RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CERTIFYING THE CITYVIEW PLAZA OFFICE DEVELOPMENT PROJECT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SCH #2018022032) TO THE DOWNTOWN STRATEGY 2040 FINAL ENVIRONMENTAL IMPACT REPORT (SCH #2003042127) 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 CityView Plaza Office Development Project includes the demolition of nine buildings and an underground parking structure and the construction of three 19-story office towers with approximately 3,574,533 square feet of leasable office space and 65,500 square feet of ground floor retail, as well as five levels of below-grade parking and a 15-space surface parking lot on an approximately 8.1-acre site (Assessor Parcel Numbers 259-41-054, -057, -066, -067, -068 and -070) located at 150 South Almaden Boulevard in the City of San José, referred to herein as the “Project; and

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

WHEREAS, the City of San José (“City”) prepared, completed, and adopted in accordance with CEQA the Final Program Environmental Impact Report for the Downtown Strategy 2040 (“Downtown Strategy FEIR”), which updated the Downtown

Strategy 2000 Final Environmental Impact Report to be consistent with the Envision San José 2040 General Plan including an increase in the amount of new commercial office and residential development capacity and revised development phasing to extend the horizon (buildout) year to 2040; and

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

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

WHEREAS, the City of San José ("City") acting as lead agency under the California Environmental Quality Act of 1970, together with State and local guidelines implementing said Act, all as amended to date (collectively "CEQA"), prepared the Draft Supplemental Environmental Impact Report ("DSEIR") for the CityView Plaza Office Development Project (Planning File No. H19-016); and

WHEREAS, a First Amendment to the DSEIR was prepared that included responses to comments received during the public comment period; and

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

WHEREAS, the FSEIR concluded that implementation of the Project could result in certain significant effects on the environment and identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

WHEREAS, on May 27, 2020, the Planning Commission of the City of San José reviewed the FSEIR prepared for the Project and recommended to the City Council that it finds that the FSEIR was completed in accordance with the requirements of CEQA and further recommended the City Council adopt a resolution certifying the FSEIR and that the Council evaluate the parking for the project and that the developer should work with City regarding any potential further parking reduction; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during project implementation, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of San José as lead agency for the Project (the “Mitigation Monitoring and Reporting Program”); and

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

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

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

2. That the City Council does hereby find and certify that the FSEIR has been prepared and completed in compliance with CEQA; and

3. That the City Council was presented with, and has independently reviewed and analyzed, the FSEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FSEIR and the Project, prior to acting upon and approving the Project, and has found that the FSEIR represents the independent judgment of the City, as lead agency for the Project, and designates the Director of Planning, Building and Code Enforcement at the Director's office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and record of proceedings on which the decision of the City is based; and

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

5. That the City Council does hereby find and determine that recirculation of the FSEIR for further public review and comment is not warranted or required under the provisions of CEQA; and

6. That the City Council does hereby make the following findings with respect to significant effects on the environment of the Project, as identified in the FSEIR, with the understanding that all the information in this Resolution is intended as a summary of the full administrative record supporting the FSEIR, which full administrative record should be consulted for the full details supporting these findings.

CITYVIEW PLAZA OFFICE DEVELOPMENT PROJECT

SIGNIFICANT ENVIRONMENTAL IMPACTS

Air Quality

Impact: **Impact AIR-1:** Construction activities associated with the proposed project would result in NO_x emissions in excess of BAAQMD thresholds.

Mitigation: **MM AIR-1.1:** Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall implement the following control measures to reduce NO_x emissions.

- For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. EPA Tier 4 emission standards for NO_x and PM (both PM_{10} and $PM_{2.5}$).
- If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall use equipment that 1) meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment with lower NO_x emissions that meet the 85 percent NO_x and PM reduction requirements.
- Ensure that diesel engines, whether for off-road equipment or on-road vehicles, are not left idling for more than two minutes, except as provided in exceptions to the applicable State regulations (e.g., traffic conditions, safe operating conditions). Post legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling time limit.
- Ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater used on-site (such as haul trucks, water trucks, dump trucks, and concrete trucks) are model year 2011 or newer.
- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.

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

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

The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.

Finding: Implementation of Mitigation Measure AIR-1.1 would reduce NO_x emissions, but would still result in a significant unavoidable impact during construction activities.

Facts in Support of the Finding: As required by the Mitigation Measure AIR-1.1, on-site construction NO_x emissions would be reduced by 66 percent with Tier 4 interim and Tier 4 final construction equipment. Traffic-related emissions would be reduced by 30 percent with the use of new model year trucks used for material/soil hauling and vendor hauling. In addition, the TDM program for workers (including transit measures, bicycle measures, and a transportation coordinator) could reduce NO_x emissions by approximately one percent. Overall, the identified mitigation measure would result in a 54 percent reduction in NOx emissions. Even with this 54-percent reduction in emissions, the BAAQMD significance threshold would be exceeded by 10 lbs. per day. Thus, the project would conflict with implementation of the Bay Area 2017 CAP, resulting in a significant unavoidable impact.

Impact: **Impact AIR-2:** Construction activities associated with the proposed project would expose infants near the project site to TAC emissions in excess of BAAQMD thresholds. In addition, construction activities on-site would

expose sensitive receptors to $PM_{2.5}$ emissions in excess of acceptable thresholds.

Mitigation: **MM AIR-2.1:** Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall implement the following control measures to reduce TAC and $PM_{2.5}$ emissions:

- For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. EPA Tier 4 emission standards for NO_x and PM (both PM_{10} and $PM_{2.5}$).
- If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall use equipment that 1) meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment with lower NO_x emissions that meet the 85 percent NO_x and PM reduction requirements.
- Ensure that diesel engines, whether for off-road equipment or on-road vehicles, are not left idling for more than two minutes, except as provided in exceptions to the applicable State regulations (e.g., traffic conditions, safe operating conditions). Post legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling time limit
- Ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater used on-site (such as haul trucks, water trucks, dump trucks, and concrete trucks) are model year 2011 or newer.
- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.

The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in the above mitigation measure. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.

Finding: Implementation of Mitigation Measure AIR-2.1 would reduce TAC emissions but would still result in a significant unavoidable impact during construction activities.

Facts in Support of the Finding: With implementation of Mitigation Measure AQ-2.1, the residential cancer risk would be reduced to 15.01 cases per one million and the maximum $PM_{2.5}$ concentration would be 0.44 $\mu g/m^3$ which would continue to exceed the BAAQMD significance threshold of 10 cases per one million for cancer risk and the maximum $PM_{2.5}$ of 0.3 $\mu g/m^3$, respectively. The Hazard Index would be 0.01. Thus, the project would have a significant unavoidable impact to the off-site maximum exposed individual.

Biological Resources

Impact: **Impact BIO-1:** The birds in the vicinity of the project site could collide with the proposed bridges between the towers.

Mitigation: **MM BIO-1.1:** Prior to issuance of any building permits, the project applicant shall incorporate the following measures to minimize and/or avoid bird collisions:

- All glazing on the façades of the two bridges shall have low reflectivity glazing (20-percent reflectivity or lower) to minimize reflections of the sky and vegetation in the bridge façades.
- If glazing on the bridges is tinted or translucent so that it is not possible to see one side of the bridge to the other, no glazing treatments shall be necessary. If transparent glazing is used and it is possible to see through from one side of the bridge to the other, all glazing on the façades of the bridges shall be 100 percent treated with a bird-safe glazing treatment, as described below:
- Bird-safe glazing treatments could include fritting, netting, permanent stencils, frosted glass, exterior screens, physical grids placed on the exterior, or ultraviolet patterns visible to birds. Vertical elements of the window patterns shall be at least one-fourth inch wide with a maximum spacing of four inches, and/or horizontal elements shall be at least one-eighth inch wide with a maximum spacing of two inches.
- The visibility of frit patterns on bird-safe glazing products is highly variable based on the glazing design (e.g., the glass surface on which the frit is placed, the color/tint of the glass, and the color of the frit), the frit type (e.g., sandblasted, acid-etched, or ceramic frit),

and the production process (e.g., the pressure of sandblasting). If bird-safe glazing is used on the bridge and/or freestanding glass railings, a physical sample of the glazing shall be evaluated by a qualified biologist to ensure that the bird safe glazing treatment is visible to birds. The qualified biologist's evaluation shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

- The final design shall be approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any building permits.
- The approved design specifications shall be printed on all project plans for subsequent ministerial permits.

