

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

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

**WHEREAS**, the proposed Winchester Ranch Residential Project includes: 1) a General Plan Amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram Designation from Residential Neighborhood to Urban Residential; 2) a General Plan Text Amendment to make minor modifications to the Santana Row/Valley Fair Urban Village Plan to remove references to Winchester Mobile Home Park, update the Building Height Diagram, and update transition areas; 3) rezone the site from the A(PD) – Planned Development Zoning District (for a mobile home park) to the R-M(PD) Planned Development Zoning District to allow the development of up to 688 multi-family residential units; 4) a Tentative Map to subdivide the site from one parcel to 64 parcels; and 5) a Planned Development Permit to allow a mobile home park conversion and the construction of up to 688 multi-family residential units and an approximately 2.0-acre public park; ; all on an approximately 15.7 acre site in the City in San José, California (collectively referred to herein as the “Project”); and

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

**WHEREAS**, the City is the lead agency for the Project, and has prepared a Final Environmental Impact Report for the Project pursuant to and in accordance with CEQA, which the Final Environmental Impact Report is comprised of the Draft Environmental Impact Report for the Project (the “Draft EIR”), together with the First Amendment to the Draft EIR (collectively, all of said documents are referred to herein as the “FEIR”); and

**WHEREAS**, on December 4, 2019, the Planning Commission of the City of San José reviewed the FEIR prepared for the Winchester Ranch Residential Project, and recommended to the City Council that it find the environmental clearance for the proposed Project was completed in accordance with the requirements of CEQA and further recommended the City Council adopt this Resolution; and

**WHEREAS**, CEQA requires that, in connection with the approval of a project for which an environmental impact report has been prepared which identifies one or more significant environmental effects of the project, the decision-making body of a public agency make certain findings regarding those effects and adopt a mitigation or monitoring program and overriding statement of consideration for any impact that may not be reduced to a less than significant level.

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

1. That the above recitals are true and correct; and
2. That the City Council does hereby find and certify that the FEIR has been prepared and completed in compliance with CEQA; and
3. The City Council was presented with, and has independently reviewed and analyzed, the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FEIR and the Project, prior to acting upon or approving the Project, and has found that the FEIR represents the independent judgment of the City of San José (“City”) as lead agency for the Project, and designated the Director of Planning, Building and Code Enforcement at the Director’s office at 200

East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and record of proceedings on which the decision of the City is based; and

4. That the City Council does hereby find and recognize that the FEIR contains additions, clarifications, modifications, and other information in its response to comments on the Draft EIR or obtained by the City after the Draft EIR 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 EIR, (ii) any feasible mitigation measure considerably different from those analyzed in the Draft EIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented, or (iii) any feasible alternative considerably different from those analyzed in the Draft EIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented; and
5. That the City Council does hereby find and determine that recirculation of the FEIR for further public review and comment is not warranted or required under the provisions of CEQA; and
6. The City Council does hereby make the following findings with respect to the significant effects of the environment of the Project, as identified in the FEIR, with the understanding that all of the information in this Resolution is intended as a summary of the full administrative record supporting the FEIR, which full administrative record should be consulted for the full details supporting these findings.

## **WINCHESTER RANCH RESIDENTIAL PROJECT SIGNIFICANT ENVIRONMENTAL IMPACTS**

### **Air Quality**

**Impact:**      **Impact AIR-3:** The Project would expose sensitive receptors to substantial pollutant concentrations during construction.

**Mitigation:**   **MM AIR-3.1:** All diesel-powered off-road equipment operating on-site for more than two days continuously and larger than 25 horsepower shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate

matter emissions standards for Tier 4 engines or equivalent. Where Tier 4 equipment is not feasible, equipment that meets U.S. EPA emissions for Tier 3 engines and California Air Resources Board (CARB) Level 3 verifiable diesel emission control devices (that altogether achieve an 85 percent reduction) shall be used. Alternatively, equipment that is electrically powered or uses non-diesel fuels would meet this requirement.

Any cranes to be used during construction shall be electrified and a temporary line power must be available to minimize use of portable diesel-powered equipment.

The Project applicant shall submit to the Department of Planning, Building, and Code Enforcement a construction operations plan that includes specifications of the equipment to be used during construction. 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. The plan shall be submitted for review and approval to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement's Environmental Review Division prior to issuance of any grading, demolition, and/or building permit (whichever occurs earliest).

**Finding:** With the implementation of Mitigation Measures MM AIR-3.1, construction air quality impacts to nearby sensitive receptors will be reduced to a less than significant level. **(Less Than Significant with Mitigation Incorporated)**

**Facts in Support of Finding:** As discussed in Section 3.3.3.1 of the DEIR and the Air Quality and Greenhouse Gas Assessment (Appendix B), Project construction activities were analyzed with the assumption of Tier 4 interim equipment usage. With the implementation of mitigation MM AIR-3.1, the computed maximum increased lifetime residential cancer risk from construction, assuming infant exposure, would be 2.8 in one million or less, the maximum annual PM<sub>2.5</sub> concentration would be 0.18 µg/m<sup>3</sup>, and the Hazard Index would be <0.01, all below thresholds of significance for community risk exposure established by the Bay Area Air Quality Management District (BAAQMD). As a result, impacts would be reduced to less-than-significant with respect to community risk caused by construction activities.

## **Biological Resources**

**Impact:** **Impact BIO-1:** The Project could have a substantial adverse effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

Demolition and construction activities associated with the Project could result in impacts to nesting migratory birds during the nesting season.

**Mitigation:** **MM BIO-1.1:** The Project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

If demolition and construction cannot be scheduled between September 1<sup>st</sup> and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests are disturbed during Project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 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). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during Project construction.

Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Supervising Environmental Planner.

**Finding:** Implementation of Mitigation Measures 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:** Conducting pre-construction surveys and implementing a construction-free buffer zone around any migratory bird nests will ensure

that raptor or migratory bird nests are not disturbed during Project construction, under the Migratory Bird Treaty Act and California Fish and Game Code. The size of the buffer zones will be determined by consultation between the qualified ornithologist and the CDFW and based on scientific evidence and best management practices. Compliance with Mitigation Measure MM BIO-1.1 will avoid impacts to nesting birds.

**Impact:** **Impact BIO-5:** The Project could conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

**Mitigation:** **MM BIO-5.1:** Prior to issuance of any demolition or grading permits (whichever occurs first), the Project applicant shall retain a certified arborist to discuss work procedures and tree protection with the construction superintendent before beginning work on-site.

**MM BIO-5.2:** All trees to be retained on-site shall be fenced to completely enclose the tree protection zone prior to demolition or grading. Fences shall be six feet tall and chain link (or equivalent), as approved by the certified arborist. For each phase of construction, fences shall remain until all grading and construction is complete in each phase.

**MM BIO-5.3:** Prior to fencing, all trees to be preserved on-site shall be pruned to clean the crown and provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.

**MM BIO-5.4:** Grading, construction, demolition or other work within the tree protection zone is prohibited. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the tree protection zone. Any modifications must be approved and monitored by the certified arborist.

**MM BIO-5.5:** Any root pruning required during construction shall receive prior approval of, and be supervised by, the certified arborist.

**MM BIO-5.6:** Any additional tree pruning needed for clearance during construction shall be performed or supervised by a certified arborist and not by construction personnel.

