

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CERTIFYING THE ALMADEN CORNER HOTEL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT TO THE DOWNTOWN STRATEGY 2040 ENVIRONMENTAL IMPACT REPORT (RESOLUTION NO. 78942) AND MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT IMPACTS, MITIGATION MEASURES AND ALTERNATIVES, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED**

**WHEREAS**, the proposed Almaden Corner Hotel Tower includes the development of a 19-story building (maximum height of 225 feet) with 272-room hotel tower on a 0.20-acre project site located at the intersection of North Almaden Boulevard and East Santa Clara Street (APNs: 259-35-055) in downtown San José; and

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

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

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

**WHEREAS**, the proposed Project was evaluated and analyzed under the Downtown Strategy FPEIR and it was determined a supplemental environmental report to the Downtown Strategy FPEIR was required as further explained in the initial study and FSEIR, as defined below, for the Project; and

**WHEREAS**, the City is the lead agency for the Project, and has prepared a Final Supplemental Environmental Impact Report to the Downtown Strategy FPEIR for the Project pursuant to and in accordance with CEQA, which the Final Supplemental Environmental Impact Report is comprised of the Draft Supplemental Environmental Impact Report for the Project (the "Draft SEIR"), together with the First Amendment to the Draft SEIR (collectively, all of said documents are referred to herein as the "FSEIR"); 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 statement of considerations for any impact that may not be reduced to a less than significant level.

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

1. That the above recitals are true and correct; and

2. That the City Council does hereby find and certify that the FSEIR has been prepared and completed in compliance with CEQA; and
3. The City Council was presented with, and has independently reviewed and analyzed, the FSEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FSEIR and the Project, prior to acting upon or approving the Project, and has found that the FSEIR represents the independent judgment of the City of San José ("City") as lead agency for the Project, and designated the Director of Planning, Building and Code Enforcement at his office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and record of proceedings on which the decision of the City is based; and
4. That the City Council does hereby find and recognize that the FSEIR contains additions, clarifications, modifications, and other information in its response to comments on the Draft SEIR or obtained by the City after the Draft SEIR was issued and circulated for public review and does hereby find that such changes and additional information are not significant new information as that phrase is described under CEQA because such changes and additional information do not indicate that any of the following would result from approval and implementation of the Project: (i) any new significant environmental impact or substantially more severe environmental impact not already disclosed and evaluated in the Draft SEIR, (ii) any feasible mitigation measure considerably different from those analyzed in the Draft SEIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented, or (iii) any feasible alternative considerably different from those analyzed in the Draft SEIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented; and
5. That the City Council does hereby find and determine that recirculation of the FSEIR for further public review and comment is not warranted or required under the provisions of CEQA; and
6. The City Council does hereby make the following findings with respect to the significant effects of the environment of the Project, as identified in the FSEIR, with the understanding that all of the information in this Resolution is intended as a summary of the full administrative record supporting the FSEIR, which full administrative record should be consulted for the full details supporting these findings.

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## ALMADEN CORNER HOTEL SIGNIFICANT ENVIRONMENTAL IMPACTS

### Air Quality

**Impact:** **Impact AIR-1:** Construction of the project would expose sensitive receptors in the proximity to the project site to temporary toxic air contaminants emissions in excess of acceptable thresholds.

**Mitigation:** **MM AIR-1.1:** The project applicant shall ensure that all diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. Environmental Protect Agency (EPA) particulate matter emissions standards for Tier 4 engines. An alternative option would be equipment that meets Tier 3 engines that have California Air Resources Board (CARB) certified Level 3 Diesel Particulate Filters or equivalent. Alternatively, the use of equipment that includes alternatively-fueled equipment (i.e., non-diesel) would meet this requirement. If any of these alternative measures are proposed, the project applicant shall include them in the construction operations plans (as stated in MM AIR-1.2) which include specifications of the equipment to be used during construction prior to the issuance of any demolition, grading, or building permits, whichever occur the earliest. Additionally, large stationary cranes shall be powered by electricity, and generators and welders using diesel fuel shall be limited to 200 hours over the entire construction period.

**MM AIR-1.2:** Prior to the issuance of any demolition, grading, and/or building permits, whichever occurs earliest, the project applicant shall submit a construction operations plan that includes specifications of the equipment to be used during construction to the City's Director of Planning or Director's designee for review and approval. 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 in these mitigation measures.

**Findings:** With the implementation of Mitigation Measures MM AIR-1.1 and MM AIR-1.2, air quality impacts resulting from construction activities associated with the project would be reduced to a less than significant level. **(Less Than Significant with Mitigation Incorporated)**

**Facts in Support of Finding:** Results of the assessment for project construction indicate that the maximum residential incremental infant/child cancer risk at the maximally exposed individual receptor would be 153.6 per million, which is

above the Bay Area Air Quality Management District (BAAQMD) significance threshold of 10 in one million. Furthermore, the annual Particulate Matter 2.5 (PM<sub>2.5</sub>) would be 0.90 microgram per cubic meter (µg/m<sup>3</sup>), exceeding the BAAQMD threshold of 0.3 microgram per cubic meter. The project would therefore, result in a significant impact. Implementation of the City's standard project conditions for construction air quality, which incorporate Best Management Practices (BMPs) from the BAAQMD, would reduce exhaust emission during construction. Combined with the mitigation measures MM AIR-1.1 and MM AIR-1.2, the project would reduce the infant residential cancer risk to 6.7 per one million or less and the maximum PM<sub>2.5</sub> concentrations would be 0.08 µg/m<sup>3</sup>, which would be below the BAAQMD significance threshold of 10 in one million for cancer risk and the maximum PM<sub>2.5</sub> concentrations of 0.3 µg/m<sup>3</sup>.

### **Biological Resources**

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

**Mitigation:** **MM BIO-1.1:** Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.

If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period. During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.

Prior to any tree removal, construction activities, 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 satisfaction of the City's Director of Planning or Director's designee.