Finding: Implementation of Mitigation Measure BIO-1.1 would reduce impacts of bird collisions with the proposed bridges to a less than significant level.

Facts in Support of the Finding: Birds collisions occur when large sheets of glass or other reflective surfaces reflect the sky and/or vegetation which allow birds to perceive an unobstructed flight route through the reflective surface resulting in bird injury or mortality when a collision occurs. Using the low reflective materials and bird safe treatments and frit patterns as required in the mitigation measure would break up the reflection of the sky and/or vegetation and reduce bird collisions. The Bird Strike Analysis prepared for the project determined that with the treatments proposed, the frequency of collisions to be low over the long-term relative to the populations of bird species that may occur on the site. Based on the above, the treatments would reduce bird collisions to a less than significant level.

Cultural Resources

Impact: **Impact CUL-1:** Implementation of the proposed project would result in the demolition of the historic Park Center Plaza, including four buildings which are individually historic resources, and together contribute to the historic significance of the Park Center Plaza.

Mitigation: **MM CUL-1.1:** Prior to issuance of any grading, demolition, or building permits or any other approval that would allow disturbance of the project site, the project applicant shall prepare and submit, for review and approval by the Director of Planning, Building and Code Enforcement or

the Director's designee in coordination with the City's Historic Preservation Officer, a Historic Resources Mitigation Action Plan (Action Plan) demonstrating that the following steps, actions, and documents have been satisfied for each of the four historic structures in accordance with the Action Plan timeline. The Action Plan shall include roles and responsibilities between the project applicant, City staff, and outside individuals, groups, firms, and consultants.

- Documentation (HABS): The four structures and associated features on the project site shall be documented in accordance with the guidelines established for the Level III Historic American Building Survey (HABS) consistent with the Secretary of the Interior's Standards for Architectural and Engineering Documentation and shall consist of the following components:

  A. Drawings – Prepare sketch floor plans.

  B. Photographs – Digital photographic documentation of the interior, exterior, and setting of the four buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years.

  C. Written Data – HABS written documentation.

  An architectural historian and historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs, research and written data.

  The documentation shall be submitted to the Director of Planning, Building or Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and approval. The required documentation after approval shall be filed with the San José Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper and must first be reviewed and approved by the City's Historic Preservation Officer. Additional copies shall be made available to other local research institutions including History San José, and a copy with the City's Planning Division. Documents shall cover the entire Candidate City Landmark District and the four individual buildings, along with associated features, spaces, and landscaping.

- Documentation (Digital Scans): The four structures and associated features on the project site shall be documented through a series of digital scans and video production.

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

  If the project applicant or third party agrees to relocate one or more of the four structures, the following measures must be followed:

  1. The Director of Planning, Building and Code Enforcement or Director's designee, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is feasible for the building.
  2. Prior to relocation, the project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study that establishes the baseline condition of the building prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved.
  3. To protect the building during relocation, the project applicant shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine how the building needs to be reinforced/stabilized before the move.
  4. Once moved, the building shall be repaired and rehabilitated, as needed, by the project applicant or third party in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining

features shall be retained in a manner that preserves the integrity of the building for the long-term preservation and reuse.

Upon completion of the repairs, a qualified architectural historian shall document and confirm that work to the structure(s) were completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and character defining features were preserved. The project applicant shall submit a memo report supplement to the Action Plan to the City's Historic Preservation Officer documenting the relocation, repair, and reuse.

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

- Deconstruction/Reverse Construction: All structures and associated features being salvaged and demolished shall be documented, photographed, and videoed showing in reverse the original methods of construction and use of materials.

- Commemoration: The four structures and associated features on the project site, as well as the Park Center Plaza as a whole, shall be commemorated and curated to include:
    - Physical remnants from the site
    - Oral histories
    - Research
    - Historic photographs
    - Historic maps
    - Historic displays
    - Historic Marker consistent with the City's Marker Program for history

The project applicant shall submit a memo report supplement to the Action Plan to the City's Historic Preservation Officer documenting the commemorative actions.

Finding: Mitigation Measure CUL-1.1 would help to retain the memory of the buildings and their association with the City's history, but the impact would remain significant and unavoidable.

Facts in Support of the Finding: The historic buildings on the project site are constructed of reinforced concrete and steel. Relocating the buildings would be infeasible because of their construction method and their size. Furthermore, relocating individual buildings would lose the building's association with the project site and each other. Rehabilitation and reuse would be the no-project alternative which would keep the buildings as they currently exist. As proposed by the project, demolishing historic resources on the site is a final act. While Mitigation Measure CUL-1.1 would help to retain the memory of the buildings and their association with the City's history, the loss of the buildings and their association with the project site would remain a significant unavoidable impact.

Hazards and Hazardous Materials

Impact: **Impact HAZ-1:** Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials.

Mitigation: **MM HAZ-1.1:** Prior to issuance of any grading or excavation permits, the project proponent shall retain a qualified professional to prepare a Site Management Plan (SMP) to ensure construction worker safety and provide protocols for addressing the potential for unknown contamination that might be discovered during construction. The SMP shall include, at a minimum: a description of the site background, a health and safety plan, procedures to address undiscovered contamination, regulatory notification procedures if underground tanks or sumps or significant soil and/or groundwater contamination is discovered, soil management and disposal protocols, emergency procedures and responsible personnel. The SMP shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Environmental Compliance Officer in the Environmental Services Department for review and approval prior to issuance of grading or excavation permits.

MM HAZ-1.2: Prior to the issuance of any site demolition, grading, or excavation permits, the project applicant shall obtain a NPDES permit obtained from the San Francisco Bay Regional Water Quality Control Board to modify the dewatering/treatment system to address groundwater seepage into the proposed underground parking areas, and to identify any improvements to the groundwater remediation system to address low levels of solvents in the groundwater that must be implemented to meet the NPDES discharge requirements.

MM HAZ-1.3: Prior to any Aboveground Storage Tank (AST) removal, the project applicant shall contact the San José Fire Department (SJFD) and the SCCDEH and coordinate any necessary field inspections, sampling (if required) and required permits and paperwork from both agencies. The project applicant shall also complete and submit an Aboveground Storage Tank System Closure Permit Application to the SCCDEH and an Aboveground Storage Tank System Closure Application (UN003) to the SJFD. Additional permits (i.e., demolition permits, electrical permits, plumbing permits, etc.) may be required by the City of San José's Department of Planning Building, and Code Enforcement or other State or federal agencies. The project applicant shall submit copies of all required permits and related paperwork to the Director of Planning, Building and Code Enforcement, or to the Director's designee prior to the issuance of any site demolition, grading, or excavation permits.

Finding: Implementation of Mitigation Measures HAZ-1.1, 1.2, and 1.3 would ensure that exposure of construction workers and neighbors to residual contamination would be avoided, and the impacts would be reduced to less than significant levels.