**MM BIO-5.7:** Supplemental irrigation shall be applied to trees as determined by the certified arborist throughout construction.

**MM BIO-5.8:** If injury should occur to any tree during construction, the certified arborist shall evaluate the tree within 24 hours so that appropriate treatment can be applied.

**Finding:** Implementation of mitigation measures MM BIO-5.1 through MM BIO-5.8 would reduce impacts to ordinance-sized trees proposed to remain on site, including five trees along the shared property line with the Winchester House that contribute to the historic setting of the Winchester House. (**Less than Significant with Mitigation Incorporated**)

**Facts in Support of Finding:** The establishment of tree protection measures, including the establishment of tree protection zones and on-going monitoring of pruning activities by a certified arborist, will be based on industry best management practices to ensure protection of trees proposed to remain on site.

### **Cultural Resources**

**Impact:** **Impact CUL-1:** The Project could cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5.

Construction of the Project could result in damage to structures associated with the adjacent Winchester House, a historic resource. Development of the seven-story podium apartment building within 15-feet of the Winchester House site would impact the integrity of the historic setting of the Winchester House site.

**Mitigation:** **MM CUL-1.1:** Prior to construction, a qualified historic architect shall undertake an existing visual conditions study of the Winchester House and outbuildings on the Winchester House site if the property owner grants access. 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 of San José's Historic Preservation Officer prior to the issuance of any demolition or grading permits. If access to the Winchester House and outbuildings is not provided, the historic architect shall utilize the most recent publicly available photos of the buildings and/or new photos taken by the historic architect from public vantage points around the property.

**MM CUL-1.2:** Prior to the issuance of any demolition or grading permits, including any ground disturbing activities, the Project applicant shall prepare and implement a Historical Resources Protection Plan (HRRP) that provides measures and procedures to protect the Winchester House 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 and reviewed and approved by the Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement prior to Public Works clearance, including any ground-disturbing work.

The Project applicant shall ensure the contractor follows the HRRP throughout construction. The HRRP shall be prepared by a qualified historic architect who meets the Secretary of Interior's Professional Qualifications Standards. At a minimum, the plan shall include:

- 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.

**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 Winchester House 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. The Supervising Environmental Planner and the Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement may request additional 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 Supervising Environmental Planner, and the Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement 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 Winchester House during construction, repair work is performed 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 Supervising Environmental Planner and the Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement 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 Supervising Environmental Planner and the Historic Preservation

Officer of the City of San José Department of Planning, Building and Code Enforcement prior to the issuance of any Certificate of Occupancy (temporary or final).

**Finding:** Implementation of mitigation measures MM CUL-1.1 through MM CUL-1.3, combined with mitigation measure MM NOI-2.1, reduces the potential for direct physical impacts to the Winchester House and outbuildings to a less than significant level. However, the height, bulk, massing, and shading from the proposed seven-story podium apartment building within approximately 15 feet of the Winchester House property would permanently alter the setting of the Winchester House and grounds, resulting in a significant impact that cannot be mitigated absent a redesign of the Project consistent with the Preservation Alternatives. **(Significant and Unavoidable Impact)**

**Facts in Support of Finding:** As evaluated in the Historic Resources Project Assessment by Archives & Architecture dated October 31, 2018 (revised August 13, 2019), the location, height, and massing of the podium apartment building proposed in the original Project would impact the setting of the Winchester House, as it includes a 77-foot tall vertical wall of seven stories (two stories with areas of five additional stories of apartments above) within approximately 15 feet of the southern boundary of the Winchester House property. The seven-story building in such close proximity would affect the setting of the Winchester House and outbuildings by limiting viewsheds, altering the existing open character of the Winchester House grounds.

### **Hazards and Hazardous Materials**

**Impact:** **Impact HAZ-2:** The Project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

Grading and construction of the Project could expose construction workers and adjacent sensitive receptors (such as residents adjacent to the Project site) to on-site residual soil contamination.

**Mitigation:** **MM HAZ-2.1:** A Site Management Plan (SMP) shall be prepared and implemented by a qualified environmental professional (as outlined below) and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations or the contaminated portions of the site shall

be capped beneath the planned development under the regulatory oversight of the Santa Clara County Department of Environmental Health (SCCDEH), Regional Water Quality Control Board (RWQCB) or State Department of Toxic Substances Control (DTSC). The contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site. Components of the SMP shall include, but shall not be limited to:

- A detailed discussion of the site background;
- Preparation of a Health and Safety Plan by a qualified environmental professional;
- Notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction;
- On-site soil reuse guidelines based on the California Regional Water Quality Control Board (RWQCB), San Francisco Bay Region's reuse policy;
- Sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site waste disposal facility;
- Soil stockpiling protocols; and
- Protocols to manage ground-water that may be encountered during trenching and/or subsurface excavation activities.

**MM HAZ-2.2:** All contractors and subcontractors at the Project site shall develop a Health and Safety Plan (HSP) specific to their scope of work and based upon the known environmental conditions for the site. The HSP shall be confirmed as acceptable by the Planning, Building and Code Enforcement Supervising Environmental Planner and Environmental Services Department (ESD) and implemented under the direction of a Site Safety and Health Officer. The HSP shall include, but shall not be limited to, the following elements, as applicable:

- Provisions for personal protection and monitoring exposure to construction workers;
- Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered;
- Procedures for the safe storage, stockpiling, and disposal of contaminated soils;

- Provisions for the on-site management and/or treatment of contaminated groundwater during extraction or dewatering activities; and
- Emergency procedures and responsible personnel.

The SMP shall be submitted to SCCDEH, DTSC, or equivalent regulatory agency for review and approval. Copies of the approved SMP shall be provided to the Planning, Building and Code Enforcement Supervising Environmental Planner and Environmental Services Department (ESD) prior to issuance of grading permits.

**MM HAZ-2.3:** If the inoperable underground storage tank (UST) is located on-site, the SCCDEH shall be contacted to determine if the UST can remain on-site or must be removed based on the findings of the ENGEO Phase II ESA report. If the SCCDEH concludes that the UST needs to be removed, the Project applicant shall acquire all proper UST removal permits from the San José Fire Department and SCCDEH and all work shall be completed consistent with the requirements of the approved permits and the SMP.

**Finding:** With implementation of Mitigation Measures MM HAZ-2.1 through MM HAZ-2.3, the Project would have a less than significant hazardous materials impact to construction workers and residents. **(Less Than Significant with Mitigation Incorporated)**

**Facts in Support of Finding:** Implementation of remediation measures in an SMP approved by either the SCCDEH, RWQCB, or DTSC, including worker protection measures in a SCCDEH-approved HSP, will reduce potential impacts from on-site soil contamination to construction workers and residents to a less than significant level.

### Land Use

**Impact:** **Impact LU-2:** The Project would cause a significant environmental impact due to a conflict with a land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

The Project would be inconsistent with General Plan Policy LU-13.8 because increased shading from the podium apartment building could alter the current setting of the property by reducing sunlight to the greenhouse, the garden, and some of the decorative windows and/or skylights in the main house.

**Mitigation:** There is no feasible mitigation absent a redesign of the Project consistent with the Preservation Alternatives.

