

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE 500 WEST SAN CARLOS RESIDENTIAL DEVELOPMENT PROJECT ADDENDUM TO THE DIRIDON STATION AREA PLAN ENVIRONMENTAL IMPACT REPORT, DOWNTOWN STRATEGY 2000 ENVIRONMENTAL IMPACT REPORT, THE ENVISION SAN JOSE 2040 GENERAL PLAN ENVIRONMENTAL IMPACT REPORT, THE GENERAL PLAN SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT, AND ADDENDA THERETO, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM

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 Final Program Environmental Impact Report for the Diridon Station Area Plan (“DSAP FEIR”), which analyzed the environmental impacts of future development as established in the Diridon Station Area Plan; and

WHEREAS, the Planning Commission of the City certified said DSAP FEIR, which certification was not appealed; and

WHEREAS, in connection with the adoption of a resolution approving said Diridon Station Area Plan (Planning File No. PP09-163), the City Council adopted Resolution No. 77096 on July 14, 2014, setting forth certain findings pertaining to the DSAP FEIR and adopting a mitigation monitoring and reporting program, all pursuant to the provisions of CEQA; and

WHEREAS, the City prepared, completed, and adopted in accordance with CEQA the Final Program Environmental Impact Report for the Downtown Strategy 2000 (“Downtown Strategy FPEIR”), which analyzed the environmental impacts of future development in the expanded Greater Downtown Area as established by the Downtown Strategy 2000 long-range program to allow high density infill development and the expansion of the Greater Downtown Area; and

WHEREAS, the Planning Commission of the City certified said Downtown Strategy FPEIR, which certification was not appealed; and

WHEREAS, in connection with the adoption of a resolution approving said Downtown Strategy 2000 Plan (Planning File No. PP03-123), the City Council adopted Resolution No. 72767 on June 21, 2005, setting forth certain findings pertaining to the Downtown Strategy FPEIR and adopting a mitigation monitoring and reporting program, all pursuant to the provisions of CEQA; and

WHEREAS, the City prepared, completed, and adopted in accordance with CEQA the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (“General Plan FPEIR”), which analyzed the environmental impacts set forth from the land use and development assumptions of the Envision San José 2040 General Plan; and

WHEREAS, the Planning Commission of the City certified said General Plan FPEIR, which certification was not appealed; and

WHEREAS, in connection with the adoption of a resolution approving said Envision San José 2040 General Plan (Planning File No. PP09-011), the City Council adopted Resolution No. 76041 on November 1, 2011, setting forth certain findings pertaining to

the General Plan FPEIR and adopting a mitigation monitoring and reporting program, all pursuant to the provisions of CEQA; and

WHEREAS, subsequent to said actions on the General Plan FPEIR, the City prepared, completed, and adopted in accordance with CEQA the Supplemental EIR (“SEIR”) for the Envision San José 2040 General Plan, Greenhouse Gas Reduction Strategy (Planning File No. PP15-060); and

WHEREAS, the Planning Commission of the City certified said SEIR, which certification was not appealed; and

WHEREAS, the City Council adopted Resolution No. 77617 on December 15, 2015 setting forth certain findings pertaining to the SEIR, all pursuant to the provisions of CEQA; and

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of San José prepared and approved an Addendum to the DSAP FEIR, Downtown Strategy FPEIR, the General Plan FPEIR, SEIR and Addenda thereto for the 500 West San Carlos Residential Development Project under Planning File Nos. C16-003 and SP18-053 (the “Addendum”), all in accordance with the requirements of CEQA; and

WHEREAS, the 500 West San Carlos Residential Development Project (the “Project”) analyzed under the Addendum consists of a conventional rezoning from the CP Commercial Pedestrian Zoning District to the Downtown Zoning District and a Site Development Permit to demolish the existing buildings and allow the construction of a five-story residential building of 19 units and 3,095 square feet of retail space on the ground floor on a 0.18 gross acre site located at 500 West San Carlos Street in San José, California; and

