

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CERTIFYING THE BLOCK 8 MIXED-USE PROJECT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT AND MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT IMPACTS, MITIGATION MEASURES AND ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED

WHEREAS, the Supplemental Environmental Impact Report (SEIR) analyzed the environmental impacts of a Site Development Permit (H19-033) for the demolition of the existing surface parking lot and construction of a mixed-use office building up to 295 feet tall totaling approximately 1,049,845 square feet, including up to 16,375 square feet of ground floor commercial, 627,210 square feet of office space, and eight floors of below and above-grade parking, all on an approximately 1.5-gross acre site located at 282 South Market Street on the north side of West San Carlos Street between South Market and South First streets (APN: 259-42-080) in the City of San José, (collectively referred to herein as the “Project”); and

WHEREAS, approval of the 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 FPEIR”), which updated the Downtown Strategy 2000 Final Environmental Impact Report to be consistent with the Envision San

José 2040 General Plan including an increase in the amount of new commercial office and residential development capacity and revised development phasing to extend the horizon (buildout) year to 2040; and

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

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

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

WHEREAS, on March 24, 2021 the Planning Commission of the City of San José reviewed the FSEIR prepared for the Project, and recommended to the City Council that it find the environmental clearance for the proposed Project was completed in accordance with the requirements of CEQA and further recommended the City Council adopt this Resolution; and

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

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

1. That the above recitals are true and correct; and
2. That the City Council does hereby find and certify that the FSEIR has been prepared and completed in compliance with CEQA; and
3. The City Council was presented with, and has independently reviewed and analyzed, the FSEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FSEIR and the Project, prior to acting upon or approving the Project, and has found that the FSEIR represents the independent judgment of the City of San José ("City") as lead agency for the Project, and designated the Director of Planning, Building and Code Enforcement at 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. The City Council does hereby make the following findings with respect to the significant effects of the environment of the Project, as identified in the FSEIR, with the understanding that all of the information in this Resolution is intended as a summary of the full administrative record supporting the FSEIR, which full administrative record should be consulted for the full details supporting these findings.

BLOCK 8 MIXED-USE PROJECT SIGNIFICANT ENVIRONMENTAL IMPACTS

Air Quality

Impact: **Impact AIR-1:** Construction of the Project would result in significant health risks to nearby sensitive receptors for cancer risk and annual particulate matter of 2.5 microns or less (PM_{2.5}). Construction activities associated with the Project would expose infants cancer risk at the maximally-exposed-individual (MEI) areas of the construction zones and in proximity to the project site to temporary toxic air contaminant (TAC) emissions of 132 in one million, which is in excess of BAAQMD's significance threshold of 10 per one million for cancer risk, and annual PM_{2.5} of 0.51 micrograms per cubic meter (µg/m³), which is in excess of BAAQMD's significance threshold of 0.3 µg/m³.

Mitigation: **MM AIR-1.1:** Prior to the issuance of any grading permits, the project applicant shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 93-percent reduction in diesel particulate matter (DPM) exhaust emissions or greater. One feasible plan to achieve this reduction may include, but is not limited to, the following:

- All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet EPA particulate matter emissions standards for Tier 4 engines. Exceptions could be made for equipment that includes

CARB certified Level 3 Diesel Particulate Filters or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement.

- Install electric power during early construction phases to avoid use of diesel generators and compressors.
- Stationary construction cranes (building cranes) shall be powered by electricity.
- A majority of forklifts and aerial lifts used for interior construction shall be electric or propane/natural gas powered.

The plan shall be signed by a qualified air quality consultant and submitted to the Director of Planning, Building, and Code Enforcement (PBCE), or Director's designee, prior to the issuance of any demolition or grading permits.

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

Facts in Support of Finding: Implementation of the City's standard project conditions for construction air quality, which incorporate Best Management Practices (BMPs) from the Bay Area Air Quality Management District (BAAQMD), would reduce exhaust emissions during construction. MM AIR-1 would require construction equipment to meet certain Diesel Particulate Filter requirements or utilize electric equipment, which would reduce the amount of particulate matter and cancer risk exposed to nearby sensitive receptors. Based on the FSEIR and associated Air Quality and Greenhouse Gas Assessment (Appendix B of the FSEIR), combined with mitigation measure MM AIR-1.1, the maximum excess residential cancer risk from construction of the Project would be reduced to 7.1 cancer cases per million which is less than the BAAQMD threshold of 10 cancer cases per million, and reduce PM_{2.5} to 0.05 µg/m³ which is less than the BAAQMD threshold of 0.3 µg/m³. As a result, the required mitigation measure and BMPs would reduce the temporary construction emissions impact to a less than significant level.

Impact: **Impact AIR-2:** The health risk from the combination of project construction and operational sources would exceed the BAAQMD thresholds of significance for cancer risk and annual PM_{2.5} of less than 10.0 parts per million and less than 0.3 µg/m³, respectively. Toxic air contaminant (TAC) emissions for project construction and operation were found to be 139.4 in

one million, which is in excess of BAAQMD's significance threshold of 10 per one million for cancer risk, and annual PM_{2.5} of 0.60 µg/m³, which is in excess of BAAQMD's significance threshold of 0.3 µg/m³.