**Finding:** Increased shading from the proposed podium apartment building would not physically impact the integrity of the Winchester House property. However, it could alter the current setting of the property by reducing sunlight to the greenhouse, the garden, and some of the decorative windows and/or skylights in the main house. Therefore, the Project would be inconsistent with General Plan Policy LU-13.8 and would result in a significant unavoidable impact absent a reduction in height of the podium apartment building or a change in the location of the podium apartment building consistent with the Preservation Alternatives. **(Significant and Unavoidable Impact)**

**Facts in Support of Finding:** The proposed seven-story, approximately 77-foot tall podium apartment building would increase shading on the southern grounds of the Winchester House property in the spring, fall, and winter months throughout the day (Figure 3.11-2 of the DEIR). In the winter months, portions of the main house and the outbuildings along the southern property line (including the greenhouse which has 13 glass cupolas) would be shaded throughout the day. This shadow will compromise the setting of the Winchester House because the greenhouse, outbuildings, and some decorative windows and skylights in the main house would be deprived of sunlight during the winter months, changing the historic setting.

### **Noise**

**Impact:** **Impact NOI-1:** The Project could result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

Significant noise generating activities due to construction of the Project would last approximately 3.5 years within 200 feet of residential uses and within 500 feet of future commercial/office uses, which is a significant impact pursuant to General Plan Policy EC-1.7.

**Mitigation:** **MM NOI-1.1:** Consistent with the Municipal Code and in accordance with the General Plan FEIR (as amended), particularly Policy EC-1.7, the proposed Project will be required to prepare a construction noise logistics

plan which includes the following Standard Permit Conditions and other site-specific measures during all phases of construction on the Project site:

- The Project would be required to utilize the best available noise suppression devices and techniques during construction activities.
- Construct temporary noise barriers, where feasible, to screen stationary construction equipment. The noise barrier fences should be constructed around the perimeter of the site adjacent to residences, operational businesses, and other noise-sensitive land uses. The temporary noise barrier fences would provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- All unnecessary idling of internal combustion engines is prohibited. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. If noise-generating equipment must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels. Any enclosure openings or venting shall face away from sensitive receptors.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists
- Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the Project site during Project construction.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the Project site.
- Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences. The on-site residences that would be exposed to

Phase I construction should also receive notification in writing of the Phase I construction schedule.

- Include a disclosure in the lease of the future tenants of the Phase I development that provides information regarding the on-going Phase II construction activities.
- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This condition shall only be necessary if conflicts occur which are irresolvable by proper scheduling. Noise control blanket barriers shall be rented and quickly erected.
- Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

The construction noise logistics plan shall be prepared and submitted by the Project applicant to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement for review and approval prior to issuance of any demolition and/or grading permits (whichever is issued first).

**Finding:** Per General Plan Policy EC-1.7, a Project would result in a significant construction noise impact if the Project is located within 500 feet of residential uses or 200 feet of commercial or office uses and would involve substantial noise generating activities (such as grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. Even with implementation of the construction noise logistics plan, Project construction would last approximately 3.5 years, much of which will involve significant noise generating activities like demolition, grading, and framing. This would result in a significant construction noise impact as adjacent sensitive receptors, residents to the north and west of the Project site and the senior apartments across Winchester Boulevard, would be exposed to major noise generating construction activities for a period of more than 12 months. **(Significant and Unavoidable Impact)**

**Facts in Support of Finding:** As discussed in Section 3.13.3 of the DEIR and the supporting Noise and Vibration Assessment prepared for the Project (Appendix G), the Project would be constructed in two phases. The first phase would include demolition and construction of the podium building, four-story flats, and four-story row townhouses on the eastern portion of the site. The nearest residences are located 350 feet or more from the center of the first phase of construction. The second phase of construction includes the development of condominium units and townhouses on the western portion of the site. The residences completed in phase one would be occupied during phase two of construction. The total length of construction for both phases would be just over 3.5 years. While construction activities are expected as close as 20 to 45 feet from the shared property lines of the adjacent land uses, a limited amount of equipment would be used at those distances. A worst-case scenario for each phase and stage of construction was used for the analysis which assumed the construction equipment would run simultaneously.

The City's General Plan and Municipal code do not have noise thresholds for temporary construction. However, based on the analysis in the Project's Noise Report by Illingworth & Rodkin, Inc. dated August 28, 2019, assuming a 15 dBA exterior-to-interior reduction for standard residential construction and a 25 dBA exterior-to-interior reduction for standard commercial construction, this would correlate to an exterior threshold of 60 dBA Leq at residential land uses and 70 dBA Leq at commercial land uses. Additionally, temporary construction would be annoying to surrounding land uses if the ambient noise environment increased by at least 5 dBA Leq for an extended period of time. Therefore, the temporary construction noise impact would be considered significant because construction activities exceeded 60 dBA Leq at nearby residences or exceeded 70 dBA Leq at nearby commercial land uses and exceeded the ambient noise environment by 5 dBA Leq or more for a period longer than one year.

Since equipment would be spread throughout the construction site, the combined noise source for each construction phase was assumed at the geometrical center of the active construction site for each phase and propagated to the property line of the nearest surrounding land use. Construction noise levels would exceed 60 dBA Leq at the existing residential land uses throughout the duration of construction. Ambient levels at the surrounding uses would potentially be exceeded by five dBA Leq or more throughout construction. Since Project construction would expose residential receptors located within 500 feet of the Project site to continuous construction for more than 12 months, this would result in a significant impact.



**Impact NOI-2:** The Project could result in the generation of excessive groundborne vibration or groundborne noise levels.

**MM NOI-2.1:** Prior to the issuance of any grading or demolition permits, the Project applicant shall prepare a construction management plan which details the types of construction equipment used for each phase of the Project, potential vibration levels at structures adjacent to the Project site, and measures to reduce potential vibration impacts on the Winchester House property and single-family residential buildings adjacent to the Project site. Such measures must include, but are not limited to, the following:

- Use of heavy vibration-generating construction, such as impact compactors, large dozers, vibratory rollers, and packers, shall be prohibited within 60 feet of the nearest structures located on the Winchester House site.
- The Project contractor shall be prohibited from using heavy vibration-generating construction equipment within 25 feet of nearby buildings along the northern and western property lines. The Project contractor shall use smaller vibratory rollers, such as Caterpillar model CP433E vibratory compactor, when compacting materials within 25 feet of these adjacent structures.
- Avoid dropping heavy equipment within 25 feet of adjacent buildings. Use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects within 25 feet of buildings to the north and to the west.
- The contractor shall alert heavy equipment operators to sensitive adjacent structures (i.e., historical structures within 60 feet of construction activities and all other structures within 20 feet of construction activities) so they can exercise caution.

If the construction management plan includes alternative measures to reduce vibration impacts to adjacent structures, the management plan must include a statement by a qualified vibration specialist confirming that the alternative measures will reduce vibration levels at the adjacent structures to less than 0.20 in/sec PPV for non-historic structures of conventional construction and 0.08 in/sec PPV for historic structures.

The construction management plan shall be reviewed and approved by the Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement prior to issuance of any grading or demolition permits.

Measures to reduce vibration in the construction management plan shall also be printed on all approved grading and building permit plans.