Facts in Support of the Finding: A Phase 1 Environmental Site Assessment, prepared for the project site, identified one recognized environmental condition (REC), related to the former industrial uses of the site, one controlled recognized environmental condition (CREC), related to two sumps for dewatering of contaminated groundwater underlying the building located at 150 South Almaden Boulevard, and two de minimis conditions related to USTs/ASTs on-site. The project site has not been the subject of subsurface soil and groundwater investigations to determine the impacts that the former industrial uses may have had on the underlying soil and groundwater. Therefore, there is the potential that subsurface features may remain in association with historical uses, including petroleum products and/or concentrations of tetrachloroethylene in groundwater.

The building at 150 South Almaden Boulevard on the project site is equipped with two sumps which operate continuously to discharge groundwater that enters the building's foundation dewatering system to prevent flooding into the lowest level of the parking garage in this portion of the site. The groundwater is treated under an NPDES permit under the regulatory oversight of the RWQCB due to the presence of contaminants, including tetrachloroethene (PCE), in the influent groundwater as it enters the dewatering system. The analysis in the SEIR finds that PCE concentrations in the water have been consistently below the California and Federal Maximum Contaminant Level (MCL) for drinking water, which is five micrograms per liter. The origin of the PCE detected in groundwater is unknown, and records reviewed during the Phase I ESA indicate that the project site is not considered to be a source of the PCE in groundwater. Based on the detected concentrations of PCE and the presence of the subsurface parking garage beneath the project site, the condition is not considered to present a potential vapor intrusion concern.

The project site is equipped with four diesel ASTs in association with back-up generators; one of the ASTs is located on the rooftop of 150 South Almaden Boulevard. The total diesel fuel storage capacity on the project site is less than 1,000 gallons. In addition, the site includes one used oil collection AST containing food oil/grease associated with restaurant usage at 177 Park Avenue and a below-grade used food oil/grease underground storage tank (UST) exists within the sidewalk at 185 Park Avenue which is also associated with restaurant use. These used food oil/grease containers are routinely pumped out and the waste is transported to off-site recycling facilities. No indications of spills or released were noted in the records reviewed.

Construction activities, including demolition of existing buildings and excavation for below-grade parking, could expose construction workers and nearby land uses to hazardous materials. Implementation of Mitigation Measures HAZ-1.1, 1.2, and 1.3, along with standard permit conditions and best management practices, will ensure that workers and neighbors are not exposed to potential contaminated materials.

Land Use and Planning

Impact: **Impact LU-1:** The project would have a significant unavoidable shade and shadow impact on Plaza de Cesar Chavez creating a 10% increase in shadows on a public park.

Mitigation: **None.** No mitigation was identified for this impact because to reduce the shadows to below the 10% increase would require the project to be reduced by 174,958 square feet, impacting the overall design of the project and the total square footage of the project.

Finding: The project casts a greater than 10 percent increase in the shadow cast on to Plaza de César Chávez. The impact is significant and unavoidable.

Facts in Support of the Finding: The proposed project would shade the Plaza de César Chávez in March, June, September, and December at 3:00 PM by more than 10 percent. The net increase in shadow cast would be above the 10 percent threshold for a significant shade and shadow impact. The Downtown Strategy 2040 FEIR requires that if the shade and shadow analysis shows the project would result in a 10 percent or greater increase in the shadow cast onto the open space area, the project design shall be revised to reduce the increase in shadow to less than 10 percent. Redesigning the project to reduce the height, so that the shadow would not exceed the 10-percent threshold specified in the Downtown Strategy 2040 FEIR, would not provide the office space that is desired by the Downtown Strategy 2040 and the Envision San José General Plan for this prime downtown location.

Noise

Impact: **Impact NOI-1a:** Implementation of the project would result in a permanent traffic noise level increase in the project vicinity.

Mitigation: **None.** It is not feasible for an individual development to implement public improvements such as those listed in the Downtown Strategy 2040 FEIR, and no feasible mitigation measures have been identified to lessen this significant impact. Therefore, the project would have a significant unavoidable impact on traffic noise.

Finding: The project would create a permanent increase in traffic noise resulting in a significant unavoidable impact.

Facts in Support of the Finding: The City of San José considers a significant noise impact to occur where existing noise sensitive land uses would be subject to permanent noise level increases of 3.0 dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level, or 5.0 dBA DNL or more where noise levels would remain “Normally Acceptable.” As defined by the City’s General Plan, the maximum “Normally Acceptable”

outdoor noise level standard for hotels, churches, museums, and meeting halls is 60 dBA DNL. Parks, including the Plaza de César Chávez, have a maximum "Normally Acceptable" outdoor noise level standard of 65 dBA DNL. Commercial and office land uses have a maximum "Normally Acceptable" outdoor noise level standard of 70 dBA DNL. As analyzed in the SEIR, the project would increase the ambient noise level by 3.0 dBA DNL on East San Fernando Street, 3.0 dBA DNL along Park Avenue, and 4.0 dBA DNL along South Market Street. Therefore, implementation of the proposed project would result in a permanent noise increase of 3.0 dBA DNL or more on surrounding land uses. No feasible mitigation measure was identified to reduce traffic noise. Thus, this project would have a significant unavoidable impact.

Impact **Impact NOI-1b:** Project construction would last for a period of more than 12 months and nighttime construction would exceed steady noise levels of approximately 35 dBA and fluctuating noise levels of approximately 45 dBA which would impact hotel guests, interim housing residents, and future residents.

Mitigation: **MM NOI-1.1b:** Consistent with the Municipal Code and in accordance with the Downtown Strategy 2040 FEIR, particularly Policy EC-1.7, a qualified acoustic consultant shall prepare a construction noise logistics plan which includes the following Best Management Practices and other site-specific measures during all phases of construction on the project site to reduce noise levels as much as possible during construction activities:

- The construction noise logistics plan shall include, at a minimum:
  - A list of all activities that would use heavy construction equipment and high vibratory equipment (jackhammers, hoe rams, etc.).
  - A list of the equipment used for each activity.
  - The anticipated duration for each activity.
  - The method used to ensure that equipment does not exceed the noise thresholds.
  - A procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
  - Submit the construction noise logistics plan to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition or grading permit.

- Construct solid plywood fences around construction sites adjacent to operational businesses, residences, and other noise-sensitive land uses.
- Strictly prohibit unnecessary idling of internal combustion engines.
- Use 'quiet' models of air compressors and other stationary noise sources where technology exists.
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- 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.
- If necessary, erect a temporary noise control blanket along building façades facing the construction sites.
- Designate a "noise disturbance coordinator" to respond to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., beginning work too early, bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site. The notice sent to neighbors regarding the construction schedule shall be included in the posted sign.

Finding: Mitigation Measure NOI-1.1b would reduce construction noise levels, but would still exceed thresholds, resulting in a significant unavoidable impact.

Facts in Support of the Finding: Construction of the project is anticipated to occur over a period of 69 months for 24 hours a day and would generate considerable amounts of noise, especially during earthmoving activities when heavy equipment is used. Pile driving is not proposed. Noise sensitive uses surrounding the site include an interim housing building and commercial and office buildings at distances ranging from 90 feet to 550

feet from the site. The City has approved two residential tower projects located approximately 200 and 500 feet north of the site along San Pedro Street. Implementation of Mitigation Measure NOI-1.1b would reduce construction noise levels by 5.0 to 10 dBA. However, hotel guests, residents of the interim housing building, and future residents of projects currently in progress would be exposed to interior noise levels greater than 40 dBA during nighttime construction, resulting in a significant unavoidable impact.

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 DSEIR 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 alternatives were considered and rejected:

- Location Alternative—This alternative was not considered further because of the lack of available land to support the proposed project within the downtown area.
- Preservation Alternative 1—Preservation of all Historic Resources On-Site—This alternative was not considered further because it would be essentially the same as the no-project alternative.
- Preservation Alternative 2 – Relocation of Historic Resources—The historic evaluation identified four of the nine buildings as individually eligible historic resources. These buildings are of concrete construction and relocation would not be feasible without substantive damage to the historic fabric of the buildings. Therefore, this alternative was not considered further.