Mitigation: **MM AIR-2.1:** Mitigation measure identified for MM AIR-1 (detailed above) and the following mitigation measure are required to reduce the combined construction and operational health risk impact:

Prior to issuance of building permits, the project applicant shall either (1) submit documentation by a qualified air quality consultant that demonstrates the equipment includes diesel particulate matter filters that achieve a minimum 85-percent reduction in particulate matter emissions to the Director of PBCE or Director's designee; or (2) submit documentation by a qualified air quality consultant that has been reviewed and approved by the Director of PBCE, or Director's designee, demonstrating that the project generators will not increase lifetime cancer risk by 10 chances per million, when combined with effects from the project construction and traffic. Significant cancer risk impacts can be avoided by the following measures:

- Placement of the equipment;
- Placement and orientation of the exhaust stacks;
- Application of exhaust controls such as diesel particulate matter filters that reduce DPM by 85 percent; and/or
- Limitation to the operation hours to less than 50 hours per year.

Finding: With the implementation of Mitigation Measures MM AIR-1.1 and MM AIR-2.1, the combined effect of the project construction and operation (including the project with the implementation of the project conditions and mitigation measure MM AIR-1.1 identified under Impact AIR-1), residential cancer risk from construction and operation of the Project would be reduced to 9.2 cancer parts per million which is less than the BAAQMD threshold of 10 parts per million, and reduce PM_{2.5} to 0.14 µg/m³ which is less than the BAAQMD threshold of 0.3 µg/m³. **(Less Than Significant with Mitigation Incorporated)**

Facts in Support of Finding: Table 4.3-7 in the SEIR summarizes the combined health risk from project construction and operation sources over a 30-year period and shows that the combined unmitigated maximum cancer risk and annual PM_{2.5} concentration would exceed the BAAQMD single-source thresholds of significance. Implementation of the City's standard project conditions for construction air quality, which incorporate Best Management Practices

(BMPs) from the Bay Area Air Quality Management District (BAAQMD), would reduce exhaust emissions during construction for the Project. With the same project conditions during construction periods, and combined with mitigation measure MM AIR-1.1 to select higher tier construction equipment, the maximum excess residential cancer risk would be 9.2 parts per million which is less than the BAAQMD threshold of less than 10 parts per million, and $PM_{2.5}$ of $0.14 \mu g/m^3$ which is less than the BAAQMD threshold of $0.3 \mu g/m^3$. As a result, implementation of the required mitigation measure and BMPs would reduce the combined construction emissions and operational emissions impact to a less than significant level.

Impact: The project would result in a significant cumulative community health risk impact for cancer risk and $PM_{2.5}$. The estimated maximum cancer risk of 161.8 and the annual $PM_{2.5}$ concentration of $1.17 \mu g/m^3$ would exceed the BAAQMD cumulative source threshold of significance of 100 maximum cancer risk cases per million and $0.8 \mu g/m^3$, respectively.

Mitigation: Mitigation measures identified for MM AIR-1 and MM AIR-2.1 (detailed above).

Finding: With the implementation of Mitigation Measures MM AIR-1.1 and MM AIR-2.1, the cumulative impact of nearby sources (including the project with the implementation of the project conditions and mitigation measure MM AIR-1.1 identified under Impact AIR-1), of maximum excess residential cancer risk from construction and operation of the Project would be reduced to 31.6 cancer cases per million which is less than the BAAQMD threshold of 100 cancer cases per million, and reduce $PM_{2.5}$ to $0.71 \mu g/m^3$ which is less than the BAAQMD cumulative threshold of $0.8 \mu g/m^3$. **(Less Than Significant with Mitigation Incorporated)**

Facts in Support of Finding: Table 4.3-8 of the SEIR identified other air pollutant sources around the project area and its risks for the MEI. With these existing sources and the construction of the proposed Project, the project could result in significant TAC impacts. Implementation of the City's standard project conditions for construction air quality, which incorporate Best Management Practices (BMPs) from the Bay Area Air Quality Management District (BAAQMD), would reduce exhaust emissions during construction for the Project. With the same project conditions during construction periods, and combined with mitigation measure MM AIR-1.1 to select higher tier construction equipment, and mitigation measure AIR-2.1 to require diesel particulate matter filters on equipment, the maximum excess residential

cancer risk from combined sources would be 31.6 cases per million maximum cancer risk which is less than the BAAQMD threshold of 100 cases per million and 0.71 microgram per cubic meter of PM_{2.5} which is less than BAAQMD threshold of 0.8 microgram per cubic meter. As a result, implementation of the required mitigation measure and BMPs would reduce the temporary construction emissions impact to a less than significant level.

Cultural Resources

Impact: **Impact CUL-1:** The construction of the project would result in significant vibration-related impacts to the nearby Montgomery Hotel (currently known as the Four Points by Sheraton Hotel), which is a historic city landmark.

Mitigation: Implement Mitigation Measure MM NOI-3.1 (detailed below).

Finding: The project's implementation of mitigation measure NOI-3.1 would reduce the potential vibration impacts of construction related activities on the adjacent historic structure. The reduction in vibration impacts would prevent harm to the integrity of the adjacent historic structure. **(Less Than Significant with Mitigation Incorporated)**

Facts in Support of Finding: Implementation of mitigation measure NOI-3.1 would reduce impacts to the integrity of the adjacent historic Montgomery Hotel occurring from vibration activities during construction by prohibiting pile driving and implementing a Vibration Monitoring Plan. As described in MM NOI-3.1, a Vibration Monitoring Plan would prohibit the use of vibratory pile driving, require a list of equipment to be used to be submitted to the City, and implement a Historic Resources Protection Plan/Construction Vibration Monitoring Plan.

Impact: **Impact CUL-2:** While there are no known archaeological resources on-site, the project site is located in an archaeologically sensitive area and unknown archaeological resources could be encountered during construction. Therefore, construction of the Project could disturb unrecorded subsurface cultural resources.