WHEREAS, as further described in the Addendum, the implementation of the Project would not result in new significant effects on the environment beyond those already identified in the previously approved DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, SEIR, and Addenda thereto, nor will the Project result in an increase in the severity of significant effects identified in the DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, and SEIR, as amended, and all the identified mitigation measures, would continue to reduce each of those significant effects to a less than significant level; and

WHEREAS, although the Project will not result in any new significant effect or increase in the severity of an existing significant effect on the environment, revisions to standard measures and mitigation measures are being made to reflect current General Plan policies and current protocols, which have been updated to incorporate applicable mitigations from the DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, and SEIR into the Project; and

WHEREAS, the related mitigation measures are described in the Addendum; and

WHEREAS, a related Mitigation Monitoring and Reporting Program (“Mitigation Monitoring and Reporting Program”) was prepared that incorporates certain project specific mitigation measures from the previously certified DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR and SEIR, which have been updated and refined to reflect the current regulatory context; and

WHEREAS, the City of San José is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to undertake the Project; and

WHEREAS, the City Council has reviewed and considered the DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, SEIR and the Addendum, including the related Mitigation Monitoring and Reporting Program for the Project, and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the DSAP FEIR, Downtown FPEIR, General Plan FPEIR, SEIR, and the Addendum thereto and related Mitigation Monitoring and Reporting Program for the Project are on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San José California, 95113, are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein;

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

THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, and SEIR, as all modified by the Addendum, as well as other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Addendum modifying the DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, and SEIR prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Addendum modifying the DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, and SEIR represents the independent judgment and analysis of the City of San José, as lead agency for the Project. The City Council designates the Director of Planning 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.

THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby adopt the Addendum and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File Nos. C16-003 and SP18-053). The Mitigation Monitoring and Reporting Program is attached hereto as Exhibit A and is fully incorporated herein by this reference. The DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, SEIR and the Addendum and Mitigation Monitoring and Reporting Program are: (1) on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and (2) available for inspection by any interested person.

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ADOPTED this _____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

**500 WEST SAN CARLOS RESIDENTIAL ("JOSEFA PLAZA")
DEVELOPMENT PROJECT
File Nos. C16-003 & SP18-053**

May 2018



P R E F A C E

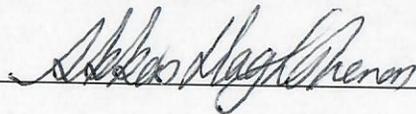
Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Initial Study/Addendum prepared for the 500 West San Carlos Residential ("Josefa Plaza") Development 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 identifies those measures and how and when they will be implemented.

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

I, ABBAS HAGHSHEENAS the applicant, on the behalf of MYSELF (OWNER), hereby agree to fully implement the Mitigation Measures described below, which have been developed in conjunction with the preparation of an Initial Study/Addendum 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, where feasible.

Project Applicant's Signature _____



Date 10/3/18



500 West San Carlos Residential ("Josefa Plaza") Development
File Nos. C16-003 & SP18-053

Planning, Building and Code Enforcement

ROSALYNNHUGHEY, DIRECTOR

MITIGATION MEASURES	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
CULTURAL RESOURCES					
Impact CUL-1: Excavation of the site could result in the loss of unknown subsurface historic resources on the project site.					
<p>MM CUL-1.1: Preliminary Investigation. Prior to the issuance of any grading permits, the project proponent shall complete subsurface testing to determine the extent of possible resources on-site. Subsurface testing shall be completed by a qualified archaeologist. The results of the preliminary field investigation and program shall be submitted to the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement for review and approval.</p> <p>Based on the findings of the subsurface testing, an archaeological resources treatment plan (as described in MM CUL 1-2 and 1.3) shall be prepared by a qualified archaeologist if necessary.</p>	<p>Complete subsurface testing and submit the preliminary field investigation and results to the Supervising Environmental Planner and the Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement.</p>	<p>Prior to the issuance of any grading permits.</p>	<p>Supervising Environmental Planner and the Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement</p>	<p>Review the results of the preliminary review.</p>	<p>Prior to the issuance of any grading permits.</p>
<p>MM CUL-1.2: Encounter: In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, the archaeologist shall stop all activity within a 50-foot radius of the find, the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement shall be notified, and a qualified archaeologist shall examine the find. Project personnel shall not collect or move any cultural material.</p>	<p>If historic resources are encountered during the earth moving activities, the archaeologist shall stop all activities within a 50-foot radius of potential find, notify the Supervising Environmental Planner and Historic Preservation Officer</p>	<p>During all earthmoving activities.</p>	<p>Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement</p>	<p>Receive notification of any prehistoric or historic resource find and receive a report of findings and recommendations.</p>	<p>During all ground-disturbance activities including demolition, grading, and/or construction. Report of findings prior to</p>



