on the remainder of the site where the existing surface parking lot is located. The new residential building would be the same height as the proposed project but would include only approximately 84 residential units (which represents a minimum 30 percent unit reduction as compared to the proposed project), and the overall mass of the building would be reduced because of the smaller footprint. This alternative would also convert the existing office building to residential use. Similar to the Preservation Alternative above, this alternative would likely reduce the project's significant unavoidable impact to historic resources. However, conversion of the building into a residential use might not conform with the Secretary of the Interior Standards for Treatment of Historic Properties and in accordance with the California Historic Building Code.

B. **Comparison of Environmental Impacts:** Under this alternative, construction air quality and noise impacts would be slightly reduced compared to the proposed project since the amount of demolition would be reduced due to the retention of the historic building. In addition, this alternative would require a smaller basement level than the proposed project, which would result in less excavation and grading.

The impacts to biological resource would remain the same as the proposed project. This alternative would have the same impact on nesting birds on or in the vicinity of the site. This alternative would avoid demolition or relocation of the building. Additional mitigation measures would be required to ensure the historic building would not be damaged during construction of the residential tower next to it.

This alternative would still be required to implement all other mitigation measures, Standard Permit Conditions, and Conditions of Approval identified for the proposed project. As a result, the impacts to noise, hazardous waste, biological resources, and subsurface cultural resources would be reduced to a less than significant level consistent with the proposed project. Construction of this alternative would still require substantial excavation and construction that would contribute to cancer risk for nearby sensitive receptors.

This alternative would likely reduce the project's significant unavoidable impact to historic resources. However, conversion of the building into residential would require improvements and building code updates that would necessitate alterations to the building that may or may not done in conformance with Secretary of the Interior Standards for Treatment of Historic Properties and in accordance with the California Historic Building Code.

C. **Finding:** The alternative would avoid the significant unavoidable demolition or relocation impact to the historic building, which would be preserved on-site and would partially meet the project objectives. It is assumed that this alternative would provide approximately 84 residential units (which represents a minimum 30 percent unit reduction as compared to the proposed project), thereby rendering the project economically infeasible.

Environmentally Superior Alternative

Section 15126.6 of the CEQA Guidelines states that an EIR shall identify an environmentally superior alternative. The environmentally superior alternative is the No Project, No Development Alternative. The No Project, No Development Alternative would retain the site in its current condition and would avoid all construction and operational impacts associated with the project, including the significant and unavoidable loss of the historic resource and air quality impacts from construction. However, this alternative would not achieve the project objectives. CEQA Guidelines Section 15126.6(e)(2) states that "if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives". Based on the above discussion, the environmentally superior alternative is the Reduced Development, Preservation Alternative. This alternative would avoid the significant unavoidable historic resources impact identified in the Draft EIR. The Reduced Development, Preservation Alternative would only partially meet the project's objectives

since it would provide at least 30 percent fewer residential units than the proposed project, which would render the project economically infeasible.

STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to CEQA, the City Council of the City of San José hereby adopts and makes the following statement of overriding considerations regarding the remaining significant unavoidable impact of the Project as outlined above and the anticipated economic, social, and other benefits of the Project.

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 cultural resources.

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 the 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 the 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.

C. **Benefits of the Proposed 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:

- **General Plan Land Use Alignment:** The Project proposes to develop the site with 118 residential units consistent with the Transit Residential General Plan land use designation. Further, the Project would implement the City's General Plan Major Strategy #9: Destination Downtown, by contributing to focused development within the Downtown to support the General Plan's economic, fiscal, environmental, and urban design/placemaking goals.

- **Diverse Income Housing Options:** The Project adds a significant number of both market-rate and affordable housing units to the City of San José, directly supporting the City's diversity and inclusivity goals by providing high-quality housing for a wide range of income levels, as well as satisfying the City's Regional Housing Needs Allocation. The Project will provide 5 percent of the proposed apartment units to income qualified renters.

- **Comprehensive Mix of Housing:** The Project includes a comprehensive mix of housing options, ranging from studios, one-bedroom units, and two-bedroom units. This variety in housing type seeks to create a vibrant, mixed-use community that caters to a diverse population, from single professionals and young couples to growing families.

- **Enhanced Pedestrian and Bicycle Infrastructure:** The Project will contribute its proportional share of in-lieu costs for future implementation of a Class IV protected bike lane along the project's Second Street frontage pursuant to the City of San José Better Bike Plan 2025.