**Finding:** Implementation of Mitigation Measure MM BIO-1.1 would reduce impacts to nesting raptors and other migratory birds to a less than significant level.  
**(Less Than Significant with Mitigation Incorporated)**

**Facts in Support of Finding:** While there are no trees directly on the property, there are trees adjacent to the site that could be impacted during construction activities. Conducting pre-construction surveys and implementing a construction-free buffer zone around any migratory bird nests (if found) would ensure that raptor or migratory bird nests are not disturbed during Project construction, consistent with the Migratory Bird Treaty Act and California Fish and Game Code. The size of the buffer zones would be determined by consultation between the qualified ornithologist and the CDFW, and based on scientific evidence and best management practices. Compliance with Mitigation Measure MM BIO-1.1 would avoid impacts to nesting birds.

### **Cultural Resources**

**Impact:** **Impact CUL-1:** Construction of the proposed project could significantly impact the De Anza Hotel, a listed San José City Landmark and a site listed on the National Register of Historic Places.

**Mitigation:** **MM CUL-1.1: Pre-Condition Survey:** The project applicant shall prepare preconstruction documentation of the De Anza Hotel. Prior to construction, a qualified Historic Architect shall undertake an existing visual conditions study of the De Anza Hotel. The purpose of the study would be to establish the baseline conditions of the building prior to construction. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including those physical characteristics of the resource that conveys its historic significance. The documentation shall be reviewed and approved by the City's Director of Planning or Designee and the City of San José's Historic Preservation Officer (HPO) prior to the issuance of any grading permits.

**MM CUL-1.2:** Prior to issuance of any grading permits, the project applicant shall prepare and implement a Historical Resources Protection Plan (HRRP) that provides measures and procedures to protect the De Anza

Hotel from direct or indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, staging, and material storage).

The HRRP shall be prepared by a qualified Historic Architect who meets the Secretary of Interior's Professional Qualifications Standards and reviewed and approved by the City's Director of Planning, Building and Code Enforcement or Designee and the HPO. The project applicant shall ensure the contractor follows the HRRP throughout construction.

At a minimum, the plan shall include, but is not limited to, the following:

- Guidelines for operation of construction equipment adjacent to historical resources;
- Guidelines for storage of construction materials away from historic resources;
- Requirements for monitoring and documenting compliance with the plan; and
- Education/training of construction workers about the significance of the historical resources around which they would be working.
- Development of a vibration monitoring and construction contingency plan to identify where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction phases as detailed by the MM NOI-1.1 through NOI-1.3. Construction contingencies would be identified for when vibration levels approach the limits.

**MM CUL-1.3:** The project applicant shall establish a "Monitoring Team" comprised of at least one qualified Historic Architect and one structural engineer for the duration of the site monitoring process. During the demolition and construction phases, the Monitoring Team shall make periodic site visits to monitor the condition of the De Anza Hotel property, including monitoring of any instruments such as crack gauges, if necessary. The monitoring period shall be a minimum of one site visit every month for the duration of the construction period. The City's Director of Planning or Designee and the HPO may request any additional number of site visits at their discretion.

If, in the opinion of the Monitoring Team, substantial adverse impacts related to construction activities are found during construction, a representative of the Monitoring Team shall inform the project applicant (or the applicant's designated representative responsible for construction

activities), the City's Director of Planning or Designee and the HPO of the potential impacts. The project applicant shall implement the Monitoring Team's recommendations for corrective measures, including halting construction in situations where construction activities would imminently endanger historic resources.

The project applicant shall ensure that, in the event of damage to the De Anza Hotel during construction, repair work is performed (with appropriate permits, as necessary) in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and shall restore the character-defining features in a manner that does not affect the structure's historic status.

The Monitoring Team shall prepare a report documenting all site visits. The reporting period shall be a minimum of once every three months. The Monitoring Team or its representative, shall submit the site visit reports to the City's Director of Planning or Designee and the HPO no later than one week after each reporting period.

The Monitoring Report shall include, but is not limited to, the following:

- Summary of the demolition and construction progress;
- Identification of substantial adverse impacts related to construction activities;
- Problems and potential impacts to the historical resources and adjacent buildings during construction activities;
- Recommendations to avoid any potential impacts;
- Actions taken by the project applicant in response to the problem;
- Progress and the level of success in meeting the applicable Secretary of the Interior's Standards for the Treatment of Historic Properties for the project as noted above for the character-defining features, and in preserving the character-defining features of nearby historic properties; and
- Inclusion of photographs to explain and illustrate progress.

In addition, the Monitoring Team shall submit a final document associated with monitoring and repairs after completion of the construction activities to the City's Director of Planning or Designee and the HPO prior to the issuance of any Certificate of Occupancy (temporary or final).

**Finding:** Implementation of Mitigation Measures MM CUL-1.1, CUL-1.2 and CUL-1.3 would reduce physical impacts to nearby historic materials and structures



during construction activities to less than significant levels. **(Less Than Significant with Mitigation Incorporated)**

**Facts in Support of Finding:** The project is adjacent to the De Anza Hotel, a listed San José City Landmark (HL81-17). The hotel was listed on the NRHP on January 21, 1982. The De Anza is considered a historic resource under CEQA. With construction activities happening within adjacent to the historic building, it is reasonable to anticipate that even though the building was reinforced, some fragile character-defining features of the building could suffer damage. Implementation of the mitigation measure CUL-1.1, CUL-1.2, and CUL-1.3 would ensure documentation of existing condition prior to any construction activities, continuous monitoring during construction activities, identification of damages during construction activities, and recommendation of repairs to be completed, ensuring that the historic Hotel retains its integrity.

**Impact:** **Impact CUL-2:** Construction of the proposed project could impact as yet unrecorded subsurface archaeological resources, if present on-site.

**Mitigation:** **MM CUL-2.1: Treatment Plan:** Prior to the issuance of any grading permit, a project-specific Cultural Resources Treatment Plan shall be prepared by a qualified archaeologist. The Cultural Resources Treatment Plan shall be developed based on available records, including the subsurface archaeological investigation report completed for the adjacent Axis Residential Tower project which details specific artifacts recovered on the adjacent site.