**Finding:** With implementation of the proposed mitigation MM NOI-2.1 combined with measures outlined in mitigation MM CUL-1.1 through MM CUL-1.3, construction of the Project would have a less than significant vibration impact on the adjacent Winchester House, associated outbuildings, and other non-historic structures adjacent to the Project site. **(Less Than Significant Impact with Mitigation Incorporated)**

**Facts in Support of Finding:** Per Section 3.13.3 of the DEIR and the supporting Noise and Vibration Assessment (Appendix G), the nearest structures to the Project on the Winchester House property are located approximately 10 to 25 feet north of the shared property line near the eastern portion of the Project site. Existing structures on the Project site would be demolished in this portion of the site, and the podium apartment building would be constructed. The use of a heavy vibratory roller or the dropping of a heavy loader bucket within about 25 feet of the structure could result in a vibration level of about 0.2 in/sec PPV, which is above the 0.08 in/sec PPV threshold of significance for potential impacts to historic buildings in General Plan Policy EC-2.3. The implementation of the mitigation measure MM NOI-2.1, including implementation of a construction management plan would reduce a potential impact to a less-than-significant level.

### **Cumulative Impacts**

**Impact:** **Impact AIR-C:** The Project could result in a cumulatively considerable contribution to a significant air quality impact.

**Mitigation:** Same mitigation as MM AIR-3.1.

**Finding:** With implementation of mitigation measure MM AIR-3.1, the cumulative construction air quality impacts to residents would be reduced to less than significant. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

**Facts in Support of Finding:** As discussed in Section 3.3.3.2 of the DEIR and the Air Quality and Greenhouse Gas Assessment (Appendix B), with implementation of Mitigation Measure AIR-3.1, the annual PM<sub>2.5</sub> concentration would be reduced to 0.54 µ/m which would be below BAAQMD's significance threshold of 0.8 µ/m<sup>3</sup> for PM<sub>2.5</sub>. As a result, the effect of Project construction combined with existing sources of TACs would

not be cumulatively considerable nor would it result in a health risk to nearby sensitive receptors (residents).

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

1. No Project – No Development Alternative
2. No Project – Existing Residential Land Use Designation Alternative
3. Single Phase Construction Alternative
4. Preservation Alternatives
  - a. Relocation of Podium Building – West
  - b. Relocation of Podium Building – South
  - c. Reduced Height of Podium Building
  - d. Modified Reduced Height of Podium Building Alternative

### 1. No Project – No Development Alternative

- A. Description of Alternative:** The No Project – No Development Alternative would retain the existing 111 mobile home residential units and associated club house, and the 688-unit residential Project would not be built.
- B. Comparison of Environmental Impacts:** The No Project – No Development Alternative will avoid all of the environmental impacts identified in the FEIR.
- C. Finding:** The No Project - No Development Alternative would avoid all of the impacts associated with the Project as no development would occur. This alternative would not meet any of the proposed Project's objectives, including objectives to develop a new residential community at a density within the range allowed by the Urban Residential General Plan Land Use

designation (30 to 95 dwelling units per acre), develop an approximately 2.0-acre neighborhood park, and locate high-density housing within easy access to existing commercial/retail in the vicinity. Therefore, this alternative is rejected.

## **2. No Project – Existing Residential Neighborhood Land Use Designation Alternative**

- A. Description of Alternative:** The No Project – Existing Residential Neighborhood Land Use Designation Alternative would construct a residential development of approximately eight dwelling units per acre or the prevailing neighborhood density on the Project site, resulting in approximately 126 units. The existing development on-site has a density of 7.1 du/ac and is slightly below the development allowed under the Residential Neighborhood General Plan land use designation.
- B. Comparison of Environmental Impacts:** Under the No Project – Existing Residential Neighborhood Land Use Designation Alternative, impacts to biological resources, hazardous materials, and potential cosmetic damage to the Winchester House and to the adjacent residences would be the same or less than the proposed Project assuming demolition of the existing structures and removal of 550 trees on-site. Since the density would only slightly increase compared to existing conditions but would be substantially less than the proposed Project, it is reasonable to assume that this alternative would not result in the construction period cancer risk and the annual PM<sub>2.5</sub> concentration exceeding BAAQMD thresholds that would occur with the proposed Project due to its size and a shorter construction timeframe. Furthermore, as development under this alternative would occur at a lower density, any new buildings would likely be no more than two-stories, avoiding the significant and unavoidable impacts to the setting of the Winchester House.
- C. Finding:** The No Project – Existing Residential Neighborhood Land Use Designation Alternative will not meet any of the Project objectives as it would result in a low-density residential development of a similar density to the existing mobile home park (an increase of about 15 units above the existing Project). Furthermore, this alternative would not advance General Plan Major Strategy #3 to focus high-density housing in designated growth areas, such as the Santana Row/Valley Fair Urban Village. Therefore, this alternative is rejected.

### **3. Single-Phase Construction Alternative**

- A. Description of Alternative:** Under the Single-Phase Construction Alternative, construction of the Project would occur in one phase instead of two phases, reducing construction time by approximately half or about 21 months instead of 42 months.
- B. Comparison of Environmental Impacts:** Under this alternative, the sensitive receptors (residents) near the Project would be exposed to construction noise for a shorter time frame, but total noise generating activities would still be more than 12 months and therefore the impact from construction noise would remain significant and unavoidable. All other impacts would remain the same as the Project.
- C. Finding:** This alternative would be consistent with all Project objectives with the exception of Project Objective no. 8, which would phase the Project in a manner that allows existing residents to continue living onsite as the Project is built. Development of the Project in one phase would require displacement of existing mobile home park residents off-site for a period of at least two years while the Project is developed. This alternative would shorten the total period of noise generating activities compared to the Project but would not reduce the construction period to less than 12 months and would therefore remain a significant impact based on General Plan Policy EC-1.7. Therefore, this alternative is rejected.

### **4. Preservation Alternatives**

#### **4a. Relocation of Podium Building - West**

- A. Description of Alternative:** Under this alternative, the Project would relocate the podium building approximately 380 feet west of its proposed location to avoid adjacency to the Winchester House. Relocation of the podium building would result in four of the four-story flat buildings being moved between the podium building and Winchester Boulevard. The four-story units would have a sufficient setback to provide a landscape buffer between the buildings and the northern property line to lessen impacts to the historic setting, design, feeling, and association.
- B. Comparison of Environmental Impacts:** Under this alternative, the four-story flat buildings would continue to shade the greenhouse, the

outbuildings, and some of the gardens on the adjacent property but would not shade a majority of the Winchester House site. Construction of this alternative would still expose sensitive receptors to continuous construction for a period of over 12 months and would result in a significant unavoidable construction noise impact. All other impacts would remain the same as the proposed Project. The relocated podium building would no longer significantly impact the sense of historic place, which is part of the views. The historical association of Sarah Winchester with the larger surrounding agricultural past would remain mostly intact because there would be less reduction of open space and landscaping. Therefore, this alternative would reduce the impact to the Winchester House to less than significant.

- C. Finding:** This alternative would be consistent with almost all of the Project objectives with the exception of Objective no. 8, which requires construction phasing in a manner that allows existing residents to remain on site during Project construction. The podium apartment building is proposed to be developed in Phase 1 of the Project. Relocation of the podium apartment building west of the proposed location would decrease the area designated in Phase 2 for existing mobile home park residents to live during development of Phase 1. The Project proposes that 60 mobile home units be retained on the western portion of the site for existing mobile home park residents during Phase 1 of Project development. These residents would then relocate to new replacement housing developed in Phase 1 before the start of Phase 2. This alternative would reduce the number of mobile homes retained to 45 units, a reduction of 15 units available for existing mobile-home park residents in the Project. Furthermore, the placement of the podium apartment building away from the Winchester Boulevard frontage would reduce visibility of the building's leasing office, which could hinder efforts to attract capital investment and could impact the financial feasibility of the Project. Therefore, this alternative is rejected.