- **Green Infrastructure:** The Project will implement numerous sustainable building practices aligning with the General Plan's emphasis on environmental stewardship and sustainability. The Project would be 100 percent electric and would meet the energy efficiency performance requirements of the San José Reach Code.

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 FEIR 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.

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.

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, and are also available for viewing electronically on the Department of Planning, Building and Code Enforcement website. 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.

ADOPTED this ____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

380 North First Street Residential Project
File No. H23-007 & ER23-075
February 2025

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) 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 Environmental Impact Report (EIR) prepared for the 380 North First Street Residential 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 MMRP addresses those measures in terms of how and when they will be implemented.

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

I, Mostafa Aghamiri, the applicant, on the behalf of 380N 1st st QOZB LLC, hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of an EIR 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 

Date 02-24-2025

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**
AIR QUALITY					
Impact AIR-1: The project construction would result in health risk impacts that exceed the Bay Area Air Quality Management District (BAAQMD) single-source cancer risk threshold of 10 per million due to project construction diesel particulate matter (DPM) emissions.					
MM AIR-1.1: Prior to the issuance of any demolition, grading 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 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, use equipment that meet U.S. Environmental Protection Agency (EPA) Tier 4 interim emission standards for particulate matter (PM_{10} and $PM_{2.5}$). If Tier 4 equipment is not available, all construction equipment larger	Submit a construction operations plan to the Director of Planning, Building and Code Enforcement or the Director's designee that outlines how the project will achieve a fleet-wide average 55-percent reduction in particulate matter exhaust emissions or more.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).	Director of Planning, Building and Code Enforcement or the Director's designee.	Review and approve the construction operations plan.	Prior to the issuance of any demolition, grading, and/or building permits. (whichever occurs earliest).

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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
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 a 55 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment. • Use of alternatively fueled or electric equipment. • Stationary cranes and construction generator sets shall be powered by electricity. Alternatively, the project applicant could develop a plan that reduces on- and near-site construction diesel particulate matter emissions by a minimum of 55 percent or greater. The plan shall be reviewed and approved by the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).					
BIOLOGICAL RESOURCES					

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
Impact BIO-1: Construction activities associated with the proposed project (e.g. tree removal) could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.					
MM BIO-1.1: Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall schedule tree removal, 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 1 through August 31 (inclusive).	Notify the Director of Planning, Building and Code Enforcement or the Director's designee of approximate start and end date of site disturbance activities.	Prior to any tree removal or the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).	Director of Planning, Building and Code Enforcement or the Director's designee.	Confirm start of construction activities is outside of nesting season.	Prior to any tree removal or the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).
MM BIO-1.2: If tree removal, demolition, and construction cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests are 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 through April 30 inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31 inclusive).	The qualified ornithologist to complete pre-construction surveys in accordance with MM BIO-1.2. If active nests are discovered close to work areas, MM BIO-1.3 shall be initiated. The results of the pre-construction surveys shall be described in the report required by MM BIO-1.4.	Prior to any tree removal or the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).	Director of Planning, Building and Code Enforcement or the Director's designee.	Receive the ornithologist report.	Prior to any tree removal or the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

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
During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.					
MM BIO-1.3: 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 to ensure that bird nests shall not be disturbed during project construction.	The qualified ornithologist shall determine the extent of a construction free buffer zone to be established around the nest to ensure that bird nests shall not be disturbed during project construction. The construction free buffer zones shall be described in the report required by MM BIO-1.4.	Prior to any tree removal or the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).	Director of Planning, Building and Code Enforcement or the Director's designee.	Receive the ornithologist report.	Prior to any tree removal or the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).
MM BIO-1.4: Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of Planning, Building and Code Enforcement or Director's designee.	Following completion of MM BIO-1.2 and MM BIO-1.3, the qualified ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of	Prior to any tree removal or the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).	Director of Planning, Building and Code Enforcement or the Director's designee.	Receive the ornithologist report consistent with MM BIO-1.2 through MM BIO-1.4.	Prior to any tree removal or the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

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	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**
	Planning, Building and Code Enforcement or the Director's designee. All measures shall be printed on all construction documents, contracts, and project plans.				
CULTURAL RESOURCES					
Impact CUL-1: Implementation of the proposed project would result in the demolition of the building at 380 North First Street, a Candidate City Landmark listed on the San José Historic Resources Inventory and is also eligible for listing on the California Register of Historic Resources (CRHR).					
MM CUL-1.1: Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permitee shall prepare and submit a Historic Resources Mitigation Action Plan (Action Plan) that outlines the specific steps, methodology and timing for how the following documentation will be approached and prepared. The Action Plan shall include roles and responsibilities between the Permittee, City staff, and outside individuals, groups, firms, and consultants. The Action Plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's	Submit a Historic Resources Mitigation Action Plan with oversight by a qualified architectural historian.	Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest).	Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer	Review and approve the Action Plan	Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest).