The following are evaluated as alternatives to the proposed Project:

1. No Project – No New Development
2. Preservation Alternative 3 – Preservation of all Buildings Extant in 1974
3. Preservation Alternative 4 – Preservation of Candidate Landmark Buildings

4. Preservation Alternative 5 – Preservation of the Wells Fargo Building
5. Preservation Alternative 6 – Preservation of the Sumitomo Bank Building
6. Reduced Development Alternative 1 – Square Footage Reduction
7. Reduced Development Alternative 2 – Reduced Parking
8. Reduced Development Alternative 3 – Height Reduction for East Tower

Please note for reference:

Building 1 – Landmark Building and Plaza Pavilion Buildings (100 West San Fernando Street)

Building 2 – Wells Fargo Building (121 South Market Street)

Building 3- Bank of America and Tower (125 South Market Street)

Building 4-United California Bank (Morton's Steakhouse) (177 Park Avenue), and

Building 5-Bank of California (Sumitomo Bank Building/Family Courts Building) (170 Park Avenue)

1. No Project – No Development Alternative

A. Description of Alternative: This alternative would retain the existing land uses on-site as is. The significant impacts of the project would not occur

B. Comparison of Environmental Impacts: Under this alternative, none of the impacts of the project would occur. This no project alternative would not meet any of the project objectives. It is possible that in the future an alternative development proposal may be presented for the project site. Based on the zoning district for the project site, DC – Downtown Primary Commercial District, permitted uses include offices and financial services, general retail, education and training, entertainment and recreation, food services, general services, public and quasi-public uses such as religious assembly and community centers, and residential.

C. Finding: This alternative would not meet any of the project objectives. The City would lose the opportunity to redevelop an underutilized site Downtown and to meet the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 by locating high density office development on a Downtown site near transit. Therefore, this alternative is rejected.

2. Preservation Alternative 3 – Preservation of all Buildings Extant in 1974

A. Description of Alternative: Preservation Alternative 3 would retain Buildings 1 through 5 and the original plaza around Building 2. Buildings 6 and 7, which are not historic, would be demolished to allow for infill construction in those locations. Buildings 1 through 4 are currently occupied by offices and restaurants and could continue with their current use or be occupied with comparable uses without damage to the historic fabric of the buildings or plaza. Building 5 was originally a bank and then housed the Santa Clara County Family Court until 2016. It is currently vacant. It could potentially be used as office or event space, but reuse may be limited due to the design of the structure which is relatively small and has limited natural light within the building. This alternative generally meets the project objectives.

B. Comparison of Environmental Impacts: Based on quantified air quality and noise impacts from construction for projects of comparable size within the downtown core, it is reasonable to estimate that the construction air quality and noise impacts would be reduced to less than significant with the mitigation included in the proposed project. Operational noise and air quality impacts would also be reduced, but not to a less than significant level. By retaining Building 3, the significant unavoidable shading impact on Plaza de César Chávez would be avoided. Preservation Alternative 3 would be required to implement all mitigation, standard measures, and conditions of approval identified for the proposed project. As a result, all other identified impacts would be reduced to a less than significant level.

C. Finding: By retaining Buildings 1 through 5, the available space for new construction would be significantly reduced. As such, this alternative assumes the new building(s) would be built to the maximum allowable height to maximize the space. Given the area available for new construction under this alternative, it is estimated that the total new development square footage would be approximately one-third or less of the proposed project (approximately 1.2 million square feet). Preservation of Buildings 1, 3, and 5 would alter the site access and operations as two driveways are proposed on West San Fernando Street, along with the primary locking docks, one driveway is proposed on South Market Street, and one driveway is proposed in the location of the bank building on South Almaden Boulevard. This alternative would also allow for the retention of the existing driveway on Park Avenue, which is inconsistent with the City proposed roadway improvement plan for Park Avenue. Under Preservation Alternative 3 expansion of the underground parking structure would be limited and parking may be insufficient to support the total development that would be on-site. This alternative would not maximize the uses on this prime office location

site and would not achieve the vision of the Envision San José 2040 General Plan and Downtown Strategy 2040. Therefore, this alternative is rejected.

3. Preservation Alternative 4 – Preservation of Candidate Landmark Buildings

A. Description of Alternative: Preservation Alternative 4 would retain two or more of Buildings 2 through 5 or, alternatively, would specifically retain the Pelli buildings (Buildings 3, 4, and 5). Buildings 2, 3, and 4 are currently occupied by offices and restaurants and could continue with their current use or be occupied with comparable uses without damage to the historic fabric of the buildings or plaza. Building 5 was originally a bank and then housed the Santa Clara County Family Court until 2016. It could potentially be used as office or event space, but reuse may be limited due to the design of the structure which is relatively small and has limited natural light within the building. The historic structures that would be preserved on-site would be required to be maintained and reused in an appropriate manner. In addition, any redesign of the project to incorporate these historic buildings would be required to comply with the City's Historic Design Guidelines and the Secretary of the Interior Standards to ensure compatibility of design and no further loss of setting.

B. Comparison of Environmental Impacts: Based on quantified air quality and noise impacts from construction for projects of comparable size within the downtown core, it is reasonable to estimate that any project on-site that is more than 1.5 million square feet of new development would continue to have significant and unavoidable construction air quality and noise impacts even with the mitigation included in the proposed project. Operational noise and air quality impacts would be reduced, but not to a less than significant level. By retaining Building 3, the significant and unavoidable shading impact on Plaza de César Chávez would be avoided. Preservation Alternative 4 would be required to implement all mitigation, standard measures, and conditions of approval identified for the proposed project. As a result, all other identified impacts would be reduced to a less than significant level.

C. Finding: Preservation of either building along South Market Street (Buildings 2 and 3) would require the proposed easternmost tower to be substantially reduced in size or removed entirely from the project. This would result in the loss of approximately 731,542 to 1,463,083 square feet of new development. It would also alter the site access as one of the site driveways is proposed in the location of the Bank of America building. Preservation of Building 4 would require reducing the office square footage of the proposed project by approximately 386,210 square feet. It would also allow for the retention of the existing driveway on Park Avenue, which is inconsistent with the City proposed roadway improvement plan for Park Avenue. Preservation of Building 5 would also require

reducing the office square footage of the proposed project by approximately 386,210 square feet. It would also alter the site access as one of the site driveways is proposed in the location of the bank building. Preservation of Buildings 3-5 specifically would result in the loss of approximately 1,747,808 square feet of office space. It would also alter the site access as noted above. Under Preservation Alternative 4, expansion of the underground parking structure would be limited, and parking may be insufficient to support the total development that would be on-site.

The loss of approximately 772,420 to 2,235,503 square feet of office space would not, by itself, be inconsistent with the project objectives, however, the City would lose the opportunity to provide high density office space in this prime Downtown location. Therefore, this alternative is rejected.

4. Preservation Alternative 5 – Preservation of the Wells Fargo Building

A. Description of Alternative: Preservation Alternative 5 would retain Building 2 and the original plaza around Building 2. The building has been occupied by offices and a bank and could continue with these uses or be occupied with comparable uses without damage to the historic fabric of the building or plaza. The building could also be used as assembly or event space.

B. Comparison of Environmental Impacts: Based on quantified air quality and noise impacts from construction for projects of comparable size within the downtown core, it is reasonable to estimate that the construction air quality and noise impacts would be reduced but would continue to be significant and unavoidable with the mitigation included in the proposed project. Operational noise and air quality impacts would also be reduced, but not to a less than significant level. The significant and unavoidable shading impact to Plaza de César Chávez would remain. Preservation Alternative 5 would be required to implement all mitigation, standard measures, and conditions of approval identified for the proposed project. As a result, all other identified impacts would be reduced to a less than significant level.