The Cultural Resources Treatment Plan shall reflect permit-level detail pertaining to depths and locations of all ground disturbing activities. The Cultural Resources Treatment Plan shall be prepared and submitted to the City's Director of Planning or Designee and the HPO prior to approval of any grading permit. The Treatment Plan shall contain, at a minimum:

- 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).
- Detailed field strategy used to record, recover, or avoid the finds and address research goals.

- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

**MM CUL-2.2: Evaluation and Data Recovery:** The City's Director or Director's Designee and the City's Historic Preservation Officer shall be notified of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during grading or other construction activities shall be evaluated for eligibility for listing in the California Register of Historic Resources. 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 project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.

**MM CUL-2.3: Construction Monitoring and Protection Measures:** Although the data recovery and treatment program is expected to recover potentially significant materials and information from the area impacted by the project prior to grading, it is possible that additional resources could remain on-site. Therefore, all ground-disturbing activities (e.g., grading and excavation) shall be completed under the observation of a qualified archaeologist, unless otherwise determined by the qualified archaeologist.

The qualified archaeologist shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find. If, for any reasons, the qualified archaeologist is not present, but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet of the find, the City's Director of Planning or Director's Designee shall be notified, and a qualified archaeologist shall be notified, and a qualified archaeologist shall be contacted to determine the proper course of action. Any human remains encountered during construction shall be treated according to the protocol identified in MM CUL-2.4.

**MM CUL-2.4: Human Remains:** Native American coordination shall follow the protocols established under Assembly Bill 52, State of California Code, and applicable City of San José procedures.

If any human remains are found during any field investigations, grading, or other construction activities, 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, shall be 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 applicant shall immediately notify the City's Director of Planning or Director's Designee of the City of San José Department of Planning, Building and Code Enforcement and the qualified archaeologist, who will then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American.

If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (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.

If one of the following conditions occurs, 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:

- The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 48 hours after being given access to the site;
- The MLD identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

**Finding:** Implementation of the above mitigation measures would ensure that impacts to unknown archaeological and human remains, if present on site, would be less than significant. **(Less Than Significant with Mitigation)**

**Facts in Support of Finding:** Mitigation Measures CUL-2.1 through CUL-2.4 review and evaluate unknown subsurface prehistoric or historic resources, consistent with State regulations and local policies. Implementation of these mitigation measures requires the development of an archaeological resources treatment plan. The treatment plan will make provisions for adequately recovering scientifically consequential information from and about historic

or prehistoric resources. Furthermore, implementation of mitigation measures MM CUL-2.3 and MM CUL-2.4 will protect prehistoric or historic resources and Native American human remains which could be encountered during ground disturbance activities.

### **Hazards and Hazardous Materials**

**Impact:** **Impact HAZ-2:** Development of the proposed project could potentially expose construction workers and the adjacent residents to contaminated soils, soil vapors, or groundwater with development of the site.

**Mitigation:** **MM HAZ-2.1:** The project applicant shall perform a soil, soil gas and groundwater investigation to determine if the former gas station, auto repair uses, and nearby contaminated sites have impacted the project site. A subsurface utility locator shall also be retained to determine if the underground tanks from the historic gas station are still present. Results of the investigation shall be submitted to the City's Director or Director's Designee and the Municipal Compliance Officer of the Environmental Services Department and shall be incorporated in the Soil and Groundwater Management Plan (Plan) as stated in MM HAZ-2.2.

**MM HAZ-2.2:** Under regulatory oversight from the Santa Clara County Department of Environmental Health (SCCDEH) using their Voluntary Cleanup Program (VCP), or equivalent regulatory agency and program, the project applicant shall develop a Soil and Groundwater Management Plan (Plan), or similar document, as required by SCCDEH, to be implemented prior to and during construction to protect construction worker safety, the public, and the environment.

The Soil and Groundwater Management Plan shall include, but are not limited to, the following measures:

1. A detailed discussion of the site background;
2. Health and Safety Plan to protect construction workers;
3. Soil management protocol to manage contaminated soils if encountered on-site;
4. Proper procedures as needed for demolition of existing structures;
5. Management of stockpiles, including sampling, disposal, and dust and runoff;
6. Control including implementation of a stormwater pollution prevention program;
7. Procedures for transporting and disposing the waste material generated during removal activities;

8. Procedures for stockpiling soil on-site, if such stockpiling is necessary;
9. Provisions for collecting additional soil samples in previously inaccessible areas to confirm the extent of soil contamination, following demolition activities;
10. Procedures to ensure that fill and cap materials are verified as clean;
11. Truck routes for export of soil;
12. Staging and loading procedures and record keeping requirements;
13. Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paints, etc.) is discovered during excavation or demolition activities; and
14. Details on dewatering procedures including permitting with the City of San José Environmental Services Department for treatment and discharge to the sanitary sewer or the Regional Water Quality Control Board (RWQCB) for treatment and discharge to the storm drain system.

The Plan shall be submitted to the SCCDEH, or equivalent applicable regulatory agency, for review and approval. Copies of the approved SMP shall be provided to the City's Director of Planning or Designee and the Municipal Compliance Officer of the Environmental Services Department prior to issuance of any demolition or grading permits.

**Finding:** Implementation of MM HAZ-2.1 and HAZ-2.2 would ensure that workers and the public would not be exposed to residual soil and groundwater contaminants during construction of the project. **(Less Than Significant with Mitigation)**

**Facts in Support of Finding:** The project site was previously developed with a gas station and historically included auto repair uses. Based on these uses, there is a potential that releases of petroleum hydrocarbons have occurred and that impacted soil, groundwater, or soil vapor may be encountered during construction activities. Therefore, construction workers could be exposed to contaminated soils or groundwater and elevated concentrations of petroleum hydrocarbons in soil vapor, if present and not remediated or handled properly. Implementation of mitigation measures HAZ-2.1 and HAZ-2.2 would require additional testing to determine if contamination is found in concentrations above established regulatory environmental screening levels. If contamination exceeds these environmental screening levels, remediation of the site would be required in accordance with the Santa Clara County Department of Environmental Health with the approval of a Soil and Groundwater Management Plan or other similar report to ensure potential impacts to construction workers on the site are reduced to a less than significant level. Implementation of these mitigation measures

will prepare, monitor, and facilitate any potential soil or clean-up activities that would occur during construction activities.