Mitigation: **MM CUL-2.1:** Prior to issuance of any grading or building permits, a qualified archaeologist shall complete a subsurface exploration commensurate with ground disturbances to sample the historically sensitive areas and sample the deeper native soils that could contain the remains of Native American resources. The exploration work shall be conducted by a qualified archaeologist trained in both local prehistoric and historic

archaeology, who is also familiar with Hispanic-period features, land use patterns, and their cultural materials. To explore for the potential of Native American resources, deeper trenches shall be placed beyond the areas considered sensitive for historic-era resources and dug to a depth commensurate with proposed impacts, or until the soils and sediments are identified as reliably culturally sterile.

If any ground disturbing activities are required for other environmental concerns or for potholing to identify previous utilities and their removal, an archaeological monitor shall be required at all times.

If archaeological deposits or features appear potentially eligible to the CRHR are identified during any stage of exploration or monitoring, they shall be covered with a metal construction plate and an archaeological research design and work plan shall be prepared. This plan shall be approved by the Director of PBCE or Director's designee, before the archaeological deposits or features are excavated. If unearthed, all features, archaeological deposits, and cultural material shall be excavated according to current archaeological standards detailed in the approved research design and treatment plan.

All features, archaeological deposits, and cultural material shall be cleaned, analyzed, and evaluated for their eligibility to the CRHR. An archaeological report shall be prepared discussing methods, historical research (if appropriate), and documenting all finds. The report shall be submitted to and approved by the Director of PBCE or Director's designee. If the find does not meet the definition of a historical or archaeological resource, then no further study or protection is necessary prior to project implementation.

The applicant is fiscally responsible for the curation of all artifacts deemed archival by current archaeological standards at History San José, with the exception of any human remains and associated burial goods. The archaeologist shall prepare the artifacts and dietary remains in archival quality bags with artifact identification tags, provide two copies of a final artifact catalog for the items submitted, and two copies of the final archaeological report. Any other additional requirements by History San José must be addressed. Only when all of these mitigations are completed would the City and the applicant be in compliance with CEQA.

Finding: Implementation of mitigation measure MM CUL-2.1 would reduce potential impacts to archaeological resources to a less than significant level (**Less than Significant Impact with Mitigation**)

Facts in Support of Finding: Construction of the Project could potentially unearth and disturb non-recorded archaeological resources at the project site because of its proximity to the Guadalupe River, which is an archeologically sensitive area. Implementation of MM CUL-2.1 would require subsurface exploration and monitoring of subsurface construction activity by a qualified archaeologist and if resources are found, the archeologist would recommend next appropriate steps to manage and properly handle the resource. Therefore, the mitigation measure would reduce potential risk to archaeological resources to a less than significant level.

Hazards and Hazardous Materials

Impact: The potential for contaminated subsurface soil and groundwater could create a hazard to construction workers or future site occupants resulting from construction of below-grade parking.

Mitigation: **MM HAZ-1.1:** If below ground parking is constructed, a Phase II Environmental Site Assessment meeting ASTM standards shall be performed by a qualified environmental professional prior to the issuance of any demolition, grading, or building permits. If the Phase II results indicate soil, soil gas, and/or groundwater contamination above regulatory environmental screening levels that could impact construction worker safety or the health and safety of future site occupants, then the applicant shall enter into the Site Cleanup Program with the Santa Clara County Department of Environment Health (SCCDEH). Any further investigation and remedial actions must be performed under regulatory oversight to mitigate the contamination and make the site suitable for the proposed office development. The Phase II results, and evidence of County oversight shall be submitted to the Director of PBCE (or the Director's designee) and the Environmental Compliance Officer in the City of San José's Environmental Services Department prior to issuance of any demolition, grading, or building permits.

MM HAZ-1.2: Prior to the issuance of any demolition, grading, or building permits, the project applicant shall have a qualified environmental professional prepare a Site Management Plan (or Waste Disposal Plan) to address the handling of impacted soils and groundwater during site development. The plan shall include the following elements:

- Procedures for transporting and disposing the waste material generated during removal activities,
- Procedures for stockpiling soil on-site,

- Provisions for collecting additional soil samples in previously inaccessible areas to confirm the extent of soil contamination, following demolition activities,
- Confirmation soil sampling to verify achievement of remediation goals,
- Procedures to ensure that fill and cap materials are verified as clean,
- Truck routes, and/or
- Staging and loading procedures and record keeping requirements.

Impacted soils shall be appropriately characterized and transported off-site for disposal at a facility licensed to receive such waste and that contaminated groundwater is disposed of appropriately. Proof of proper disposal shall be submitted to the Director of Planning, or Director's designee, and the Environmental Compliance Officer prior to issuance of a building permit.

Finding: Implementation of mitigation measure MM HAZ-1.1 and HAZ-1.2 would reduce potential hazards to the public or environment to a less than significant level (**Less than Significant Impact with Mitigation**)

Facts in Support of Finding: With the implementation of the above mitigation measures HAZ-1.1 and HAZ-1.2 (which are consistent with measures identified and required of development in the Downtown Strategy 2040 FEIR) the project would not create a significant hazard to the public or environment. The measure would require investigation of subsurface contamination if below grade parking is to be constructed, remediating contamination (if found), and preparing and implementing a SMP that outlines, amongst other things, how to appropriately handle contamination if encountered during construction.

Land Use

Impact: The project would result in a 10 percent or greater increase in shadow cast on Plaza de Cesar Chavez in the morning in the summer (for four hours from 6:00 AM to 10:00 AM), fall (for three hours from 7:00 AM to 10:00 AM), and winter (for two hours from 8:00 AM to 10:00 AM).