C. Finding: Given the area available for new construction under this alternative, it is estimated that preservation of the Wells Fargo building would reduce the total square footage of new development by approximately 347,657 square feet and reduce total below-grade parking by 600 spaces. This would equate to approximately 3,226,876 million square feet of total new development square footage onsite. Preservation of Building 2 would not alter the site access and operations compared to the proposed project. The loss of approximately 347,657 square feet of office space would not, by itself, be inconsistent with the project objectives; however, the City would lose the opportunity to provide high density

office space in this prime Downtown location. Therefore, this alternative is rejected.

5. Preservation Alternative 6 – Preservation of the Sumitomo Bank Building

A. Description of Alternative: Building 5 is located at the southwestern corner of the project site. Preservation of this building would reduce the significant and unavoidable impact to a potential NRHP historic resource, but would not eliminate the significant and unavoidable impacts to CRHR and City historic resources. The building is currently vacant, but was originally a bank and then housed the Santa Clara County Family Court until 2016. It could potentially be used as office or event space, but reuse may be limited due to the design of the structure which is relatively small and has limited natural light within the building.

B. Comparison of Environmental Impacts: Based on quantified air quality and noise impacts from construction for projects of comparable size within the downtown core, it is reasonable to assume that the construction air quality and noise impacts would be reduced but would continue to be significant and unavoidable with the mitigation included in the proposed project. Operational noise and air quality impacts would also be reduced, but not to a less than significant level. The significant and unavoidable shading impact to Plaza de César Chávez would remain. Preservation Alternative 6 would be required to implement all mitigation, standard measures, and conditions of approval identified for the proposed project. As a result, all other identified impacts would remain less than significant.

C. Finding: Preservation of the Bank of California/Sumitomo Bank building would also require retention of the existing tower immediately north of the bank building (150 South Almaden Boulevard). By retaining both buildings, only two of the three proposed towers could be constructed, a loss of approximately 1,211,916 square feet in new office development and 2,061 parking spaces. This would result in 2,362,617 square feet of new development on-site. If retention of the office tower was not required, then this alternative would result in a loss of approximately 605,958 square feet in new office development. This would result in 2,968,575 square feet of new development onsite. The new building at 150 South Almaden would not be able to be connected to the other new towers with an elevated pedestrian bridge. Preservation of the Bank of California/Sumitomo Bank building and adjacent office tower would require altering the site access as one of the site driveways is proposed in the location of the bank building. The loss of approximately 605,958 to 1,211,916 square feet of office space would not, by itself, be inconsistent with the project objectives, however, the City would lose

the opportunity to provide high density office space in this prime Downtown location.

In a letter provided to the City by the applicant, the applicant's structural engineering firm, Brierley Associates, in a letter dated May 15, 2020 detailed the significant challenges associated with the temporary excavation shoring during construction. Among the issues are the drilling of tiebacks under the existing structure to support the deep basement excavation. The density of tiebacks will inevitably strike the driven piles at 170 Park Avenue, which may damage the existing piles. Further, the shoring wall geometry requires that crossing tiebacks be installed. Of particular concern are tiebacks striking and damaging previously installed and stressed tiebacks at higher elevations, which could compromise the stability of the shoring system. The potential conflicts both within and between the tieback levels number in the thousands, and in the opinion of Brierley Associates, is unprecedented in its experience and will increase the project's engineering and construction complexity. The issues with the tiebacks and support of the structure, as well as the additional time and effort to overcome these structural engineering issues, may make the project infeasible for the applicant.

An evaluation performed by Level 10 Construction dated May 15, 2020 evaluated the building for habitation. According to Level 10 Construction, in order to make this building habitable for occupancy and brought up to current standards, toxic materials including asbestos and polychlorinated biphenyls (PCBs) would require abatement and removal as also described in the April 9, 2020 letter from VanBrundt & Associates, Inc. In order to accomplish the abatement and remove these hazardous materials, the exterior panels of the building would need to be removed. Furthermore, the existing HVAC system is significantly past its life and currently not in operating condition. Replacement of mechanical equipment would require removal of current penthouse walls.

Removal of exterior panels and walls to bring the building up to code, could potentially damage the historic fabric of the building.

Based on all of the above, this alternative is rejected.

6. Reduced Development Alternative 1 -Square Footage Reduction

A. Description of Alternative: This alternative proposes to reduce the project in size from 3,648,584 square feet to approximately 1,500,000 square feet to avoid construction period air quality impacts, resulting in a reduction of 59 percent of the proposed project.

B. **Comparison of Environmental Impacts:** Under this alternative the significant and unavoidable construction air quality impact would be reduced to a less than significant level. However, the significant and unavoidable construction noise impact would remain. In addition, the other significant and unavoidable impacts of the proposed project would also remain.

C. **Finding:** This alternative would result in a total reduction of 2,148,584 square feet. Given the length of time required for construction of a project of this size, and assuming the project would still have extended construction hours, the significant and unavoidable noise impact would remain. While the size of the project would be substantially reduced compared to the proposed project, the Reduced Development Alternative 1 would generally meet the project objectives; however, the City would lose the opportunity to provide high density office space in this prime Downtown location. Therefore, this alternative is rejected.

7. Reduced Development Alternative 2 – Reduced Parking

A. **Description of Alternative**: In accordance with the City of San José Downtown Zoning Regulations (Table 20-140), the project is required to provide 7,718 off-street parking spaces for the office space. No parking is required for the commercial retail space. Taking into account the 20 percent parking reduction allowed for transit-oriented development, the parking requirement would be reduced to 6,175 spaces. Under special circumstances, projects within the downtown may qualify for parking reductions up to 50 percent. With a 50 percent reduction, the parking requirement would be reduced to 3,859 spaces. With the 50 percent parking reduction, the total number of parking levels would be reduced from five to four. Using the parking summary for the proposed project, the surface lot would have 15 spaces, basement level 1 would have 764 spaces, basement levels 2 and 3 would have 899 spaces each, basement level 4 would have 1,826 spaces, and basement level 5 would have 1,842 spaces. Assuming the same number of parking spaces per level as analyzed in the SEIR, Reduced Development Alternative 2 would require basement levels 1, 2, and 3 and a portion of level 4 to construct 3,589 spaces. Basement level 4 could possibly be eliminated if stackers and/or valet options were included to increase parking capacity on levels 1, 2, and 3. The elimination of one to two levels of below-grade parking would reduce the necessary excavation and construction, thereby reducing the number and duration of heavy equipment usage to needed to build the garage. Construction equipment usage and duration for all phases of the project would remain the same.

B. **Comparison of Environmental Impacts**: The reduction in parking levels would not reduce the significant and unavoidable construction air quality and noise

impacts, even with the mitigation proposed by the project. All other impacts would be the same as the proposed project.

C. **Finding:** This alternative would meet the project objectives, and would have the same impacts as the proposed project. With the overall reduction in parking in the City's Downtown, the project would provide centrally located parking that could be used for special events such as Christmas in the Park, or concerts at SAP Stadium that bring in people from further afield in the San Francisco Bay Area. For this reason, this alternative is rejected.

8. Reduced Development Alternative 3 – Height Reduction for East Tower

A. **Description of Alternative:** The Reduced Development Alternative 3 would reduce the height of the east tower from 19 stories to 12 stories to address the shadow impacts to Plaza de César Chávez.

B. **Comparison of Environmental Impacts:** With this reduction in the height of the east tower, the project would have a less than significant shading impact on César Chávez Plaza. All other impacts would be the same as the proposed project with all identified mitigation measures, Conditions of Approval, and Standard Permit Conditions.