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
designee in coordination with the City's Historic Preservation Officer prior to its implementation.					
MM CUL-1.2: Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permittee shall submit Historic American Building Survey (HABS) documentation for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer. The documentation shall be prepared by a qualified architectural historian meeting the Secretary of the Interior's Professional Qualification Standards. The documentation shall be prepared in accordance with the guidelines established for the Level III HABS documentation consistent with the Secretary of the Interior's Standards for Architectural and Engineering Documentation and shall consist of the following components: A. Drawings – Prepare sketch floor plans of the building to help explain the building. B. Photographs – Photograph the exterior and interior with 35 mm digital photography to	The qualified historian shall submit a HABS documentation.	Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest).	Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer	Review and approve the HABS documentation.	Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest).

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clearly depict the appearance of the property and areas of significance. Photographs shall include each elevation of the building, architectural details, and prominent interior spaces and features keyed to the sketch floor plans that meet the digital photography specifications for Level III HABS documentation C. Written Data –Prepare expanded history of the property and architectural significance to supplement the photographs by explaining what is not readily visible. Following review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer, the documentation shall be submitted to and filed with the San José Library's California Room, History San José, and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System.					

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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MM CUL-1.3: Prior to the issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permitee shall submit 3D laser scans of the building to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer. The 3D laser scanning shall include an as-built survey of the existing conditions of the building utilizing 3D Laser Scanning techniques to capture the building's exterior to create a 3D point cloud model for digital documentation/archival purposes.	Submit 3D laser scans of the existing building.	Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest).	Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer	Review 3D Laser Scans.	Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest).
MM CUL-1.4: Relocation: Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permittee shall advertise the availability of the building for relocation for a period of no less than 60 days. The advertisement must include notification in a newspaper of general circulation, on a website, and notice placed adjacent to the public right of way on the project site to maximize visibility. The Permittee shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the Director of Planning, Building and Code	Advertise the availability of the structures for relocation for a period of no less than 60 days. Submit evidence of the advertisement to the Director of Planning, Building and Code Enforcement or the Director's designee.	Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest).	Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer	Review evidence of advertisement	Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest).

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
Enforcement or the Director's designee that this condition has been met. If the Permittee or a third party agrees to relocate the building, the following measures must be followed: 1. The Director of Planning, Building and Code Enforcement or the Director's designee, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is feasible for the building. 2. Prior to relocation, the Permittee 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 structure 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 City's Historic					

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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Preservation Officer prior to the structure being moved. 3. To protect the building during relocation, the Permittee or third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine how the building needs to be reinforced/stabilized before the move. 4. Once moved, the Permittee or third party shall repair and rehabilitate the building, as needed, Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be retained in a manner that preserves the integrity of the building for long-term preservation and reuse. Upon completion of the repairs, a qualified architectural historian shall document and confirm that work was completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and character-defining features were preserved. The Permittee or third party shall submit a memo report to the City's Historic Preservation Officer documenting the relocation,					

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
repair, and reuse prior to issuance of any occupancy permits for the project.					
MM CUL-1.5: Salvage: If the Permittee or a third party does not relocate the structure within an agreed upon time, the structure shall be made available for salvage to companies facilitating the reuse of historic building materials. Prior to issuance of any grading, demolition, or building permits, the Permittee shall advertise the availability of the building for salvage for a period of no less than 30 days. The Permittee shall provide evidence to the Director of Planning, Building and Code Enforcement, or the Director's designee, that this condition has been met.	Make structure available for salvage to companies facilitating the reuse of historic building materials. Submit evidence that the building was made available for salvage for at least 30 days to the Director of Planning, Building and Code Enforcement or the Director's designee.	Prior to issuance of any grading, demolition, or building permits.	Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer	Review evidence that the building was made available for salvage.	Prior to issuance of any grading, demolition, or building permits.
MM CUL-1.6: Commemoration and Public Interpretation: Prior to the issuance of any grading or building permits, the Permittee shall retain a qualified historic resources consultant to develop a concept commemorative interpretive program, exhibit, and/or display including, but not limited to interpretive text and historic photographs, art or sculpture, video, interactive media, or oral histories. Prior to the issuance of any occupancy permits, the proposal and design of the commemoration and public interpretation	A qualified historic resource consultant shall develop and submit a concept commemorative interpretive program, exhibit, and/or display including, but not limited to interpretive text and historic photographs, art or sculpture, video, interactive media, or oral	Prior to issuance of any grading, demolition, or building permits.	Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer	Review and approve the proposal and design of the commemoration and public interpretation.	Prior to occupancy permits