Mitigation: There is no feasible mitigation measure proposed.

Finding: The project would result in a significant and unavoidable shade and shadow impact on Plaza de Cesar Chavez. **(New Significant and Unavoidable Impact).**

Facts in Support of Finding: There is no feasible mitigation to reduce the project's increase in shadow on Plaza de Cesar Chavez. Based on the Downtown 2040 EIR, shade and shadow of 10 percent or greater to nearby open space would result in a significant impact. As the project would be a tower of 295 feet maximum, it would cast shade onto the nearby Plaza de Cesar Chavez. The project would increase shade onto the Plaza De Cesar Chavez by 16 percent at 9:00am in the summer, by 19 percent at 9:00am during fall and spring, and by 31% at 9:00am in the winter. The project would have no increase in shade on the Plaza De Cesar Chavez during the afternoons or evenings at any time of the year. The Downtown strategy 2040 EIR does not analyze specific development proposals but acknowledges that due to the anticipated capacity and type of growth in the downtown, buildout of projects under the Downtown Strategy 2040 may result in significant and unavoidable shade and shadow impacts individually and cumulatively. Reducing the height of the building would fundamentally change the project as proposed, would not meet the project objectives, and a low-density development on the project site is not consistent with the City's vision and goals for downtown, which include encouraging ambitious job and housing growth.

Noise

Impact: **Impact NOI-1:** The mechanical equipment for the project has the potential to exceed the City's threshold of 55 dBA DNL at adjacent noise-sensitive land uses.

Mitigation: **MM NOI-1.1:** Prior to issuance of any building permits and during final building design, the project applicant shall prepare a detailed acoustical study to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit. The detailed acoustical study demonstrating that mechanical equipment will not exceed 55 dBA DNL at adjacent sensitive receptors shall be signed by a qualified noise consultant and submitted to

the Director of Planning, Building, and Code Enforcement, or Director's designee, prior to the issuance of a Building Permit.

Finding: Implementation of Mitigation Measure NOI-1.1 would ensure that mechanical equipment during project operation would not exceed 55 dBA DNL at adjacent noise-sensitive land uses. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: The proposed project would include various mechanical equipment for heating, ventilation, and air conditioning needs. In accordance with the Downtown Strategy 2040 FEIR and pursuant to General Plan Policy EC-1.3, noise levels from building equipment would be limited to 55 dBA DNL at the property line of receiving noise-sensitive land uses. Specific details on the mechanical equipment are not known at this time and would be chosen prior to project construction, therefore, mitigation measure NOI-1.1 has been included to ensure conformance with Policy EC-1.3. To comply with MM NOI-1.1, the applicant would be required to hire a qualified noise consultant to prepare a detailed acoustical study showing that the proposed mechanical equipment would not exceed 55 dBA DNL at adjacent sensitive receptors. The plan must then be signed by the qualified noise consultant and submitted to the City prior to issuance of Building Permits.

Impact: Construction of the project is anticipated to occur over a period of 34 months and would exceed the temporary 12-month threshold for significant construction noise impacts on nearby sensitive receptors.

Mitigation: **MM NOI-2.1:** Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of PBCE, or Director's designee, prior to the issuance of any grading or demolition permits. As part of the noise logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- Limit construction truck traffic to truck routes and avoid sensitive land uses where feasible. Configure a traffic pattern on the project site to minimize truck backing movements.
- The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- Residences or other noise-sensitive land uses within 500 feet of the construction site shall be notified of the construction schedule, in writing, at least seven days prior to the beginning of construction.
- Utilize “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;
- Locate staging areas and construction material areas as far away as possible from adjacent land uses;
- Prohibit all unnecessary idling of internal combustion engines;
- Prepare and submit a construction noise mitigation plan that documents how construction noise from the 24-hour concrete pours would be minimized to reduce noise disturbance to affected residential uses from concrete pours occurring outside the standard construction hours of 7:00 AM and 7:00 PM, Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. The plan shall include a Relocation Plan (described below). The plan shall be reviewed and approved by the Director of PBCE.
- Prepare a Relocation Plan that describes the process to temporarily relocate residents at the Casa del Pueblo Residential Tower and St. Claire Apartments that have direct line of sight to the construction site for the duration of the 24-hour concrete pouring construction phase. The plan would describe the process to temporarily relocate residents, describe the alternative housing options, and describe the proposed timing of relocation. If said residents request relocation, the

applicant shall provide a copy of the Relocation Plan and implement the plan if requested;

- A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling or temporary relocation. Noise control blanket barriers can be rented and quickly erected.
- Designate a “disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Finding: Implementation of MM NOI-2.1 would reduce the impacts of temporary construction noise on nearby sensitive receptors. **(Less Than Significant Impact with Mitigation)**

Facts in Support of Finding: Construction of the project is estimated to occur over a period of 34 months. The City’s threshold for acceptable temporary construction noise is 12 months, which would require the project to implement noise control measures to reduce construction noise impacts on nearby sensitive receptors. MM NOI-2.1 would require the project to prepare and implement a Construction Noise Logistics Plan that includes widely-accepted best management practices and a relocation plan that would reduce temporary noise impacts to a less than significant level.

Impact: Project-related construction-vibration could result in significant impacts at nearby structures of conventional and historic build. Vibration levels have the potential to be up to 1.233 in/sec Peak Particle Velocity (PPV) at the adjacent historic Montgomery Hotel which exceeds the 0.08 in/sec PPV threshold for historic structures, and up to 1.233 in/sec PPV at the Casa del Pueblo Residential Tower which exceeds the 0.2 in/sec PPV threshold for structures of conventional build.