C. **Finding:** The Reduced Development Alternative 3 would generally meet the project objectives, but would result in a reduction in building size of 174,958 square feet. Taking into consideration the loss of revenue to the City from the smaller project and the shadow impact which only occurs during a short period of time in the year, this alternative is rejected.

Environmentally Superior Alternative

The No Project – No Development Alternative would avoid all project impacts. However, CEQA requires that when the no-project alternative is the environmentally superior alternative, another alternative shall be identified as the environmentally superior alternative. The Preservation Alternative 3 – Preservation of all Buildings Extant in 1974 would have less than significant construction and operational noise and air quality impacts, would avoid the shade and shadow impact compared to the proposed project. Preservation Alternative 3 would meet most of the objectives of the proposed project, but it would be approximately one-third or less of the proposed project (approximately 1.2 million square feet) as discussed above. This alternative would achieve most of the project objectives with the least amount of project impacts. Therefore, this alternative is the environmentally superior alternative.
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MITIGATION MONITORING AND REPORTING PROGRAM

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

STATEMENT OF OVERRIDING CONSIDERATIONS

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

A. **Significant Unavoidable Impacts.** With respect to the foregoing findings and in recognition of those facts which are included in the record, the City has determined the Project has significant and unavoidable impacts, as set forth above, associated with demolition of a candidate City Landmark structure, and construction period air quality and noise, and shade impacts on Plaza de César Chávez.

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 impact of the Project is acceptable in light of the economic and social considerations noted below, because the benefits of the Project outweigh the significant unavoidable impact of the Project. The City Council finds that the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant unavoidable environmental impact 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 Downtown Strategy 2040.

C. **Benefits of the Proposed Project**. The project would result in the following public benefits:

- **Develop approximately 20,000 jobs that are accessible to transit, activities, services, and housing in the Downtown Core.** The Project includes ground floor commercial and 3,640,033 square feet of office space that are within walking and biking distance of existing and planned transit stops,

retail, entertainment, and educational institutions such a San José State University within the Downtown Core. The Project would increase the number of employees that would support existing and proposed commercial and retail spaces in the area and will increase transit ridership in the Downtown.

- **Provides Multi-Modal and Pedestrian Enhancements.** The development's design incorporates three pedestrian paseos that would enhance circulation through the site and within the Downtown core. The ground floor of the development will have retail opportunities, active uses, and storefront designs to enhance the pedestrian experience in Downtown. Additionally, the project would contribute to enhancing the City's multimodal corridors which would help reduce single occupancy improvements and vehicles miles travelled. Multi-modal public improvements the project will undertake include: a dedicated and raised bikeway along the project's West San Fernando Street and South Almaden Boulevard frontage per the City's Better Bikeway program, implementation of the City's planned public improvements along all project frontages, frontage improvements consistent with the Park Avenue Reconfiguration Plan and in coordination with the City's Park Recreation, and Neighborhood Services, and placement of planters and benches within the right-of-way to support pedestrians around the site The on-site and off-site improvements of the development will enhance the multi-modal experience for visitors in Downtown.
- **Increases Economic Development.** The Project will advance the goals of the Envision San José 2040 General Plan by adding approximately 3.6 million square feet of office space and 24,000 square feet of retail space in an area with a mix of office, commercial/retail development in Downtown.
- **Furthers Envision San José 2040 General Plan Strategies, Goals, and Policies.**
    - Major Strategy #3 Focused Growth: The Project site is located within an identified Growth Area (Downtown), as specified in the Envision San José 2040 General Plan. The Project proposes to significantly intensify the site with a 3.79 million square foot office and retail development with pedestrian-friendly designs and located in proximity to a variety of services, employment centers, educational institutions, and transit. Planning such sites for intense job growth in Downtown will spur further development and create the "complete community" consistent with development strategies in the Envision San José 2040 General Plan.
    - Major Strategy #9 Destination Downtown: The Project would increase the number of jobs in Downtown; the project anticipates the creation of 20,911 jobs. Employees will partake in the activities and contribute to business growth in the Downtown area by increasing the customer base for

downtown businesses. The Project also introduces active commercial uses at the ground floor, consistent with the rhythm and activities of Downtown Core.

- Land Use Goal LU-3 and Transportation Policy TR-4.1: The Project encourages the use of alternative transportation options through its proximity to public transit, the inclusion of bicycle parking and bicycle showers for employees and commercial uses. The project incorporates pedestrian paseos within the development and will include public improvements along all four of the project's street frontages to create a more pedestrian oriented development that what is currently on-site. The project will significantly contribute to the re-design of Park Avenue to create a verdant and pedestrian friendly street.

The City Council has weighed each of the above benefits of the proposed Project against its significant unavoidable impact identified in the SEIR, and hereby determines that these benefits outweigh the adverse environmental effect of the Project and, therefore, further determines that the adverse environmental effect is 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 Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, 3rd Floor Tower, San José, CA 95113.

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ADOPTED this ____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

EXHIBIT "A"
(File No. H19-016)

MITIGATION MONITORING AND REPORTING PROGRAM

CityView Plaza Office Project
File No. H19-016
May 2020

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

PREFACE

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

The Supplemental Environmental Impact Report (SEIR) prepared for the CityView Plaza Office 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 SEIR concluded that the impacts from implementation of the project would be less than significant.

I, Casey Kraning, the applicant, on the behalf of SJ Cityview LLC, hereby agree to implement the mitigation measures described below which have been developed in conjunction with the preparation of a SEIR for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature 

Date 5.15.2020

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Planning, Building and Code Enforcement
ROSALYNN HUGHEY, DIRECTOR

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	**Timing of Compliance**	**Oversight Responsibility**	**Actions/Reports**	**Monitoring Timing or Schedule**
AIR QUALITY					
Impact AIR-1: Construction activities associated with the proposed project would result in NO_x emissions in excess of BAAQMD thresholds.					
MM AIR-1.1: Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall implement the following control measures to reduce NO_X emissions. • For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. EPA Tier 4 emission standards for NO_x and PM (both PM_{10} and $PM_{2.5}$). • If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall use equipment that 1) meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment with lower NOx emissions that meet the 85 percent NOx and PM reduction requirements. • Ensure that diesel engines, whether for off-road equipment or on-road vehicles, are not left idling for more than two minutes, except as provided in exceptions to the applicable State regulations (e.g.,	Submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in the mitigation measure to the City of San José Director of Planning, Building and Code Enforcement or Director's designee for review and approval.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)	Director of Planning, Building and Code Enforcement or the Director's designee	Review and approve the construction operations plan.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)

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
traffic conditions, safe operating conditions). Post legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling time limit. • Ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater used on-site (such as haul trucks, water trucks, dump trucks, and concrete trucks) are model year 2011 or newer. • Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators. The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in the above mitigation measure. The plan shall include but not be limited to the following: • List of activities and estimated timing. • Equipment that would be used for each activity. • Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure.					