#### **4b. Relocation of the Podium Building - South**

- A. Description of Alternative:** Under this alternative, the podium apartment building would be relocated approximately 10 feet south of its current proposed location. This would allow Charles Cali Drive to be realigned along the shared property line, providing additional open space and landscaping (approximately 25 feet) between the proposed new building and the outbuildings.

- B. Comparison of Environmental Impacts:** Under this alternative, shading impacts and impacts to the setting of the Winchester House from the podium apartment building would be reduced to a less than significant level. By relocating the podium building, sensitive receptors on-site would be closer to I-280 than with the proposed Project and would continue to result in a cancer risk and annual PM2.5 concentrations exceeding BAAQMD thresholds. All other impacts, including those for construction noise and air quality, would remain the same as the Project.
- C. Finding:** This alternative would be consistent with all of the Project objectives. However, the podium apartment building would have the same height, bulk, and mass as the design in the Project, so the additional 10 feet of setback between the building and the joint property line with the Winchester House would not be sufficient to avoid the identified significant and unavoidable impacts to the setting of the Winchester House even if the degree of impact is reduced. Furthermore, the relocation of the podium apartment building would place the building closer to the I-280 northbound on-ramp and highway, marginally increasing the exposure of future residents to road noise and air pollutants from vehicles. As the relocation does not result in a reduction in identified impacts below a less than significant level and increases future residents exposure to vehicle noise and air pollutant emissions, therefore this alternative is rejected.

#### **4c. Reduced Height of Podium Building Alternative**

- A. Description of Alternative:** Under the Reduced Height of Podium Building Alternative, the three easternmost fingers of the podium apartment building would be reduced in height from seven to four stories while the southern portion of the building would remain seven stories. The remaining fingers, adjacent to the Santana West/former Century 23 Theater site would continue to be seven stories. Based on the current building design for the proposed Project, this reduction would result in the loss of approximately 54 units.
- B. Comparison of Environmental Impacts:** Based on an assessment of the proposed alternative by the City's Historic Preservation Officer, this alternative would reduce the impact to the Winchester House similar to the Relocation of Podium Building – West Alternative. Therefore, this alternative would reduce the significant impact to the setting of the Winchester House to less than significant with the

exception of shade and shadow impacts to the Winchester House grounds during winter. All other impacts, including those related to construction air quality and noise, would be the same as the Project.

- C. Finding:** The Reduced Height of Podium Building Alternative would be consistent with all of the Project objectives. However, the alternative would result in a reduction of 54 units, which would make development of the Project economically infeasible and would not contribute toward the advancement of General Plan Major Strategy #3 to focus high-density development in designated growth areas, such as the Santana Row/Valley Fair Urban Village. Therefore, this alternative is rejected.

#### **4d. Modified Reduced Height of Podium Building Alternative**

- A. Description of Alternative:** Under the Modified Reduced Height of Podium Building Alternative, the design of the podium apartment building is revised to remove two of the three easternmost seven-story “fingers” and reduce one finger to a maximum of four stories (two stories above the two-story parking podium) while extending the seven-story massing at the southern end of the building east. The westernmost portion of the podium apartment building (adjacent to the Century 23 Theater/Santana West site) would be revised to include a solid seven-story massing along the façade with an enclosed interior courtyard instead of an open courtyard proposed in the Project. Finally, a seven-story finger (originally the third finger from the western end of the podium building) would shift approximately 60 feet east compared with the Project. This design would result in a loss of one residential unit compared with the Project.
- B. Comparison of Environmental Impacts:** Based on an assessment of the proposed alternative by the City’s Historic Preservation Officer, the Modified Reduced Height of Podium Building Alternative would reduce the impact to the setting of the Winchester House like the Reduced Height of Podium Building Alternative while retaining nearly the same number of residential units as the Project. All other impacts, including those related to construction air quality and noise, would be the same as the Project.
- C. Finding:** The Modified Reduced Height of Podium Building Alternative would be consistent with all of the Project objectives. The applicant revised Project plans (dated October 21, 2019) which changed the design of the podium apartment building to reduce impacts to the



Winchester House setting while retaining nearly the same number of units as the Project. The Project Historic Architect, Archives & Architecture, in a Memorandum dated November 6, 2019, reviewed these plans and concluded the revised design of the podium apartment building would result in a less than significant impact to the setting of the Winchester House. As the Modified Reduced Height of Podium Building Alternative reduces the identified significant and unavoidable impacts to the setting of the Winchester House while maintaining nearly the same number of residential units as the Project this alternative is the Preferred Alternative.

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the above discussion, the environmentally superior alternative is the No Project – Existing Residential Neighborhood Land Use Designation Alternative. This alternative would have a shorter construction timeframe and would not result in cancer risk and annual PM2.5 in excess of BAAQMD thresholds during construction. In addition, impacts to biological resources, hazardous materials, and cosmetic damage to the Winchester House and to the adjacent residences would be the same or less than the proposed Project assuming demolition of the existing structures and removal of all trees on-site would still occur. Finally, as development under this alternative would occur at a lower density, any new buildings would likely be no more than two-stories, avoiding the significant and unavoidable impacts to the setting of the Winchester House.

To avoid the identified significant and unavoidable impacts to the setting of the Winchester House, the Preferred Alternative is the Modified Reduced Height of Podium Building Alternative, reflected in revised plans dated October 21, 2019. This alternative would meet all of the Project objectives while reducing the Project's significant and unavoidable impacts to the Winchester House to a less than significant level.

## **MITIGATION MONITORING AND REPORTING PROGRAM**

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

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## STATEMENT OF OVERRIDING CONSIDERATIONS

- A. **Significant Unavoidable Impacts.** With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project will result in significant unmitigated or unavoidable impacts, as set forth above, associated with construction noise and historical resources/land use due to impacts to the setting of the Winchester House.
- B. **Overriding Considerations.** The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant, unavoidable impacts of the Project are acceptable in light of the economic, legal, environmental, social, technological or other considerations noted below, because the benefits of the Project outweigh its significant adverse environmental impact of the Project. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent basis for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record that includes, but is not limited to, the Envision San José 2040 General Plan and the Stevens Creek Boulevard Urban Village Plan.
- C. **Benefits of the Project.** The City Council has considered the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the following substantial public benefits:
- 1) **Phasing of Development so Remaining Mobile Home Park Residents Can Remain On-site.** The Project is designed for construction to occur in two phases to allow the existing mobile home park residents the opportunity to remain on-site during Phase I of construction. The Project would retain 60 mobile home park units on the western portion of the site during Phase 1 development so existing mobile home park residents can live on site while replacement housing is developed. After the completion of Phase 1, the existing residents can re-locate to the new replacement housing prior to the start of Phase 2. This phasing will minimize displacement

of existing residents by giving these residents the opportunity to remain living on site during and after Project development.