Mitigation: **MM NOI-3.1:** As part of the required Construction Vibration Plan, the project applicant shall implement the following measures during construction unless otherwise noted:

- Prohibit impact, sonic, or vibratory pile driving methods. Drilled piles cause lower vibration levels where geological conditions permit their use.
- Limit other vibration-inducing equipment to the extent feasible.
- Prior to issuance of any demolition or grading permits, submit a list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.
- Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.
- Use smaller equipment to minimize vibration levels below the limits.
- Avoid using vibratory rollers and tampers near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Avoid dropping heavy objects or materials.
- Prior to issuance of demolition or grading permits, notify neighbors within 500 feet of the construction site of the construction schedule and that there could be noticeable vibration levels during project construction activities.
- A Historic Resources Protection Plan/Construction Vibration Monitoring Plan shall be implemented to document conditions prior to, during, and after construction. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods and a qualified historic architect who meets the Secretary of Interior's Professional Qualifications Standards. A draft of the Historic Resource Protection Plan portion shall be submitted to the Director of PBCE or Director's designee for review and approval prior to implementation of the plan. The plan shall include the following tasks:
 - Education and training of construction workers about the significance of the historic resources around which they would be working.

- Guidelines for operating construction equipment adjacent to historic resources.
- Identification of sensitivity to ground-borne vibration of the Four Point by Sheraton and Casa Del Pueblo Residential Tower. A vibration survey (described below) shall be performed by a qualified acoustical consultant, licensed historical architect, or licensed Professional Structural Engineer in the State of California.
- Performance of a photo survey, elevation survey, and crack monitoring survey for each of these structures, per approval of the property owners. Surveys shall be performed prior to any construction activity, in regular interval during construction, and after completion and shall include internal and external crack monitoring in structures, settlement, and distress and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.
- Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction. Alternative construction methods would be identified for when vibration levels approach the limits that are stated in the General Plan, including General Plan Policy EC-2.3.
- If vibration levels approach limits, suspend construction and implement alternative construction methods to either lower vibration levels or secure the affected structures.
- Conduct post-survey on structures where either monitoring has indicated high levels or complaints of damage have been made. Make appropriate repairs in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties to restore the character-defining features of the resources in a manner that does not affect the eligibility of the historic property as a historic resource.
- The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report shall include a description of measurement methods,

equipment used, calibration certificates, and graphics as required to clearly identify vibration monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims.

- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

Finding: Implementation of Mitigation Measure NOI-3.1 (which is consistent with measures identified and required of development in the Downtown Strategy 2040 FEIR) would result in a less than significant construction vibration impact by implementing measures to reduce vibration levels and implementing a plan to monitor vibration levels. **(Less Than Significant Impact with Mitigation)**

Facts in Support of Finding: Implementation of mitigation measure MM NOI-3.1 would reduce the vibration impacts on the historic Montgomery Hotel to below the threshold of 0.08 in/sec PPV threshold for historic structures and would reduce the vibration impacts on the Casa del Pueblo Residential Tower below 0.2 in/sec PPV threshold for structures of conventional build, as analyzed in Initial Study Appendix F: Noise and Vibration Report prepared by Illingworth and Rodkin, Inc. on March 23, 2020. This would be achieved through implementation of a Construction Vibration Plan which includes documenting conditions prior to, during, and after construction, monitoring vibration levels, suspending construction if vibration levels approach limits and implement alternative construction methods or secure affected structures, and making appropriate repairs where damage has occurred.

FINDINGS CONCERNING ALTERNATIVES

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

The alternatives analyzed in the FSEIR were developed with the goal of being at least potentially feasible, given Project objectives and site constraints, while avoiding or reducing the Project's identified environmental effects. Three alternatives were explored, including an Alternative Project Location that was determined to be infeasible and considered rejected. The following are evaluated as alternatives to the proposed Project:

1. No Project Alternative
2. Reduced Height Alternative

1. No Project Alternative

- A. **Description of Alternative:** The No Project Alternative would retain the existing surface parking lot as it is without any development proposals. If the project site were to remain as is, there would be no new impacts.
- B. **Comparison of Environmental Impacts:** The No Project Alternative would avoid all of the project's environmental impacts.
- C. **Finding:** The No Project Alternative would avoid the Project's significant and unavoidable shade and shadow impact, as well as avoid all other impacts from construction noise and vibration, exposure to soil/groundwater contamination, to unknown cultural resources, and air quality, as disclosed in the Initial Study. The No Project Alternative would not meet any of the proposed Project's specific objectives because it would not develop a new building with iconic architecture; include ground floor commercial uses with office uses on the upper floors; include land uses that generate high transit ridership; or utilize the allowable FAA height limit for the site, nor would it meet any of the City's goals and visions for the downtown, which includes encouraging ambitious job and housing growth.

2. Reduced Height Alternative

- A. **Description of Alternative:** The purpose of the Reduced Height Alternative is to avoid the project's significant, unavoidable shade and shadow impact. In order to be below the City's threshold for a significant shade and shadow impact, the proposed building would need to be reduced in height from approximately 295 feet and 20 stories (including one mechanical level) to approximately 155 feet and 10 stories (including one mechanical level). As a result, the building's gross square footage would be reduced from approximately 1,049,845 to 466,140 square feet. Compared to the proposed project, the Reduced Height Alternative would result in a reduction of 10 stories

(and approximately 140 feet in height) and an approximately 55 percent reduction in gross building square footage.