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Planning, Building and Code Enforcement
ROSALYNN HUGHEY, DIRECTOR

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
• How the construction contractor will ensure that the measures listed are monitored. • How the construction contractor will remedy any exceedance of the thresholds. • How often and the method the construction contractor will use to report compliance with this mitigation measure The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.					
Impact AIR-2: Construction activities associated with the proposed project would expose infants near the project site to TAC emissions in excess of BAAQMD thresholds. In addition, construction activities on-site would expose sensitive receptors to $PM_{2.5}$ emissions in excess of acceptable thresholds.					
MM AIR-2.1: Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall implement the following control measures to reduce TAC and $PM_{2.5}$ emissions. • For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. EPA Tier 4 emission standards for NO_x and PM (both PM_{10} and $PM_{2.5}$). • If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall use equipment that 1) meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control	See MM AIR-1.1, above.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)	Director of Planning, Building and Code Enforcement or the Director's designee	Review and approve the construction operations plan.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Planning, Building and Code Enforcement
ROSALYNN HUGHEY, DIRECTOR

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
equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment with lower NOx emissions that meet the 85 percent NOx and PM reduction requirements. • Ensure that diesel engines, whether for off-road equipment or on-road vehicles, are not left idling for more than two minutes, except as provided in exceptions to the applicable State regulations (e.g., traffic conditions, safe operating conditions). Post legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling time limit. • Ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater used on-site (such as haul trucks, water trucks, dump trucks, and concrete trucks) are model year 2011 or newer. • Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators. The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in the above mitigation measure.					

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The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.					
Impact AIR(C)-1: The maximum cancer risk and annual $PM_{2.5}$ concentration would exceed the BAAQMD threshold for cumulative sources.					
MM AIR(C)-1.1: Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall implement the following control measures to reduce cancer risk and $PM_{2.5}$ emissions: • For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. EPA Tier 4 emission standards for NO_x and PM (both PM_{10} and $PM_{2.5}$). • If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall use equipment that 1) meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment with lower NOx emissions that meet the 85 percent NOx and PM reduction requirements. • Ensure that diesel engines, whether for off-road equipment or on-road vehicles, are not left idling	See MM AIR-1.1, above.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)	Director of Planning, Building and Code Enforcement or the Director's designee	Review and approve the construction operations plan.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)

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for more than two minutes, except as provided in exceptions to the applicable State regulations (e.g., traffic conditions, safe operating conditions). Post legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling time limit. • Ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater used on-site (such as haul trucks, water trucks, dump trucks, and concrete trucks) are model year 2011 or newer. • Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators. The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in the above mitigation measure. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.					
BIOLOGICAL RESOURCES					
Impact BIO-1: The birds in the vicinity of the project site could collide with the proposed bridges between the towers.					
MM BIO-1: Prior to issuance of any building permits, the project applicant shall incorporate the following measures to minimize and/or avoid bird collisions:	The bird-safe glazing treatment shall be reviewed and approved by a qualified biologist.	Prior to issuance of any building permits	Director of Planning, Building or Code Enforcement or the Director's designee	Review and approve the Biologist's evaluation.	Prior to issuance of any building permits.

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• All glazing on the façades of the two bridges shall have low-reflectivity glazing (20-percent reflectivity or lower) to minimize reflections of the sky and vegetation in the bridge façades. • If glazing on the bridges is tinted or translucent so that it is not possible to see one side of the bridge to the other, no glazing treatments shall be necessary. If transparent glazing is used and it is possible to see through from one side of the bridge to the other, all glazing on the façades of the bridges shall be 100 percent treated with a bird-safe glazing treatment, as described below: o Bird-safe glazing treatments could include fritting, netting, permanent stencils, frosted glass, exterior screens, physical grids placed on the exterior, or ultraviolet patterns visible to birds. Vertical elements of the window patterns shall be at least one-fourth inch wide with a maximum spacing of four inches, and/or horizontal elements shall be at least one-eighth inch wide with a maximum spacing of two inches. o The visibility of frit patterns on bird-safe glazing products is highly variable based on the glazing design (e.g., the glass surface on which the frit is placed, the color/tint of the glass, and the color of the frit), the frit type (e.g., sandblasted, acid-etched, or ceramic frit), and the production process (e.g., the pressure of	The biologist shall submit an evaluation of the glazing treatment to the Director of Planning, Building and Code Enforcement or the Director's designee for City review and approval. Upon receipt of the City's approval, ensure that all final design plans reflect the approved materials, and the design specifications are printed on all project plans.			Subsequent to the City's approval of the Biologist's evaluation, review plans to ensure that the approved design specifications are printed on all project plans and that they reflect the approved building materials or equivalent.	

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sandblasting). If bird-safe glazing is used on the bridge and/or freestanding glass railings, a physical sample of the glazing shall be evaluated by a qualified biologist to ensure that the bird-safe glazing treatment is visible to birds. The qualified biologist's evaluation shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee. • The final design shall be approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any building permits. • The approved design specifications shall be printed on all project plans for subsequent ministerial permits.					
CULTURAL RESOURCES					
Impact CUL-1: Implementation of the proposed project would result in the demolition of the historic Park Center Plaza, including four buildings which are individually historic resources, and together contribute to the historic significance of the Park Center Plaza.					
MM CUL-1.1: Prior to issuance of any grading, demolition, or building permits or any other approval that would allow disturbance of the project site, the project applicant shall prepare and submit, for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer, a Historic Resources Mitigation Action Plan (Action Plan) demonstrating that the following steps,	Prepare and submit an Action Plan to the Director of Planning, Building and Code Enforcement or the Director's designee and City's Historic Preservation Officer.	Prior to issuance of any grading, demolition, or building permits or any other approval	Director of Planning, Building and Code Enforcement or the Director's designee City's Historic Preservation Officer	Review and approve Action Plan	Prior to issuance of any grading, demolition, or building permits or any other approval

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actions, and documents have been satisfied for each of the four historic structures in accordance with the Action Plan timeline. The Action Plan shall include roles and responsibilities between the project applicant, City staff, and outside individuals, groups, firms, and consultants. Documentation (HABS): The four structures and associated features on the project site shall be documented in accordance with the guidelines established for the Level III Historic American Building Survey (HABS) consistent with the Secretary of the Interior's Standards for Architectural and Engineering Documentation and shall consist of the following components: A. Drawings – Prepare sketch floor plans. B. Photographs – Digital photographic documentation of the interior, exterior, and setting of the four buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years. C. Written Data – HABS written documentation. An architectural historian and historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs, research and written data.	An architectural historian and historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs, research and written data. The required documentation after approval shall be filed with the San José Library's California Room and the Northwest Information Center at Sonoma State University.				

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The documentation shall be submitted to the Director of Planning, Building or Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and approval. The required documentation after approval shall be filed with the San José Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper and must first be reviewed and approved by the City's Historic Preservation Officer. Additional copies shall be made available to other local research institutions including History San José, and a copy with the City's Planning Division. Documents shall cover the entire Candidate City Landmark District and the four individual buildings, along with associated features, spaces, and landscaping. Documentation (Digital Scans): The four structures and associated features on the project site shall be documented through a series of digital scans and video production. Relocation by the Applicant and/or a Third Party: Prior to issuance of any demolition permits, the project applicant, or an interested third party, shall be required to advertise the availability of the four structures for relocation for a period of no less than 60 days. The advertisements must include notification in a newspaper of general circulation, on a website, and notice placed on the project site. The project applicant shall provide evidence (i.e., receipts, date and time					

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stamped photographs, etc.) to the City's Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits. If the project applicant or third party agrees to relocate one or more of the four structures, the following measures must be followed: 1. The Director of Planning, Building and Code Enforcement or Director's designee, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is feasible for the building. 2. Prior to relocation, the project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study that establishes the baseline condition of the building prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved. 3. To protect the building during relocation, the project applicant shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be					

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engaged to determine how the building needs to be reinforced/stabilized before the move. 4. Once moved, the building shall be repaired and rehabilitated, as needed, by the project applicant or third party in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be retained in a manner that preserves the integrity of the building for the long-term preservation and reuse. Upon completion of the repairs, a qualified architectural historian shall document and confirm that work to the structure(s) were completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and character-defining features were preserved. The project applicant shall submit a memo report supplement to the Action Plan to the City's Historic Preservation Officer documenting the relocation, repair, and reuse. Salvage: If the project applicant and/or no third party agrees to relocate any of the four structures within the specified time, the structure(s) shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the City's Historic Preservation Officer in accordance with the Action Plan. The project applicant must provide evidence to the City's Historic Preservation Officer that this					