### **Noise**

**Impact:** **Impact NOI-2:** Vibration levels at the De Anza Hotel would exceed City vibratory thresholds for historic buildings.

**Mitigation:** **MM NOI-2.1:** The project applicant shall prohibit impact or vibratory pile driving. Drilled piles cause lower vibration levels and shall be used where geological conditions permit their use.

**MM NOI-2.2:** The project applicant shall prepare a list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.), and shall submit the list to the City's Director of Planning, Building and Code Enforcement or Designee for review and approval. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and shall identify methodologies and tasks to effort require for continuous vibration monitoring.

**MM NOI-2.3:** The project applicant shall prepare and implement a Construction Vibration Monitoring, Treatment, and Reporting Plan ("Plan") to document conditions at the historic De Anza Hotel prior to, during, and after vibration generating construction activities. All plan tasks shall be conducted under the direction of a Professional Structural Engineer licensed in the State of California and be in accordance with industry accepted standard methods. The Plan shall include, but is not limited to, the following:

- A photo survey, elevation survey, and crack monitoring survey for the historic De Anza Hotel. Surveys shall be performed prior to, in regular intervals during, and after completion of vibration generating construction activities and shall include internal and external crack monitoring in the structure, settlement, and distress and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of said structure. Frequency of intervals shall be recommended by the Professional Structural Engineer and shall be approved by the City.
- A contingency section or plan to identify where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to further document before and after

construction period. Construction contingencies would be identified for when vibration levels approach the limits.

- If vibration levels approach limits (0.08 in/sec PPV), suspend construction and implement contingencies to either lower vibration levels or secure the affected structure.
  - Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities.
  - Summarize the results of all vibration monitoring and submit results in a report after completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims. The report shall be submitted to the City's Director of Planning or Designee and the HPO two weeks after completion of each phase identified in the project schedule.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

The project applicant shall submit the Construction Vibration Monitoring, Treatment, and Reporting Plan to the City's Director of Planning, Building and Code Enforcement or Designee prior to issuance of any demolition or grading permits for review and approval.

**Finding:** With implementation of NOI-2.1 through NOI-2.3, construction activities involving vibration would not exceed the General Plan threshold of 0.08 in/sec Peak Particle Velocity (PPV), consistent with the General Plan Policy EC-2.3 and therefore, would not be significant. **(Less Than Significant with Mitigation)**

**Facts in Support of Finding:** Project construction activities, such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.) would generate substantial vibration in the immediate vicinity of the historic De Anza Hotel; vibration was calculated to reach up to 1.2 in/sec PPV, exceeding the General Plan threshold of 0.08 in/sec PPV. Implementation of the NOI-2.1

through NOI-2.3 would require restrictions on certain equipment type during construction phases. Furthermore, implementation of the measures would ensure documentation of the existing conditions of the De Anza Hotel, monitoring during construction activities for damages, continuous reporting on findings during the construction phases.

## **FINDINGS CONCERNING ALTERNATIVES**

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

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

1. No Development Alternative
2. Downtown Redevelopment Alternative
3. Reduced Height and Massing Alternative

### **1. No Project Alternative**

- A. Description of Alternative:** The No Development Alternative would retain the existing private parking lot on-site. There will be no construction with the No Development Alternative.
- B. Comparison of Environmental Impacts:** Under the No Project Alternative, the Project site would remain as it is and all of the environmental impacts anticipated to occur under the proposed project, including all construction impacts, would be avoided.
- C. Finding:** The No Project Alternative would avoid the significant impacts identified in this FSEIR. The No Project Alternative would not, however, allow for new high-density, high-rise development in Downtown consistent with the Envision San José 2040 General Plan and the Downtown Strategy 2040 Plan, nor would it meet any of the project objectives. Therefore, this alternative is rejected.



## **2. Downtown Redevelopment Alternative**

- A. Description of Alternative:** The project site is currently designated as Downtown under the General Plan Land Use Designation and Downtown Primary Commercial (DC) Zoning District, which allows development of up to 30 stories with a floor area ratio (FAR) of 30.0 and residential densities up to 800 dwelling units per acre. The currently proposed project has a FAR of 16.6 and is 19 stories in height. The Downtown Redevelopment Alternative assumes the redevelopment of the site to be consistent with the existing land use designations. Assuming the project would maximize the existing allowable density on this property, any alternative project proposed on this site, regardless of land use type, would likely be comparable in density and scale to the currently proposed project.
- B. Comparison on Environmental Impacts:** Maximizing the existing allowable density on this site would result in a building of similar size. As many of the environmental impacts pertain to construction impacts and activities, any development under this alternative would result in comparable impacts.
- C. Findings:** The Downtown Redevelopment Alternative would likely result in similar impacts as the proposed project and therefore, is rejected.

## **3. Reduced Height and Massing Alternative**

- A. Description of Alternative:** The Reduced Height and Massing Alternative consists of a reduced height alternative of a seven to eight story building, with similar design, with no roof top bar. Based on the floor plan of the proposed project, this would allow for up to 95 hotel rooms.
- B. Comparison on Environmental Impacts:** As this alternative would be a smaller footprint than the proposed project, it is likely the alternative would have a shorter construction timeframe, resulting in a reduction in total number of hours that heavy equipment is being used and duration of the overall construction impact to air quality, noise, and cultural resources. However, this alternative would still require the same heavy equipment to use as the proposed project, so maximum vibration levels on-site during construction would be comparable to the proposed project.
- C. Findings:** The Reduced Height and Massing Alternative would result in an approximately 65 percent reduction in the overall hotel rooms compared to the proposed project. The Reduced Height and Massing Alternative would

generally be consistent with most of the identified objectives and is generally consistent with the General Plan policies.