- B. **Comparison of Environmental Impacts:** The Reduced Height Alternative would avoid the project's significant, unavoidable shade and shadow impact, because it would reduce the height substantially. Furthermore, the Reduced Height Alternative would lessen other impacts (i.e., impacts to air quality, hazardous materials, and noise) disclosed in the Initial Study and FSEIR for the project, because the site would not be developed as intensely under this alternative as under the proposed project. However, as construction would still take place with the reduced scope, the project would still not fully avoid construction impacts to these resource areas, similar to the existing proposed project.
- C. **Finding:** The alternative could meet five of the eight project objectives. The Reduced Height Alternative could meet project objective 1 by constructing a new building with iconic architecture, objectives 2 and 8 by constructing a pedestrian-oriented building with ground floor commercial uses and office uses on the upper floors, objective 5 of providing above grade parking, and objective 7 by providing a parking ratio of one vehicle per 1,000 square feet of office. The Reduced Height Alternative would partially meet objective 3 by constructing a high-quality, pedestrian-oriented building near transit although the density and transit ridership would be less than the density and transit ridership with the proposed project. This alternative would also partially meet objective 4 by providing large floor plates but would not provide the largest total square footage feasible (because the project proposes a larger total square footage). However, the Reduced Height Alternative would not meet most of project objective 3 which would locate the maximum number of new users near transit oriented development, objective 4 to locate maximum office square footage and floor space to attract new users for existing public transportation, and none of objective 6 which utilizes the allowable FAA height limit on the site, which is estimated to be between approximately 262 and 362 feet.

The Reduced Height Alternative would avoid the project's significant, unavoidable shade and shadow impact, as well as avoid or lessen all other impacts disclosed in the Initial Study and FSEIR for the project. However, the project would not meet major objectives such as allowing for maximum allowable development that would enhance and increase the use of the Downtown area, as described above. Furthermore, the Reduced Height Alternative would result in a reduction of about 55% of the square footage in useable space, further conflicting with City's and project's goals and visions for the downtown, which include encouraging ambitious job generation.

Environmentally Superior Alternative

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. The only significant unavoidable impact of the Project is shade and shadow. Shade and shadow is deemed to be significant and unavoidable as the project would shade the Plaza de Cesar Chavez by more than 10 percent for a few hours in the morning during summer, spring, fall and winter. Based on the discussion of project alternatives, the environmentally superior alternative to the project is the No Project Alternative because it would avoid all of the project's significant environmental impacts. CEQA Guidelines Section 15126.6(e)(2) states that "if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." Therefore, in addition to the No Project Alternative, the Reduced Height Alternative is the environmentally superior alternative because it avoids the project's significant, unavoidable shade and shadow impact and would lessen impacts to other environmental resources (i.e., air quality, noise, public services, recreation, transportation, and utilities and service systems) compared to the project given the reduced amount of development that would be constructed under this alternative. However, the Reduced Height Alternative would not meet several of the project objectives, such as locating the maximum number of new users near transit-oriented development, locating maximum square footage office space to attract new users for existing public transportation, and utilizing the allowable FAA height limit on the site.

MITIGATION MONITORING AND REPORTING PROGRAM

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

STATEMENT OF OVERRIDING CONSIDERATIONS

- A. **Significant Unavoidable Impacts.** With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has

determined that the Project will result in significant unmitigated or unavoidable impacts, as set forth above, associated with shade and shadow.

B. **Overriding Considerations.** The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant, unavoidable impacts of the Project are acceptable in light of economic, legal, environmental, social, technological or other considerations noted below, because the benefits of the Project outweigh its significant adverse environmental impact of the Project. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent basis for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record that includes, but is not limited to, the Envision San José 2040 General Plan, the Downtown Strategy 2040, and the Downtown Urban Design Guidelines.

C. **Benefits of the Project.** The City Council has considered the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the following substantial public benefits:

1. 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, as specified in the Envision San José 2040 General Plan. The project proposes to significantly intensify the site with a mixed-use development composed of commercial and office in a pedestrian-friendly design and located in proximity to a variety of services. The City's calculated employment to square footage ratio is one job per 300 square feet of developed commercial, industrial, retail, and office uses. The project would develop approximately 643,585 of office and commercial space, which would add approximately 2,145 new jobs to the Downtown area. Planning such sites for higher density mixed-use development enables the City to provide economic

and employment benefits consistent with the community objectives of the Envision San José 2040 General Plan.

- Major Strategy #9 Destination Downtown and #11 Design for a Healthful Community: The Project introduces new employment opportunities by providing up to 627,210 square feet of office space and 16,375 square feet of active commercial uses at the ground floor, consistent with the rhythm and activities of the Downtown area. In addition, the Project was designed to be compatible with the surrounding historic properties and does not adversely impact the Montgomery Hotel, either directly or indirectly. Therefore, the Project would provide more services and activities to the Downtown area without compromising existing historic resources, keeping the Destination area a cultural center with employment and residential neighborhoods. The project would shade the Plaza De Cesar Chavez by 16 percent at 9:00am in the summer, by 19 percent at 9:00am in the spring and fall, and by 31 percent at 9:00am in the winter. Cumulative shade impacts would also be anticipated to result on the Plaza de Cesar Chavez from other nearby projects that have been entitled or are being reviewed, such as the Museum Place Project and the CityView Plaza Project. The Downtown strategy 2040 EIR does not analyze specific development proposals but acknowledges that due to the anticipated capacity and type of growth in the downtown, buildout of projects under the Downtown Strategy 2040 may result in significant and unavoidable shade and shadow impacts individually and cumulatively. The project-level and cumulative shade impacts would not prevent the park from operating or holding any of its programmed events.
- General Plan Land Use Goal LU-1.1, LU-3, LU-3.4, and LU-5.7: The Project encourages the use of alternative transportation options through its proximity to public transit and the inclusion of bicycle parking for employees and retail users. The Project would increase the number of employees that continuously visit the Downtown area, which would increase the survivability of retail and encourage new retail services and amenities to locate in the area. In addition, the ground floor retail amenities will not only serve the employees of the tower, but also workers and residents in the Downtown area. The project will also increase jobs and economic development and increase the City's jobs-to-employed ratio, providing approximately 2,145 new jobs.