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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shall be designed by a qualified consultant and submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and approval. The final product shall be implemented by the Permittee in coordination with the City. If a physical object, the commemoration and public interpretation shall be installed in a suitable publicly accessible location on the site as agreed upon by the City.	histories to the Director of Planning, Building and Code Enforcement or the Director's designee.				
Impact CUL-2: Project ground disturbing activities could result in a substantial adverse change in the significance of an archaeological resource.					
MM CUL-2.1: Cultural Sensitivity Training. Prior to issuance of any grading permit, the project applicant shall be required to conduct a Cultural Awareness Training for construction personnel. The training shall be facilitated by a qualified archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. Documentation verifying that Cultural Awareness Training has been conducted shall	Provide at least one cultural sensitivity training to construction personnel. Submit documentation of training to the Director of Planning, Building and Code Enforcement or the Director's designee.	Prior to the issuance of any grading permit. Following completion of the cultural sensitivity training.	Director of Planning, Building and Code Enforcement or Director's designee.	Review documentation that cultural awareness training has been conducted.	Prior to the issuance of any grading permit.

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.					
MM CUL-2.2: Archaeological Monitoring Plan. Prior to the issuance of any demolition, grading, or building permits, a qualified archaeologist shall prepare an Archaeological Monitoring Plan (AMP) that details the types of archaeological resources that could be found within the Project Area during demolition and construction, and the procedures to follow should any archaeological material be encountered. The AMP shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee. The AMP shall: • provide procedures and guidelines for proper notification to Tribes, agencies, and stakeholders, as needed, • a plan for the evaluation and treatment of archaeological resources that may be encountered, as well as a curation plan.	The qualified archaeologist shall submit the AMP to the Director of Planning, Building and Code Enforcement or the Director's designee.	Prior to the issuance of any demolition, grading, or building permits	Director of Planning, Building and Code Enforcement or Director's designee.	Receive AMP.	Prior to the issuance of any demolition, grading, or building permits

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**
MM CUL-2.3: Archaeological Monitoring. A qualified archaeologist shall be presented during below grade construction. The archaeological monitor shall be empowered to halt construction activities at the location of a discovery to review possible archaeological material and to protect the resource while it is being assessed. Archaeological monitoring shall continue until, in the archaeologist's judgment, archaeological resources are no longer likely to be encountered. A report shall also be prepared to document the findings after construction is completed.	A qualified archaeologist shall be retained and present during below grade construction. Following completion of below grade construction, the qualified archaeologist shall submit a report documenting the findings.	During below grade construction and following completion of below grade work.	Director of Planning, Building and Code Enforcement or Director's designee.	Receive archaeologist's summary report.	Following completion of below grade construction.
HAZARDS AND HAZARDOUS MATERIALS					
Impact HAZ-1: The development of the project could result in exposure to construction workers, neighboring properties, and the environment from soils that have the potential to contain, arsenic, lead, pesticides, and polynuclear aromatic hydrocarbons (PAHs), and other contaminants associated with a historic railroad track being located adjacent to the north boundary of the subject property.					
MM HAZ-1.1: Prior to the issuance of any demolition or grading permit (whichever occurs earliest), the project applicant shall retain an environmental professional to collect and analyze shallow soil samples for arsenic, lead, organochlorine pesticides, CAM 17 metals, total petroleum hydrocarbons as diesel and oil, volatile organic compounds,	Conduct soil sampling and testing and submit results to the Director of Planning, Building and Code Enforcement or Director's designee and Municipal	Prior to the issuance of any demolition or grading permits (whichever occurs earliest)	Director of Planning, Building and Code Enforcement or the Director's designee	Receive the soil sampling and testing results and review for compliance with MM HAZ-1.1.	Prior to the issuance of any demolition or grading permits (whichever occurs earliest).