- 2) Provision of a Neighborhood-Serving Park.** The Project will provide an approximately 2.0-acre neighborhood serving park in a neighborhood that lacks parks. The park will serve both existing residents and future Project residents while improving pedestrian and bicycle connectivity between existing neighborhoods west of the Project site and Winchester Boulevard/Santana Row.
- 3) Provision of Housing in an Identified Growth Area.** Development of the Project would result in a net increase of 577 residential units within the Valley Fair/Santana Row Urban Village, advancing Major Strategy No. 3 (Focused Growth) in the Envision San José 2040 General Plan. Provision of increased density in an identified growth area will advance General Plan policies to encourage infill development.
- 4) Development along High-Frequency Transit Services.** The Project supports goals of the Envision San José 2040 General Plan to focus jobs and high-density housing within proximity to existing high-frequency transit (VTA bus routes 23 and 323 between De Anza College and Downtown San José) and the planned Bus Rapid Transit line along Stevens Creek Boulevard. The development supports increased ridership and use of these bus lines by placing more destinations and potential users within a half-mile of existing bus stops.
- 5) Complete Communities.** The Project will advance Envision San José 2040 General Plan policies to create complete communities. The Project will complement existing and proposed development in the Valley Fair/Santana Row Urban Village by locating new residents on the site within walking distance to nearby shops, restaurants, and neighborhoods. Placing complimentary land uses like residential and commercial/retail uses near each other will help reduce the number of single-occupancy automobile trips and vehicle-miles traveled compared with the equivalent amount of development in a more suburban location where uses are separated and require the use of an automobile, contributing to an increase in vehicle miles traveled and GHG emissions.

The City Council has weighed each of the above benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the

Final Environmental Impact Report and hereby determines that those benefits outweigh the risks and adverse environmental effects of the Project and, therefore, further determines that these risks and adverse environmental effects are acceptable and overridden.

### **LOCATION AND CUSTODIAN OF RECORDS**

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

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2020, 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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**Winchester Ranch Residential Project**  
**File Nos. GP18-014, GPT19-004, PT19-023,**  
**PDC18-037, and PD19-019**  
**September 2019**

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# EXHIBIT "A"

## PREFACE

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

The Environmental Impact Report (EIR) prepared for the Winchester Ranch Residential Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This MMRP addresses those measures in terms of how and when they will be implemented.

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

I, SCOTT HILK, the applicant, on the behalf of Pulte Homes Company, hereby agree to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of an EIR for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level, where feasible.

Project Applicant's Signature Scott Hilk

Date 11/25/19

# EXHIBIT "A"

## Winchester Ranch Residential Project File No. GP18-014, GPT19-004, PT19-023, PDC18-037, and PD19-019

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-3:</b> The project would not expose sensitive receptors to substantial pollutant concentrations.					
<b>Impact AIR-C:</b> The project would not result in a cumulatively considerable contribution to a significant air quality impact.					
<p><b>MM AIR-3.1:</b> All diesel-powered off-road equipment operating on-site for more than two days continuously and larger than 25 horsepower shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent. Where Tier 4 equipment is not feasible, equipment that meets U.S. EPA emissions for Tier 3 engines and California Air Resources Board (CARB) Level 3 verifiable diesel emission control devices (that altogether achieve an 85 percent reduction) shall be used. Alternatively, equipment that is electrically powered or uses non-diesel fuels would meet this requirement.</p> <p>Any cranes to be used during construction shall be electrified and a temporary line power must be available to minimize use of portable diesel-powered equipment.</p> <p>The project applicant shall submit to the Department of Planning, Building and Code Enforcement a construction operations plan that includes specifications of the equipment to be used during construction. 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. The plan shall be submitted for review and approval to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement's</p>	<p>Applicant shall submit a construction operations plan accompanied by a letter prepared and signed by a qualified air quality specialist to the Environmental Supervising Planner of the Department of Planning, Building, and Code Enforcement.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>	<p>Director of the Department of Planning, Building and Code Enforcement, or the Director's designee (Supervising Environmental Planner).</p>	<p>Review and approve the construction operations plan and letter from the air quality specialist.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>

# EXHIBIT "A"

## Winchester Ranch Residential Project

File No. GP18-014, GPT19-004, PT19-023, PDC18-037, and PD19-019

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
Environmental Review Division prior to issuance of any grading, demolition, and/or building permit (whichever occurs earliest).					
<b>BIOLOGICAL RESOURCES</b>					
<b>Impact BIO-1:</b> The project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.					
<p><b>MM BIO-1.1:</b> The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1<sup>st</sup> through August 31<sup>st</sup> (inclusive).</p> <p>If demolition and construction cannot be scheduled between September 1<sup>st</sup> and January 31<sup>st</sup> (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests are disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1<sup>st</sup> through April 30<sup>th</sup>, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1<sup>st</sup> through August 31<sup>st</sup>, inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone</p>	<p>If feasible, schedule demolition and construction activities to avoid the nesting season.</p> <p>If demolition or construction activities start during the breeding season, the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement for review and approval.</p>	<p>Prior to issuance of any tree removal, grading, demolition, and/or building permit, whichever occurs first.</p>	<p>Director of Planning, Building, and Code Enforcement or the Director's designee.</p>	<p>Confirm that demolition and construction activities are scheduled outside of the nesting season. If activities occur during the nesting season, review ornithologist's report indicating the results of the survey (or any other environmental investigation reports, if applicable) and any designated buffer zones.</p>	<p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities during the breeding season</p>



# EXHIBIT "A"

## Winchester Ranch Residential Project

File No. GP18-014, GPT19-004, PT19-023, PDC18-037, and PD19-019

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.</p> <p>Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Supervising Environmental Planner.</p>					
<b>Impact BIO-5:</b> The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.					
<p><b>MM BIO-5.1:</b> Prior to issuance of any demolition or grading permits (whichever occurs first), the project applicant shall retain a certified arborist to discuss work procedures and tree protection with the construction superintendent before beginning work on-site.</p> <p><b>MM BIO-5.2:</b> All trees to be retained on-site shall be fenced to completely enclose the tree protection zone prior to demolition or grading. Fences shall be six feet tall and chain link (or equivalent), as approved by the certified arborist. For each phase of construction, fences shall remain until all grading and construction is complete in each phase.</p> <p><b>MM BIO-5.3:</b> Prior to fencing, all trees to be preserved on-site shall be pruned to clean the crown and provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the</p>	<p>The applicant must include a Tree Protection Plan on all plans for demolition, grading, or building permits.</p> <p>Consult with a certified arborist to determine work procedures and tree protection measures. The measures shall be incorporated into plans submitted for demolition, grading, and building permits.</p> <p>During demolition and construction activities, provide information requested by the City to confirm implementation of work procedures.</p>	<p>Prior to issuance of any demolition or grading permits (whichever occurs first).</p>	<p>Director of Planning, Building, and Code Enforcement or the Director's designee</p>	<p>Review and approve the tree protection measures are included on all plans for demolition, grading, and building permits.</p> <p>During demolition and construction activities, confirm implementation of work procedures.</p>	<p>The Tree Protection Plan shall be approved prior to issuance of any demolition or grading permits (whichever occurs first). Implementation of work procedures outlined in MM BIO-5.2 through MM BIO-5.5 will be implemented during project construction activities.</p>