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condition has been met prior to the issuance of demolition permits. Deconstruction/Reverse Construction: All structures and associated features being salvaged and demolished shall be documented, photographed, and videoed showing in reverse the original methods of construction and use of materials. Commemoration: The four structures and associated features on the project site, as well as the Park Center Plaza as a whole, shall be commemorated and curated to include: • Physical remnants from the site • Oral histories • Research • Historic photographs • Historic maps • Historic displays • Historic Marker consistent with the City's Marker Program for history The project applicant shall submit a memo report supplement to the Action Plan to the City's Historic Preservation Officer documenting the commemorative actions.					
HAZARDS AND HAZARDOUS MATERIALS					

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Impact HAZ-1: Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials.					
MM HAZ-1.1: Prior to issuance of any grading or excavation permits, the project proponent shall retain a qualified professional to prepare a Site Management Plan (SMP) to ensure construction worker safety and provide protocols for addressing the potential for unknown contamination that might be discovered during construction. The SMP shall include, at a minimum: a description of the site background, a health and safety plan, procedures to address undiscovered contamination, regulatory notification procedures if underground tanks or sumps or significant soil and/or groundwater contamination is discovered, soil management and disposal protocols, emergency procedures and responsible personnel. The SMP shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Environmental Compliance Officer in the Environmental Services Department for review and approval prior to issuance of grading or excavation permits.	Retain a qualified professional to prepare a Site Management Plan as outlined in the measure. The SMP shall include all recommendations from the Phase I ESA and the Soil Investigation Report prepared for the project site. Submit the SMP to the Director of Planning, Building and Code Enforcement or the Director's designee and the Environmental Compliance Officer of the City's Environmental Services Department for review, prior to issuance of grading or excavation permits.	Prior to the issuance of any site demolition, grading, or excavation permits	Director of Planning, Building and Code Enforcement or the Director's designee, and Environmental Compliance Officer of Environmental Services Department	Director of Planning, Building and Code Enforcement or the Director's designee and the Environmental Compliance Officer of Environmental Services Department shall review and approve the Site Management Plan.	Prior to the issuance of any site demolition, grading, or excavation permits
MM HAZ-1.2: Prior to the issuance of any site demolition, grading, or excavation permits, the project applicant shall obtain a NPDES permit obtained from the San Francisco Bay Regional Water Quality Control Board to modify the dewatering/treatment system to address groundwater seepage into the proposed	Obtain a National Pollutant Discharge Elimination System permit from the San Francisco Bay Regional Water Quality Control Board and implement any	Prior to the issuance of any site demolition, grading, or excavation permits	Environmental Compliance Officer of Environmental Services Department	Submit a copy of the National Pollutant Discharge Elimination System permit to the Director of	Prior to the issuance of any site demolition, grading, or excavation permits.

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underground parking areas, and to identify any improvements to the groundwater remediation system to address low levels of solvents in the groundwater that must be implemented to meet the NPDES discharge requirements.	improvements required to meet the National Pollutant Discharge Elimination System discharge requirements. The project proponent shall retain a qualified professional to evaluate the impact of dewatering activities during construction of the underground parking areas. The evaluation should assess whether dewatering activities may contribute to migration of groundwater impacted by chlorinated volatile organic compounds. All reports should be submitted to the City's Environmental Compliance Officer and the Director of Planning, Building and Code Enforcement or the Director's designee.		San Francisco Bay Regional Water Quality Control Board	Planning, Building and Code Enforcement or the Director's designee.	
MM HAZ-1.3: Prior to any Aboveground Storage Tank (AST) removal, the project applicant shall contact the San José Fire Department (SJFD) and the	Prior to any Aboveground Storage Tank removal, contact the San José Fire Department and the Santa	Prior to the issuance of any site demolition, grading,		The Santa Clara County Department of Environmental	Prior to the issuance of any site demolition,

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SCCDEH and coordinate any necessary field inspections, sampling (if required) and required permits and paperwork from both agencies. The project applicant shall also complete and submit an Aboveground Storage Tank System Closure Permit Application to the SCCDEH and an Aboveground Storage Tank System Closure Application (UN-003) to the SJFD. Additional permits (i.e., demolition permits, electrical permits, plumbing permits, etc.) may be required by the City of San José's Department of Planning, Building, and Code Enforcement or other State or federal agencies. The project applicant shall submit copies of all required permits and related paperwork to the Director of Planning, Building and Code Enforcement, or to the Director's designee prior to the issuance of any site demolition, grading, or excavation permits.	Clara County Department of Environmental Health and coordinate any necessary field inspections, sampling (if required) and required permits and paperwork from both agencies. Complete and submit an Aboveground Storage Tank System Closure Permit Application to the Santa Clara County Department of Environmental Health and an Aboveground Storage Tank System Closure Application (UN-003) to the San José Fire Department. Submit copies of required permits and related paperwork to the Director of Planning, Building and Code Enforcement or the Director's designee.	or excavation permits	City of San José Environmental Compliance Officer San José Fire Department and Santa Clara County Department of Environmental Health Director of Planning, Building and Code Enforcement or the Director's designee	Health and San José Fire Department shall coordinate with the applicant prior to the aboveground storage tank removal The Santa Clara County Department of Environmental Health shall review the Aboveground Storage Tank System Closure Permit Application The San José Fire Department shall review the Aboveground Storage Tank System Closure Application The Director of Planning, Building and Code Enforcement or the Director's designee shall receive copies of all required	grading, or excavation permits

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				permits and related paperwork.	
NOISE					
Impact NOI-1a: Implementation of the project would result in a permanent traffic noise level increase at existing sensitive land uses in the project vicinity.					
No feasible mitigation measures were identified to lessen this significant impact.					
Impact NOI-1.1b: Project construction would last for a period of more than 12 months and nighttime construction would exceed steady noise levels of approximately 35 dBA and fluctuating noise levels of approximately 45 dBA which would impact hotel guests, interim housing residents, and future residents.					
MM NOI-1.1b: Consistent with the Municipal Code and in accordance with the Downtown Strategy 2040 FEIR, particularly Policy EC-1.7, a qualified acoustic consultant shall prepare a construction noise logistics plan which includes the following Best Management Practices and other site-specific measures during all phases of construction on the project site to reduce noise levels as much as possible during construction activities: • The construction noise logistics plan shall include, at a minimum: o A list of all activities that would use heavy construction equipment and high vibratory equipment (jackhammers, hoe rams, etc.) o A list of the equipment used for each activity o The anticipated duration for each activity	A qualified acoustic consultant shall prepare a construction noise logistics plan identifying the schedule for major noise-generating construction activities. The construction noise logistics plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.	Prior to the issuance of any demolition or grading permits.	Director of Planning, Building and Code Enforcement or the Director's designee	Review and approve the construction noise logistics plan	Prior to the issuance of any demolition or grading permits

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○ The method used to ensure that equipment does not exceed the noise thresholds ○ A procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance. ○ Submit the construction noise logistics plan to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition or grading permit. • Construct solid plywood fences around construction sites adjacent to operational businesses, residences, and other noise-sensitive land uses. • Strictly prohibit unnecessary idling of internal combustion engines. • Use 'quiet' models of air compressors and other stationary noise sources where technology exists. • Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment. • Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.					

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• 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. • If necessary, erect a temporary noise control blanket along building façades facing the construction sites. • Designate a "noise disturbance coordinator" to respond to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., beginning work too early, bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site. The notice sent to neighbors regarding the construction schedule shall be included in the posted sign.					

Source: City of San José. Draft Supplemental Environmental Impact Report. CityView Office Project. March 2020.