Based on the above discussion, the environmentally superior alternative is the No Project – No Development Alternative as it would avoid all construction impacts. However, this alternative would not meet any project objectives. Therefore, the Reduced Height and Massing Alternative was considered. This alternative would result in the construction of approximately a seven to eight story building with up to 95 hotel rooms, which is less than half of the number of hotel rooms for the proposed project. This alternative would lessen construction impacts due to the shorter construction timeframe and therefore, would lessen the severity of both the already less than significant construction-related toxic air contaminants and construction noise impacts. However, vibration impact would be comparable as similar equipment is likely to be used in this alternative and the proposed project.

However, while the Reduced Height and Massing Alternative would continue to support some of the objectives with regards to adding jobs and visitors to Downtown and near existing transit corridors to foster transit use and efficiency of urban services, this alternative would not meet the goal of intensification of the density designated for this property and the project and General Plan objective to provide a high density development as it is a reduction of approximately 65 percent of hotel rooms from the proposed development. As previously mentioned, the site is allowed for up to 30 stories with a floor area ratio (FAR) of 30.0 and residential densities up to 800 dwelling units per acre. The proposed development would maximize the development potential of the site, when compared to the alternatives, and would conform with General Plan Community Design Goal CD-6 and Land Use Goal. By maximizing the uses, the project is focused growth in an urbanized central location and further the major strategy of creating a Designation Downtown (Major Strategy #9). Furthermore, the project would continue to achieve Land Use Goal LU-13 to preserve historic values to the area without affecting the integrity of designated resources.

## **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 for responsibility for mitigation implementation and the agency responsible for the monitoring action.

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## **NO STATEMENT OF OVERRIDING CONSIDERATIONS REQUIRED**

The project has identified that temporary construction activities would result in potential significant impacts to the Air Quality, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, and Noise and Vibration environmental resources. With the implementation of mitigation measures such as AIR-1.1, AIR-1.2, BIO-4.1, CUL-1.1, CUL-1.2, CUL-1.3, CUL-2.1, CUL-2.2, CUL-2.3, CUL-2.4, HAZ-2.1, NOI-2.1, NOI-2.2, NOI-2.3, and permit conditions, the temporary construction impacts would reduce to less than significant. Therefore, the project would not require a Statement of Overriding Consideration as the project would not result in significant unavoidable impacts.

## **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, City Hall, 200 East Santa Clara Street, 3<sup>rd</sup> Floor Tower, San José, California, 95113. The City Council hereby designates the City's Director of Planning, Building, and Code Enforcement at his office at 200 East Santa Clara Street, San José, California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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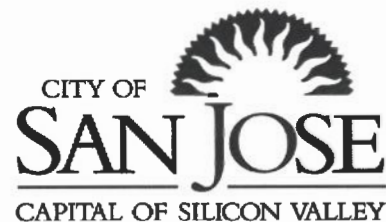
TONI J. TABER, CMC  
City Clerk

# MITIGATION MONITORING AND REPORTING PROGRAM

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## Almaden Corner Hotel Project File No. H18-038 November 2019

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# PREFACE

EXHIBIT "A" (File No. H18-038)

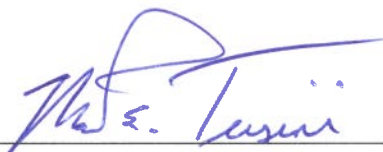
Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the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

The Supplemental Environmental Impact Report (EIR) prepared for the Almaden Corner Hotel 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 Supplemental EIR concluded that the impacts from implementation of the project would be less than significant.

I, MARK E. TERSINI, the applicant, on the behalf of Almaden Corner LLC, hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of a Supplemental 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

11/21/19

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<b>AIR QUALITY</b>					
<b>Impact AIR-1:</b> Construction activities associated with the proposed project would expose residences near the project site to temporary toxic air contaminant (TAC) emissions in excess of acceptable thresholds.					
<b>MM AIR-1.1:</b> The project applicant shall ensure that all diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines. An alternative option would be equipment that meets Tier 3 engines that have California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters or equivalent. Alternatively, the use of equipment that includes alternatively-fueled equipment (i.e., non-diesel) would meet this requirement. If any of these alternative measures are proposed, the project applicant shall include them in the construction operations plans (as stated in MM AIR-1.2) which include specifications of the equipment to be used during construction prior to the issuance of any demolition, grading, or building permits, whichever occur the earliest. Additionally, large stationary cranes shall be powered by electricity, and generators and welders using diesel fuel shall be limited to 200 hours over the entire construction period.	All diesel-powered off-road equipment, as described, shall have engines that meet EPA Tier 4 engines. Tier 3 engines with CARB-certified Diesel Particulate Filters or equivalent could an alternative option.	Prior to start of any construction activity and during all phases of construction.	Director or Director's designee of the City of San José Department of Planning, Building and Code Enforcement.	Confirm equipment meets requirements.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest) and during all phases of construction.
<b>MM AIR-1.2:</b> Prior to the issuance of any demolition, grading, and/or building permits, whichever occurs earliest, the project applicant shall submit a construction operations plan that includes	Prepare a construction operations plan that includes specifications of equipment to be used during	Prior to the issuance of any demolition, grading, and/or building permits	Director or Director's designee of the City of San José Department	Receive and approve the construction	Prior to the issuance of any demolition, grading, and/or

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specifications of the equipment to be used during construction to the City's Director of Planning or Director's designee for review and approval. 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 in these mitigation measures.	construction. The plan shall be accompanied by a letter signed by a qualified air quality specialist. Submit the operations plan to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement for review and approval.	(whichever occurs earliest).	of Planning, Building and Code Enforcement	operations plan and letter.	building permits (whichever occurs earliest).