# EXHIBIT "A"

## Winchester Ranch Residential Project

File No. GP18-014, GPT19-004, PT19-023, PDC18-037, and PD19-019

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>International Society of Arboriculture.</p> <p><b>MM BIO-5.4:</b> Grading, construction, demolition or other work within the tree protection zone is prohibited. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the tree protection zone. Any modifications must be approved and monitored by the certified arborist.</p> <p><b>MM BIO-5.5:</b> Any root pruning required during construction shall receive prior approval of, and be supervised by, the certified arborist.</p> <p><b>MM BIO-5.6:</b> Any additional tree pruning needed for clearance during construction shall be performed or supervised by a certified arborist and not by construction personnel.</p> <p><b>MM BIO-5.7:</b> Supplemental irrigation shall be applied to trees as determined by the certified arborist throughout construction.</p> <p><b>MM BIO-5.8:</b> If injury should occur to any tree during construction, the certified arborist shall evaluate the tree within 24 hours so that appropriate treatment can be applied.</p>					

# EXHIBIT "A"

## Winchester Ranch Residential Project File No. GP18-014, GPT19-004, PT19-023, PDC18-037, and PD19-019

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>CULTURAL RESOURCES</b>					
<b>Impact CUL-1:</b> The project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5.					
<b>MM CUL-1.1:</b> Prior to construction, a qualified historic architect shall undertake an existing visual conditions study of the Winchester House and outbuildings on the Winchester House site if the property owner grants access. 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 of San José's Historic Preservation Officer prior to the issuance of demolition or grading permits. If access to the Winchester House and outbuildings is not provided, the historic architect shall utilize the most recent publicly available photos of the buildings and/or new photos taken by the historic architect from public vantage points around the property.	The existing visual conditions study of the Winchester House and the outbuildings shall be submitted to the City's Historic Preservation Officer and Director of Planning, Building, and Code Enforcement or Director's designee for review and approval..	Prior to the issuance of demolition or grading permits.	City of San José's Historic Preservation Officer.	Review and approved by the City of San José's Historic Preservation Officer and the Director of Planning, Building, and Code Enforcement or Director's Designee.	Prior to the issuance of any demolition or grading permits.
<b>MM CUL-1.2:</b> Prior to any demolition or grading permits, the project applicant shall prepare and implement a Historical Resources Protection Plan (HRRP) that provides measures and procedures to protect the Winchester House 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 and reviewed and approved by the Historic Preservation Officer of the City of San José Department of	The HRRP shall be submitted to the City's Historic Preservation Officer and Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.	Prior to Department of Public Works Clearance, demolition, or grading permit, whichever occurs first.	City of San José's Historic Preservation Officer and Director of Planning, Building, and Code Enforcement or Director's designee..	Review and approved by the City of San José's Historic Preservation Officer and the Director of Planning, Building, and Code Enforcement or	Historical Resources Protection Plan must be approved prior to DPW Clearance, demolition, or grading permit, whichever occurs first.

# EXHIBIT "A"

## Winchester Ranch Residential Project

File No. GP18-014, GPT19-004, PT19-023, PDC18-037, and PD19-019

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
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<p>Planning, Building and Code Enforcement prior to Public Works clearance, including any ground-disturbing work.</p> <p>The project applicant shall ensure the contractor follows the HRRP throughout construction. The HRRP shall be prepared by a qualified historic architect who meets the Secretary of Interior's Professional Qualifications Standards. At a minimum, the plan shall include:</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> </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 Winchester House 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. The Supervising Environmental Planner and the Historic Preservation Officer of the City of San José Department of</p>	<p>The HRPP shall be included with approved demolition, grading, and building permit plans.</p> <p>A letter from the applicant identifying individuals on the Monitoring Team and a signed contract with a Historic Architect for ongoing monitoring activities shall be submitted with plans for demolition or grading permits, whichever occurs first.</p>	<p>HRPP shall be included with plans for demolition, grading, and building permits.</p> <p>Compliance – throughout demolition, grading, and construction activities</p> <p>Monitoring Team letter and Historic Architect Contract prior to issuance of demolition or grading permits, whichever occurs first.</p> <p>Monitoring reports shall be prepared monthly and submitted to the</p>	<p>Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement and City of San José Historic Preservation Officer.</p> <p>Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement and City of San José Historic Preservation Officer.</p>	<p>Director's designee.</p> <p>The HRPP shall be included with approved demolition, grading, and building permit plans.</p> <p>Review the Monitoring Team and contract with a Historic Architect.</p> <p>Monthly Monitoring Reports shall be reviewed and approved.</p>	<p>HRPP shall be included with plans for demolition, grading, and building permits.</p> <p>Compliance – throughout construction activities</p> <p>Contract and Monitoring Team shall be approved prior to issuance of demolition or grading permits, whichever occurs first.</p> <p>Monitoring Reports shall be reviewed</p>

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<p>Planning, Building and Code Enforcement may request additional 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 Supervising Environmental Planner, and the Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement 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 Winchester House during construction, repair work is performed 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>The Monitoring Team shall prepare a report documenting all site visits. The reporting period shall be a minimum of once every three months. The</p>	<p>If Monitoring Team finds adverse impacts, a representative shall notify the Supervising Environmental Planner, and the Historic Preservation Officer within one (1) business day of the discovery of the impact. The Monitoring Team shall provide recommendations for corrective measures for review and approval by the City.</p>	<p>City at least every three (3) months unless more frequent monitoring or reports are deemed necessary by the City.</p> <p>City shall be notified within one (1) business day of discovery of the impact.</p> <p>During the demolition and construction phases.</p> <p>The final report shall be submitted after completion of the construction activities.</p>	<p>Supervising Environmental Planner, and the Historic Preservation Officer.</p>	<p>Review, modify (if needed), and approve the Monitoring Teams recommendations and corrective measures.</p>	<p>monthly (or more).</p> <p>Corrective measures to be reviewed and approved during construction if adverse impacts are discovered.</p> <p>Receive site visit reports no later than one week after each reporting period.</p>

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<p>Monitoring Team or its representative, shall submit the site visit reports to the Supervising Environmental Planner and the Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement 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> <p>(continued)</p>					

# EXHIBIT "A"

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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 Supervising Environmental Planner and the Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement prior to the issuance of any Certificate of Occupancy (temporary or final).	The Monitoring Team shall also submit a final document associated with monitoring and repairs after completion of the construction activities to the Supervising Environmental Planner and the Historic Preservation Officer.	Prior to the issuance of any Certificate of Occupancy (temporary or final).	Supervising Environmental Planner and the Historic Preservation Officer.	The final monitoring report shall be reviewed and approved.	Prior to the issuance of any Certificate of Occupancy (temporary or final).