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polychlorinated bipheynls (PCBs), and polynuclear aromatic hydrocarbons (PAHs) on the subject property to determine whether elevated concentrations of contaminants in the soil exceed environmental screening levels (ESLs) due to a historic railroad track being located just north to the subject property. The results of soil sampling and testing shall be provided to the City's Supervising Planner of the Planning, Building and Code Enforcement Department and the Municipal Compliance Officer of the City of San José Environmental Services Department for review.	Environmental Compliance Officer.				
If contaminants are found in concentrations above regulatory ESLs, the applicant shall obtain regulatory oversight from Santa Clara County Department of Environmental Health (SCCDEH) or the Department of Toxic Substances Control (DTSC) under their Site Cleanup Plan (SCP). In addition, a Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified hazardous materials consultant. The plan shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The plan and evidence of	If contaminated soils are found, prepare a SMP, RAP, or equivalent document under the oversight of Santa Clara County Department of Environmental Health (or Department of Toxic Substances Control).	Prior to the issuance of any demolition or grading permits (whichever occurs earliest)	City of San José Environmental Compliance Officer Santa Clara County Department of Environmental Health	Review and approve Site Management Plan and oversee remediation activity.	Prior to the issuance of any demolition or grading permits (whichever occurs earliest)

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regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José Environmental Services Department.					
NOISE AND VIBRATION					
Impact NOI-1: Construction of the proposed project would result in substantial noise generating activities above the City's noise construction threshold for more than 12 months and occurring within 500 feet of residential uses and 200 feet of commercial uses.					
MM NOI-1.1: Prior to the issuance of any demolition or grading permits (whichever occurs the earliest), a qualified acoustical consultant shall develop and submit a construction noise logistics plan to the Director of Planning, Building and Code Enforcement or the Director's designee. The construction noise logistics plan shall include noise reduction measures to prevent substantial noise disturbances of affected sensitive receptors. A typical construction noise logistics plan shall include, but not be limited to, the following measures to reduce construction noise levels as low as feasible:	The qualified acoustical consultant to prepare a construction noise logistics plan. Submit the construction noise logistics plan to the Supervising Environmental Planner. All measures shall be printed on all construction documents, contracts, and project plans.	Prior to the issuance of any demolition or grading permits (whichever occurs earliest). The plan shall be implemented during construction.	Director of Planning, Building and Code Enforcement or the Director's designee.	Receive and review the construction noise logistics plan for compliance with MM NOI-1.1.	Prior to the issuance of any demolition or grading permits (whichever occurs earliest).

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• Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses. • Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. • Prohibit unnecessary idling of internal combustion engines. • 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. • Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.					

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• 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. • If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites. • 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 shall 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.					

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MM NOI-2.1: Prior to issuance of any demolition or grading permits (whichever occurs earliest), the project applicant shall contract with a licensed Professional Structural Engineer in the State of California to prepare a construction vibration monitoring plan that includes measures to reduce vibration impacts to achieve vibration limit of 0.2 in/sec Peak Particle Velocity (PPV). During construction, the project applicant shall implement the following vibration reduction measures: • A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams, clam shovel drop, and vibratory roller, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds. • Place operating equipment on the construction site at least 10 feet from the project site	Contract with a licensed Professional Structural Engineer in the State of California to prepare a construction vibration monitoring plan that includes the measures outlined in MM NOI-2.1; the plan shall be submitted to the Supervising Environmental Planner. Implement vibration reduction measures. All measures shall be printed on all construction documents, contracts, and project plans.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest). The plan shall be implemented during all phases of construction.	Director of Planning, Building and Code Enforcement or the Director's designee (Supervising Environmental Planner).	Receive and review the construction vibration monitoring plan for compliance with MM NOI-2.1.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

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boundaries shared with the existing substation and restroom buildings to the north. • Smaller equipment to minimize vibration levels to below 0.2 in/sec PPV shall be used at the property lines adjoining adjacent buildings. For example, a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, could be used when compacting materials within 30 feet of the existing substation and restroom buildings to the north. • Avoid using vibratory rollers and clam shovel drops within 30 feet of the existing substation and restroom buildings to the north. • Select demolition methods not involving impact tools. • Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of the existing substation and restroom buildings to the north. • Designate a Disturbance Coordinator responsible for registering and investigating					

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claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site. The requirements of the construction vibration monitoring plan shall be printed on all construction documents, contracts, and project plans and 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 or grading permits. The project contractors shall adhere to the measures of the construction vibration monitoring plan for all phases of construction.					
Source: City of San José. *Draft Environmental Impact Report for the 380 North First Street Residential Project*. February 2025.					