Planning, Building and Code Enforcement

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<p>The qualified archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of any occupancy permits. If the finds do not meet the definition of a historical or archaeological resource, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it shall be avoided by project activities as recommended by the qualified archeologist. The project proponent shall ensure that project personnel do not collect or move any cultural material and fill soils that will be used for construction purposes shall not contain archaeological materials.</p> <p>If the resource cannot be avoided, adverse effects to such resources shall be mitigated in accordance with the recommendations of the archaeologist. Recommendations shall include, but are not limited to, collection, recordation, and analysis of any significant cultural materials. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan described in MM CUL-1.3, below.</p>	<p>of the City of San José Department of Planning, Building, and Code Enforcement</p>				<p>occupancy permits.</p>



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Data recovery shall include excavation and exposure of features, field documentation, and recordation. A report of findings documenting any data recovery shall be submitted to the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement and the Northwest Information Center prior to issuance of any occupancy permits.					
<p>MM CUL-1.3: Treatment Plan. If a treatment plan is warranted, a qualified archeologist shall prepare and submit the treatment plan to the Supervising Environmental Planner and the Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement prior to issuance of any demolition and grading permits. The treatment plan shall include, at a minimum:</p> <ul style="list-style-type: none"> • Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations. • Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found). • Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information). 	A qualified archaeologist shall implement the project-specific archaeological resources treatment plan approved by the Supervising Environmental Planner and the Historic Preservation Officer of the Department of Planning, Building, and Code Enforcement.	Prior to the issuance of any demolition and grading permits.	Supervising Environmental Planner and the Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement	Approve the results of the field investigation results and treatment program.	Prior to the issuance of any demolition and grading permits.



Planning, Building and Code Enforcement

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<ul style="list-style-type: none"> Detailed field strategy to record, recover, or avoid the finds and address research goals. Analytical methods. Report structure and outline of document contents. Disposition of the artifacts or resources. Appendices: all site records, correspondence, and consultation with Native Americans, etc. <p>Implementation of the plan, by a qualified archaeologist, shall be required prior to the issuance of demolition and grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.</p>					
<p>MM CUL-1.4: Human Remains: If any human remains are found during any field investigations, grading, or other construction activities, the project proponent shall ensure that all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, are followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project proponent shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the qualified archaeologist, who will</p>	<p>Project proponent shall follow all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641.</p> <p>Project proponent or field archeologist shall notify the Supervising Environmental Planner of Department of Planning,</p>	<p>During any field investigations, grading, or other construction activities.</p>	<p>Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement.</p> <p>Santa Clara County Coroner.</p>	<p>Receive notification if human remains are found during field investigation, grading, or other construction activities.</p> <p>If the remains are believed to be Native American, the Coroner shall also contact the</p>	<p>Prior to and during construction activities.</p>



Planning, Building and Code Enforcement

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<p>then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American.</p> <p>If the remains are believed to be Native American, the Coroner will contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. (CEQA Guidelines §15064.5)</p> <p>If one of the following conditions occurs (CEQA Guidelines §15064.5(e)), the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:</p> <ul style="list-style-type: none"> • The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the NAHC. • The MLD identified fails to make a recommendation; or • The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner. 	<p>Building, and Code Enforcement of the discovery of human remains.</p>			<p>Native American Heritage Commission (NAHC).</p> <p>Conducts consultation with MLD or a designated representative to determine appropriate treatment of remains.</p>	

Source: 500 West San Carlos Residential ("Josefa Plaza") Development Project Initial Study/Addendum, May 2018.