### HAZARDS AND HAZARDOUS MATERIALS

**Impact HAZ-2:** The project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

<p><b>MM HAZ-2.1:</b> A Site Management Plan (SMP) shall be prepared and implemented by a qualified environmental professional (as outlined below) and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations or the contaminated portions of the site shall be capped beneath the planned development under the regulatory oversight of the Santa Clara County Department of Environmental Health (SCCDEH), Regional Water Quality Control Board (RWQCB) or State Department of Toxic Substances Control (DTSC). The contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site. Components of the SMP shall include, but shall not be limited to:</p> <ul style="list-style-type: none"> <li>• A detailed discussion of the site background;</li> <li>• Preparation of a Health and Safety Plan by a qualified environmental professional;</li> </ul>	A Site Management Plan shall be prepared and implemented. If the contaminated soils are found in concentrations above established thresholds, a Site Management Plan shall be prepared by a qualified hazardous materials consultant and submitted to the Santa Clara County Department of Environmental Health, City of San José's Environmental Services Department, or equivalent agency for review and approval.	Prior to the issuance of grading permits.	<p>Santa Clara County Department of Environmental Health (or equivalent regulatory agency).</p> <p>Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement.</p> <p>City of San José's Environmental Services Department.</p>	<p>Review report of the findings.</p> <p>Approval of the Site Management Plan</p>	Prior to the issuance of any demolition or grading permits.
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## Winchester Ranch Residential Project

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<ul style="list-style-type: none"> <li>Notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction;</li> <li>On-site soil reuse guidelines based on the California Regional Water Quality Control Board (RWQCB), San Francisco Bay Region's reuse policy;</li> <li>Sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site waste disposal facility;</li> <li>Soil stockpiling protocols; and</li> <li>Protocols to manage ground-water that may be encountered during trenching and/or subsurface excavation activities.</li> </ul> <p><b>MM HAZ-2.2:</b> All contractors and subcontractors at the project site shall develop a Health and Safety Plan (HSP) specific to their scope of work and based upon the known environmental conditions for the site. The HSP shall be confirmed as acceptable by the Planning, Building and Code Enforcement Supervising Environmental Planner and Environmental Services Department (ESD) and implemented under the direction of a Site Safety and Health Officer. The HSP shall include, but shall not be limited to, the following elements, as applicable:</p> <ul style="list-style-type: none"> <li>Provisions for personal protection and monitoring exposure to construction workers;</li> <li>Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered;</li> <li>Procedures for the safe storage, stockpiling, and disposal of contaminated soils;</li> </ul>					



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<ul style="list-style-type: none"> <li>Provisions for the on-site management and/or treatment of contaminated groundwater during extraction or dewatering activities; and</li> <li>Emergency procedures and responsible personnel.</li> </ul> <p>The SMP shall be submitted to SCCDEH, DTSC, or equivalent regulatory agency for review and approval. Copies of the approved SMP shall be provided to the Planning, Building and Code Enforcement Supervising Environmental Planner and Environmental Services Department (ESD) prior to issuance of grading permits.</p> <p><b>MM HAZ-2.3:</b> If the inoperable underground storage tank (UST) is located on-site, the SCCDEH shall be contacted to determine if the UST can remain on-site or must be removed based on the findings of the ENGEO Phase II ESA report. If the SCCDEH concludes that the UST needs to be removed, the project applicant shall acquire all proper UST removal permits from the San Jose Fire Department and SCCDEH and all work shall be completed consistent with the requirements of the permits and the SMP.</p>					

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<b>NOISE</b>					
<b>Impact NOI-1:</b> The project would result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.					
<b>MM NOI-1.1:</b> Consistent with the Municipal Code and in accordance with the General Plan FEIR (as amended), particularly Policy EC-1.7, the proposed project will be required to prepare a construction noise logistics plan which includes the following Standard Permit Conditions and other site-specific measures during all phases of construction on the project site: <ul style="list-style-type: none"> <li>• The project would be required to utilize the best available noise suppression devices and techniques during construction activities.</li> <li>• Construct temporary noise barriers, where feasible, to screen stationary construction equipment. The noise barrier fences should be constructed around the perimeter of the site adjacent to residences, operational businesses, and other noise-sensitive land uses. The temporary noise barrier fences would provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.</li> <li>• Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.</li> <li>• All unnecessary idling of internal combustion engines is prohibited. Idling times shall be minimized either by shutting equipment off</li> </ul>	Prepare a construction noise logistics plan.  Submit plan to Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement for review and approval.	Applicant shall submit the plan for review and approval by the City prior to issuance of demolition or grading permits (whichever occurs first)	Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement	Review and approve the construction noise logistics plan.	Prior to issuance of demolition or grading permits (whichever occurs first)

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<p>when not in use or reducing the maximum idling time to five minutes.</p> <ul style="list-style-type: none"> <li>• Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. If noise-generating equipment must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels. Any enclosure openings or venting shall face away from sensitive receptors.</li> <li>• Utilize "quiet" air compressors and other stationary noise sources where technology exists.</li> <li>• Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during project construction.</li> <li>• Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.</li> <li>• Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.</li> <li>• Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences. The on-site residences that would be exposed to Phase I construction should also</li> </ul>					

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<p>receive notification in writing of the Phase I construction schedule.</p> <ul style="list-style-type: none"> <li>• Include a disclosure in the lease of the future tenants of the Phase I development that provides information regarding the on-going Phase II construction activities.</li> <li>• A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This condition shall only be necessary if conflicts occur which are irresolvable by proper scheduling. Noise control blanket barriers shall be rented and quickly erected.</li> <li>• Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.</li> </ul> <p>The construction noise logistics plan must be reviewed and approved by the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement prior to issuance of demolition and/or grading permits (whichever is issued first).</p>					

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<b>Impact NOI-2: The project would not result in the generation of excessive groundborne vibration or groundborne noise levels.</b>					
<p><b>MM NOI-2.1:</b> Prior to the issuance of any grading or demolition permits, the project applicant shall prepare a construction management plan which details the types of construction equipment used for each phase of the project, potential vibration levels at structures adjacent to the project site, and measures to reduce potential vibration impacts on the Winchester House property and single-family residential buildings adjacent to the project site. Such measures must include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Use of heavy vibration-generating construction, such as impact compactors, large dozers, vibratory rollers, and packers, shall be prohibited within 60 feet of the nearest structures located on the Winchester House site.</li> <li>• The project contractor shall be prohibited from using heavy vibration-generating construction equipment within 25 feet of nearby buildings along the northern and western property lines. The project contractor shall use smaller vibratory rollers, such as the Caterpillar model CP433E vibratory compactor, when compacting materials within 25 feet if these adjacent structures.</li> <li>• Avoid dropping heavy equipment within 25 feet of adjacent buildings. Use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects within 25 feet of buildings to the north and to the west.</li> <li>• The contractor shall alert heavy equipment operators to sensitive adjacent structures (i.e., historical structures within 60 feet of construction activities and all other structures within 20 feet of</li> </ul>	<p>The project applicant shall prepare and implement a construction management plan for structures located adjacent to the project site (e.g., the Winchester Mystery House and single-family residences).</p> <p>Print vibration reduction measures on all approved grading and building permit plans.</p> <p>The construction management plan shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods.</p>	<p>Prior to the issuance of any grading permits.</p>	<p>Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement.</p>	<p>Review and approval of construction management plan.</p> <p>Confirm vibration reduction measures are included in all approved grading and building permit plans.</p>	<p>Prior to the issuance of any grading or demolition permits.</p>

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<p>construction activities) so they can exercise caution.</p> <p>If the construction management plan includes alternative measures to reduce vibration impacts to adjacent structures, the management plan must include a statement by a qualified vibration specialist confirming that the alternative measures will reduce vibration levels at the adjacent structures to less than 0.20 in/sec PPV for non-historic structures of conventional construction and 0.08 in/sec PPV for historic structures.</p> <p>The construction management plan shall be reviewed and approved by the Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement prior to issuance of any grading or demolition permits.</p> <p>Measures to reduce vibration in the construction management plan must also be printed on all approved grading and building permit plans.</p>					

**Source:** City of San José. Environmental Impact Report. Winchester Ranch Residential Project. August 2019.