## **BIOLOGICAL RESOURCES**

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

<p><b>MM BIO-1.1:</b> Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.</p> <p>If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the</p>	<p>Avoid construction activities during nesting seasons. If construction activities cannot be scheduled outside of nesting season, conduct a pre-construction nesting bird survey by a qualified ornithologist and, in consultation with the California Department of Fish and Wildlife, designate a construction-free buffer zone around any discovered nest.</p>	<p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.</p>	<p>City's Director of Planning or Director's designee of the San José Department of Planning, Building and Code Enforcement</p> <p>California Department of Fish and Wildlife</p>	<p>Confirm that demolition and construction activities are scheduled outside of the nesting season.</p> <p>Review report indicating the results of the survey (or any other environmental investigation</p>	<p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.</p>
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MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<p>initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period. During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.</p> <p>Prior to any tree removal, construction activities, 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 satisfaction of the City's Director of Planning or Director's designee.</p>	<p>The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of Planning or Director's designee of the San José Department of Planning, Building and Code Enforcement.</p>			<p>reports, if applicable) and any designated buffer zones.</p>	
<b>CULTURAL RESOURCES</b>					
<b>Impact CUL-1: Construction of the proposed project could significantly impact the De Anza Hotel.</b>					
<b>MM CUL-1.1: <u>Pre-Condition Survey</u>:</b> The project applicant shall prepare preconstruction documentation of the De Anza Hotel. Prior to construction, a qualified	Prepare preconstruction documentation of the De Anza Hotel. A qualified	Prior to issuance of any grading permits.	Director or Director's designee of the City of San José Department	Review and approve visual	Prior to the issuance of any grading permits.



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Historic Architect shall undertake an existing visual conditions study of the De Anza Hotel. The purpose of the study would be to establish the baseline conditions of the building prior to construction. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including those physical characteristics of the resource that conveys its historic significance. The documentation shall be reviewed and approved by the City's Director of Planning or Designee and the City of San José's Historic Preservation Officer (HPO) prior to the issuance of any grading permits.	Historic Architect shall undertake an existing visual conditions study of the De Anza Hotel to establish the baseline conditions of the building.		of Planning, Building and Code Enforcement.  City of San José Historic Preservation Officer.	conditions study documentation.	
<b>MM CUL-1.2:</b> Prior to issuance of any grading permits, the project applicant shall prepare and implement a Historical Resources Protection Plan (HRRP) that provides measures and procedures to protect the De Anza Hotel from direct or indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, staging, and material storage).  The HRRP shall be prepared by a qualified Historic Architect who meets the Secretary of Interior's Professional Qualifications Standards and reviewed and approved by the City's Director of Planning, Building and Code Enforcement or Designee and the HPO. The project applicant shall ensure the contractor follows the HRRP throughout construction.	A qualified Historic Architect shall prepare a Historical Resources Protection Plan (HRRP) that provides measures and procedures to protect the De Anza Hotel from direct or indirect impacts during construction. The HRRP shall be implemented by the project applicant.	Prior to the issuance of any grading permits.  The HRRP shall be followed through all phases of construction.	Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement.  City of San José Historic Preservation Officer.	Review and approve the HRRP.	Prior to the issuance of any grading permits.  The HRRP shall be followed through all phases of construction.

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<p>At a minimum, the plan shall include, but is not limited to, the following:</p> <ul style="list-style-type: none"> <li>Guidelines for operation of construction equipment adjacent to historical resources;</li> <li>Guidelines for storage of construction materials away from historic resources;</li> <li>Requirements for monitoring and documenting compliance with the plan; and</li> <li>Education/training of construction workers about the significance of the historical resources around which they would be working.</li> <li>Development of a vibration monitoring and construction contingency plan to identify where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction phases as detailed by the MM NOI-1.1 through NOI-1.3. Construction contingencies would be identified for when vibration levels approach the limits.</li> </ul>					
<p><b>MM CUL-1.3:</b> The project applicant shall establish a "Monitoring Team" comprised of at least one qualified Historic Architect and one structural engineer for the duration of the site monitoring process. During the demolition and construction phases, the Monitoring Team shall make periodic site visits to monitor the condition of the De Anza Hotel property, including</p>	<p>Project applicant shall establish a "Monitoring Team" to make site visits to monitor the condition of the De Anza Hotel Property. The Monitoring Team shall</p>	<p>During the demolition and construction phases.</p>	<p>Director or Director's designee of the City of San José Department of Planning, Building and Code Enforcement.</p>	<p>Review site visit reports.  Receive final documentation</p>	<p>During the demolition and construction phases.  Prior to issuance of any</p>

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<p>monitoring of any instruments such as crack gauges, if necessary. The monitoring period shall be a minimum of one site visit every month for the duration of the construction period. The City's Director of Planning or Designee and the HPO may request any additional number of site visits at their discretion.</p> <p>If, in the opinion of the Monitoring Team, substantial adverse impacts related to construction activities are found during construction, a representative of the Monitoring Team shall inform the project applicant (or the applicant's designated representative responsible for construction activities), the City's Director of Planning or Designee and the HPO of the potential impacts. The project applicant shall implement the Monitoring Team's recommendations for corrective measures, including halting construction in situations where construction activities would imminently endanger historic resources.</p> <p>The project applicant shall ensure that, in the event of damage to the De Anza Hotel during construction, repair work is performed (with appropriate permits, as necessary) in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and shall restore the character-defining features in a manner that does not affect the structure's historic status.</p>	<p>prepare a report documenting all site visits.</p> <p>If substantial adverse impacts related to construction activities occur, the Monitoring Team shall notify project applicant, City Director of Planning and the HPO.</p> <p>In the event of damage to the De Anza Hotel during construction, repair work is performed in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.</p>		City of San José Historic Preservation Officer.	from Monitoring Team.	Certificate of Occupancy.

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<p>The Monitoring Team shall prepare a report documenting all site visits. The reporting period shall be a minimum of once every three months. The Monitoring Team or its representative, shall submit the site visit reports to the City's Director of Planning or Designee and the HPO no later than one week after each reporting period.</p> <p>The Monitoring Report shall include, but is not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Summary of the demolition and construction progress;</li> <li>• Identification of substantial adverse impacts related to construction activities;</li> <li>• Problems and potential impacts to the historical resources and adjacent buildings during construction activities;</li> <li>• Recommendations to avoid any potential impacts;</li> <li>• Actions taken by the project applicant in response to the problem;</li> <li>• Progress and the level of success in meeting the applicable Secretary of the Interior's Standards for the Treatment of Historic Properties for the project as noted above for the character-defining features, and in preserving the character-defining features of nearby historic properties; and</li> <li>• Inclusion of photographs to explain and illustrate progress.</li> </ul>					