2. Downtown Urban Design Guidelines and Policies

- Downtown Urban Design Policy CD-6.1, CD-6.2, and CD-6.6:
The proposed project has a floor-area ratio (FAR) of 14.1, making this a very dense commercial project given the FAA restrictions on height for the parcel. This amount of density will contribute to the Downtown's growth as a vibrant urban area, and help the City actualize its vision for the Downtown core. The project has undergone extensive design review so that its scale, quality, and character strengthen Downtown's status as an urban center, as discussed in the Design Guidelines conformance section. The proposed development will be a recognizable development from the sky, has a strong design presence at street level, and offers a unique tiered tower approach to development in Downtown San José.

The City Council has weighed each of the above benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the Final Supplemental Environmental Impact Report and hereby determines that those benefits outweigh the risks and adverse environmental effects of the Project and, therefore, further determines that these risks and adverse environmental effects are acceptable and overridden.

LOCATION AND CUSTODIAN OF RECORDS

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

ADOPTED this ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

Block 8 Mixed Use Office Project
File No. H19-033
November 2020



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 Block 8 Mixed Use 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. 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, Robert Tersini, the applicant, on the behalf of The Sobrato Organization, hereby agree to fully implement the measures described below which have been developed in conjunction with the preparation of an 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, where feasible.

Project Applicant's Signature Robert Tersini

Date 11/13/2020



Planning, Building and Code Enforcement
ROSALYNN HUGHEY, DIRECTOR

Block 8 Mixed Use Office Project
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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY					
Impact AIR-1: Project construction emissions would result in significant community health risks (i.e., cancer risk and annual PM _{2.5}).					
MM AIR-1.1: Prior to the issuance of any grading permits, the project applicant shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 93-percent reduction in DPM exhaust emissions or greater. One feasible plan to achieve this reduction may include, but is not limited to, the following: All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet EPA particulate matter emissions standards for Tier 4 engines. Exceptions could be made for equipment that includes CARB-certified Level 3 Diesel Particulate Filters or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also	Implement the construction equipment plan demonstrating that off-road construction equipment used on-site would achieve the performance criteria identified in this measure prepared by a qualified air quality consultant. Submit a copy of the plan to the Director of PBCE or Director's designee.	Prior to the issuance of any demolition or grading permits	Director of PBCE or Director's designee	Receive the construction equipment plan	Prior to the issuance of any demolition or grading permits



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meet this requirement. • Install electric power during early construction phases to avoid use of diesel generators and compressors. • Stationary construction cranes (building cranes) shall be powered by electricity. • A majority of forklifts and aerial lifts used for interior construction shall be electric or propane/natural gas powered. The plan shall be signed by a qualified air quality consultant and submitted to the Director of Planning, Building, and Code Enforcement (PBCE), or Director's designee, prior to the issuance of any demolition or grading permits.					



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Impact AIR-2: The health risk from the combination of project construction and operation sources would exceed the BAAQMD thresholds of significance for cancer risk and annual PM_{2.5} of >10.0 per million and >0.3 µg/m³, respectively. Impact AIR-3: The project would result in a significant cumulative community health risk impact (i.e., cancer risk and PM_{2.5}).					
MM AIR-2.1: Prior to issuance of building permits, the project applicant shall either (1) submit documentation by a qualified air quality consultant that demonstrates the equipment includes diesel particulate matter filters that achieve a minimum 85-percent reduction in particulate matter emissions to the Director of PBCE or Director's designee or (2) submit documentation by a qualified air quality consultant that has been reviewed and approved to the Director of PBCE, or Director's designee, demonstrating that the project generators will not increase lifetime cancer risk by 10 chances per million, when combined with effects from the project construction and traffic. Significant cancer risk impacts can be avoided by the following measures: • Placement of the equipment;	Submit documentation showing generator specifications meeting the performance criteria identified in this measure prepared by a qualified air quality consultant to the Director of PBCE or Director's designee.	Prior to the issuance of building permits	Director of PBCE or Director's designee	Receive the construction generator documentation	Prior to the issuance of any building permits



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• Placement and orientation of the exhaust stacks; • Application of exhaust controls such as diesel particulate matter filters that reduce DPM by 85 percent; and/or • Limitation to the operation hours to less than 50 hours per year.					
CULTURAL RESOURCES					
Impact CUL-1: The project would result in significant construction-vibration related impacts to nearby historic resources.					
See mitigation measure MM NOI-3.1					
Impact CUL-2: The project would result in significant impacts to archaeological resources (if found on-site) during construction.					
MM CUL-2.1: Prior to issuance of any grading or building permits, a qualified archaeologist shall complete a subsurface exploration commensurate with ground disturbances to sample the historically sensitive areas and sample the deeper native soils that could contain the remains of Native American resources. The exploration work shall be conducted by a qualified archaeologist trained in both local	A qualified archaeologist shall complete subsurface testing and monitor any preconstruction ground disturbing activity.	Prior to any ground disturbing activities or issuance of any grading or building permits	Director of PBCE or Director's designee	Review and approve preconstruction documentation and/or the archaeological	Prior to any ground disturbing activities or issuance of any grading, or