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In addition, the Monitoring Team shall submit a final document associated with monitoring and repairs after completion of the construction activities to the City's Director of Planning or Designee and the HPO prior to the issuance of any Certificate of Occupancy (temporary or final).					
<b>Impact CUL-2: Construction of the proposed project could impact as yet unrecorded subsurface archaeological resources, if present on-site.</b>					
<p><b>MM CUL-2.1: Treatment Plan:</b> Prior to the issuance of any grading permit, a project-specific Cultural Resources Treatment Plan shall be prepared by a qualified archaeologist. The Cultural Resources Treatment Plan shall be developed based on available records, including the subsurface archaeological investigation report completed for the adjacent Axis Residential Tower project which details specific artifacts recovered on the adjacent site.</p> <p>The Cultural Resources Treatment Plan shall reflect permit-level detail pertaining to depths and locations of all ground disturbing activities. The Cultural Resources Treatment Plan shall be prepared and submitted to the City's Director of Planning or Designee and the HPO prior to approval of any grading permit. The Treatment Plan shall contain, at a minimum:</p> <ul style="list-style-type: none"> <li>• Identification of the scope of work and range of subsurface effects (including location map and</li> </ul>	A qualified archaeologist shall prepare a project specific Cultural Resources Treatment Plan reflecting permit-level detail pertaining to depths and locations of all ground disturbing activities.	Prior to the issuance of any grading permit.	<p>Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement.</p> <p>City of San José Historic Preservation Officer.</p>	Review and approve Cultural Resources Treatment Plan.	Prior to the issuance of any grading permit.



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<p>development plan), including requirements for preliminary field investigations.</p> <ul style="list-style-type: none"> <li>• Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).</li> <li>• Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).</li> <li>• Detailed field strategy used to record, recover, or avoid the finds and address research goals.</li> <li>• Analytical methods.</li> <li>• Report structure and outline of document contents.</li> <li>• Disposition of the artifacts.</li> <li>• Appendices: all site records, correspondence, and consultation with Native Americans, etc.</li> </ul>					
<p><b>MM CUL-2.2: <u>Evaluation and Data Recovery:</u></b> The City's Director or Director's Designee and the City's Historic Preservation Officer shall be notified of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during grading or other construction activities shall be evaluated for eligibility for listing in the California Register of Historic Resources. Data recovery methods</p>	<p>Notify City's Director or Director's Designee and Historic Preservation Officer of any finds.</p> <p>Evaluate any historic or prehistoric material identified in the project area for eligibility for listing in the California Register of Historic Resources.</p>	<p>During the preliminary field investigation, grading, or other construction activities.</p>	<p>The City's Director of Planning or Director's Designee of the City of San José Department of Planning, Building and Code Enforcement</p> <p>City of San José Historic Preservation Officer</p>	<p>Receive notification on any finds during the preliminary field investigation, grading, or other construction activities.</p>	<p>During the preliminary field investigation, grading, or other construction activities.</p>

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<p>may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation.</p> <p>The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.</p>	<p>Techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan.</p>				
<p><b>MM CUL-2.3: Construction Monitoring and Protection Measures:</b> Although the data recovery and treatment program is expected to recover potentially significant materials and information from the area impacted by the project prior to grading, it is possible that additional resources could remain on-site. Therefore, all ground-disturbing activities (e.g., grading and excavation) shall be completed under the observation of a qualified archaeologist, unless otherwise determined by the qualified archaeologist.</p> <p>The qualified archaeologist shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find. If, for any reasons, the qualified archaeologist is not present but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet of the find, the City's Director of Planning or Director's Designee shall be notified, and a qualified archaeologist shall be notified, and a qualified archaeologist shall be contacted to determine the proper course of action.</p>	<p>All ground-disturbing activities shall be completed under the observation of a qualified archaeologist. The archaeologist shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find.</p> <p>Any human remains encountered during construction shall be treated according to the protocol identified in MM CUL-2.5.</p>	<p>During all ground-disturbing activities.</p>	<p>Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement.</p> <p>City of San José Historic Preservation Officer.</p>	<p>Receive notification of any unanticipated finds.</p>	<p>During all ground-disturbing activities.</p>

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Any human remains encountered during construction shall be treated according to the protocol identified in MM CUL-2.4.					
<p><b>MM CUL-2.4: Human Remains:</b> Naïve American coordination shall follow the protocols established under Assembly Bill 52, State of California Code, and applicable City of San José procedures.</p> <p>If any human remains are found during any field investigations, grading, or other construction activities, 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, shall be 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 applicant shall immediately notify the City's Director of Planning or Director's Designee of the City of San José Department of Planning, Building and Code Enforcement and the qualified archaeologist, who will 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 Native American Heritage Commission (NAHC) within 24 hours. The NAHC</p>	<p>Follow the protocols established under Assembly Bill 52, State of California Code, and applicable City of San José procedures for Native American coordination.</p> <p>If any human remains are found, 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, shall be followed. The project applicant shall immediately notify the Director of Planning or Director's Designee of the City of San José Department of Planning, Building and Code Enforcement and the qualified archaeologist, who</p>	During all ground-disturbance or construction related activities.	<p>City's Director or Director's Designee of the City of San José Department of Planning, Building and Code Enforcement. Santa Clara County Coroner.</p> <p>Native American Heritage Commission.</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 Native American Heritage Commission.</p>	During all ground-disturbance or construction related activities.



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<p>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.</p> <p>If one of the following conditions occurs, 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"> <li>• The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 48 hours after being given access to the site;</li> <li>• The MLD identified fails to make a recommendation; or</li> <li>• The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.</li> </ul>	will then notify the Santa Clara County Coroner.				
<b>Hazards and Hazardous Materials</b>					
<b>Impact HAZ-2:</b> Development of the proposed project could potentially expose construction workers and the adjacent residents to contaminated soils, soil vapors, or groundwater with development of the site.					

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<b>MM HAZ-2.1:</b> The project applicant shall perform a soil, soil gas and groundwater investigation to determine if the former gas station, auto repair uses and nearby contaminated sites have impacted the project site. A subsurface utility locator shall also be retained to determine if the underground tanks from the historic gas station are still present. Results of the investigation shall be submitted to the City's Director or Director's Designee and the Municipal Compliance Officer of the Environmental Services Department and shall be incorporated in the Soil and Groundwater Management Plan (Plan) as stated in MM HAZ-2.2.	Perform soil, soil gas and groundwater investigation. Submit results to the City.	Prior to issuance of any grading permits.	Santa Clara County Department of Environmental Health.  Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement.  Municipal Compliance Officer of the City of San José's Environmental Services Department.	Review results of investigation.	Prior to issuance of any grading permits.
<b>MM HAZ-2.2:</b> Under regulatory oversight from the Santa Clara County Department of Environmental Health (SCCDEH) using their Voluntary Cleanup Program (VCP), or equivalent regulatory agency and program, the project proponent shall develop a Soil and Groundwater Management Plan (Plan), or similar document, as required by SCCDEH, to be implemented prior to and during construction to protect construction worker safety, the public, and the environment.  The Soil and Groundwater Management Plan shall include, but are not limited to, the following measures:  1. A detailed discussion of the site background;	Enroll in the Voluntary Cleanup Program with Santa Clara County or equivalent regulatory agency and submit a Soil and Groundwater Management Plan.	Prior to issuance of any grading permits.	Santa Clara County Department of Environmental Health.  Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement.  Municipal Compliance Officer of the City of San José's	Review Plan.	Prior to the issuance of any demolition or grading 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
2. Health and Safety Plan to protect construction workers; 3. Soil management protocol to manage contaminated soils if encountered on-site; 4. Proper procedures as needed for demolition of existing structures; 5. Management of stockpiles, including sampling, disposal, and dust and runoff; 6. Control including implementation of a stormwater pollution prevention program; 7. Procedures for transporting and disposing the waste material generated during removal activities; 8. Procedures for stockpiling soil on-site, if such stockpiling is necessary; 9. Provisions for collecting additional soil samples in previously inaccessible areas to confirm the extent of soil contamination, following demolition activities; 10. Procedures to ensure that fill and cap materials are verified as clean; 11. Truck routes for export of soil; 12. Staging and loading procedures and record keeping requirements; 13. Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paints, etc.) is discovered during excavation or demolition activities; and			Environmental Services Department.		

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<p>14. Details on dewatering procedures including permitting with the City of San José Environmental Services Department for treatment and discharge to the sanitary sewer or the Regional Water Quality Control Board (RWQCB) for treatment and discharge to the storm drain system.</p> <p>The Plan shall be submitted to the SCCDEH, or equivalent applicable regulatory agency, for review and approval. Copies of the approved SMP shall be provided to the City's Director of Planning or Designee and the Municipal Compliance Officer of the Environmental Services Department prior to issuance of any demolition or grading permits.</p>					
<b>Noise</b>					
<b>Impact NOI-2: Vibration levels at the De Anza Hotel would exceed City vibratory thresholds for historic buildings.</b>					
<p><b>MM NOI-2.1:</b> The project applicant shall prohibit impact or vibratory pile driving. Drilled piles cause lower vibration levels and shall be used where geological conditions permit their use.</p> <p><b>MM NOI-2.2:</b> The project applicant shall prepare a list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.), and shall submit the list to the City's Director of Planning, Building and Code Enforcement or Designee for review and approval. This list shall be used to identify equipment and activities that would</p>	<p>Print condition on all plans, contracts, and associated document.</p> <p>Preparation and submit a list of construction equipment prior to the issuance of any grading permits.</p>	<p>Prior to the issuance of any grading permits.</p>	<p>Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement.</p>	<p>Review list of equipment and conditions.</p>	<p>Prior to issuance of any grading permits.</p>

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potentially generate substantial vibration and shall identify methodologies and tasks to effort require for continuous vibration monitoring.					
<p><b>MM NOI-2.3:</b> The project applicant shall prepare and implement a Construction Vibration Monitoring, Treatment, and Reporting Plan ("Plan") to document conditions at the historic De Anza Hotel prior to, during, and after vibration generating construction activities. All plan tasks shall be conducted under the direction of a Professional Structural Engineer licensed in the State of California and be in accordance with industry accepted standard methods. The Plan shall include, but is not limited to, the following:</p> <ul style="list-style-type: none"> <li>A photo survey, elevation survey, and crack monitoring survey for the historic De Anza Hotel. Surveys shall be performed prior to, in regular intervals during, and after completion of vibration generating construction activities and shall include internal and external crack monitoring in the structure, settlement, and distress and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of said structure. Frequency of intervals shall be recommended by the Professional Structural Engineer and shall be approved by the City.</li> <li>A contingency section or plan to identify where monitoring would be conducted, set up</li> </ul>	Preparation and submit a Construction Vibration, Monitoring, Treatment, and Reporting Plan prior to the issuance of any grading permits.	Prior to the issuance of any grading permits.	Director or Director's designee of the City of San José Department of Planning, Building and Code Enforcement.	Review the Construction Vibration, Monitoring, Treatment, and Reporting Plan	Prior to the issuance of any grading permits.



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<p>a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to further document before and after construction period. Construction contingencies would be identified for when vibration levels approach the limits.</p> <ul style="list-style-type: none"> <li>• If vibration levels approach limits (0.08 in/sec PPV), suspend construction and implement contingencies to either lower vibration levels or secure the affected structure               <ul style="list-style-type: none"> <li>○ Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities.</li> <li>○ Summarize the results of all vibration monitoring and submit results in a report after completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-</li> </ul> </li> </ul>					

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<p>monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims. The report shall be submitted to the City's Director of Planning or Designee and the HPO two weeks after completion of each phase identified in the project schedule.</p> <ul style="list-style-type: none"> <li>Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.</li> </ul> <p>The project applicant shall submit the Construction Vibration Monitoring, Treatment, and Reporting Plan to the City's Director of Planning, Building and Code Enforcement or Designee prior to issuance of any demolition or grading permits for review and approval.</p>					

**Source:** City of San José. Draft Supplemental EIR for the Almaden Corner Hotel Project. August 2019.