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prehistoric and historic archaeology, who is also familiar with Hispanic-period features, land use patterns, and their cultural materials. To explore for the potential of Native American resources, deeper trenches shall be placed beyond the areas considered sensitive for historic-era resources and dug to a depth commensurate with proposed impacts, or until the soils and sediments are identified as reliably culturally sterile. If any ground disturbing activities are required for other environmental concerns or for potholing to identify previous utilities and their removal, an archaeological monitor shall be required at all times. If archaeological deposits or features appear potentially eligible to the CRHR are identified during any stage of exploration or monitoring, they shall be covered with a metal construction plate and an archaeological research design and work plan shall be prepared. This plan shall be approval by the	Submit a final report detailing the results of the preconstruction survey or an archaeological research design and work plan to the Director of PBCE or Director's designee.			research design and work plan	building permits



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Director of PBCE or Director's designee, before the archaeological deposits or features can be excavated. If unearthed, all features, archaeological deposits, and cultural material shall be excavated according to current archaeological standards detailed in the approved research design and treatment plan. All features, archaeological deposits, and cultural material shall be cleaned, analyzed, and evaluated for their eligibility to the CRHR. An archaeological report shall be prepared discussing methods, historical research (if appropriate), and documenting all finds. The report shall be submitted to and approved by the Director of PBCE or Director's designee. If the find does not meet the definition of a historical or archaeological resource, then no further study or protection is necessary prior to project implementation.					



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The applicant is fiscally responsible for the curation of all artifacts deemed archival by current archaeological standards at History San José, with the exception of any human remains and associated burial goods. The archaeologist shall prepare the artifacts and dietary remains in archival quality bags with artifact identification tags, provide two copies of a final artifact catalog for the items submitted, and two copies of the final archaeological report. Any other additional requirements by History San José must be addressed. Only when all of these mitigations are completed would the City and the applicant be in compliance with CEQA.					

HAZARDS AND HAZARDOUS MATERIALS

Impact HAZ-1: The potential of subsurface contamination on-site could create a hazard.

MM HAZ-1.1: If below ground parking is constructed, a Phase II Environmental Site Assessment meeting ASTM standards shall be performed by a qualified environmental professional prior to the issuance of any demolition, grading, or	A qualified environmental professional shall complete a Phase II ESA and submit it to the City	Prior to issuance of any demolition, grading, or building permits	Director of PBCE or the Director's designee, and the Environmental Compliance Officer	Review of Phase II (if below ground parking is to be constructed) and evidence of	Prior to issuance of any demolition, grading, or
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building permits. If the Phase II results indicate soil, soil gas, and/or groundwater contamination above regulatory environmental screening levels and could impact construction worker safety or future site occupants, then the applicant shall enter into the Site Cleanup Program with the Santa Clara County Department of Environment Health (SCCDEH). Any further investigation and remedial actions must be performed under regulatory oversight to mitigate the contamination and make the site suitable for the proposed office development. The Phase II results, and evidence of County oversight shall be submitted to the Director of PCBE (or the Director's designee) and the Environmental Compliance Officer in the City of San José's Environmental Services Department prior to issuance of any demolition, grading, or building permits. MM HAZ-1.2: Prior to the issuance of any demolition, grading, or building permits, the project applicant shall have a qualified environmental professional prepare a Site Management Plan (or	as stipulated in MM HAZ-1.1, if below ground parking is to be constructed. Evidence of County oversight shall be submitted to the City as stipulated in MM HAZ-1.1, if remedial actions are required.		in the City of San José's Environmental Services Department	County oversight (if remediation is required)	building permits
	Prepare the Site Management Plan (or Waste Disposal Plan).	Prior to issuance of any demolition,	Director of PBCE or Director's designee	Review plan	Prior to issuance of any demolition,



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Waste Disposal Plan) to address the handling of impacted soils and groundwater during site development. The plan shall include the following elements: • Procedures for transporting and disposing the waste material generated during removal activities, • Procedures for stockpiling soil on-site, • Provisions for collecting additional soil samples in previously inaccessible areas to confirm the extent of soil contamination, following demolition activities, • Confirmation soil sampling to verify achievement of remediation goals, • Procedures to ensure that fill and cap materials are verified as clean, • Truck routes, and/or • Staging and loading procedures and record keeping requirements.	A qualified environmental professional shall implement the Site Management or Waste Disposal Plan.	grading, or building permits. During construction			grading, or building permits



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Impacted soils shall be appropriately characterized and transported off-site for disposal at a facility licensed to receive such waste and that contaminated groundwater is disposed of appropriately. Proof of proper disposal shall be submitted to the Director of Planning, or Director's designee, and the Environmental Compliance Officer prior to issuance of a building permit.					
NOISE					
Impact NOI-1: The mechanical equipment for the project has the potential to exceed 55 dBA DNL at adjacent noise-sensitive land uses.					
MM NOI-1.1: Prior to issuance of any building permits and during final building design, the project applicant shall prepare a detailed acoustical to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at	Provide detailed acoustical study during final building design	Prior to issuance of any building permits	Director of PBCE or Director's designee	Receive detailed acoustical study and documentation of mechanical equipment and efforts to reduce noise levels	Prior to issuance of any building permits



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noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit. The detailed acoustical study demonstrating that mechanical equipment will not exceed 55 dBA DNL at adjacent sensitive receptors shall be signed by a qualified noise consultant and submitted to the Director of Planning, Building, and Code Enforcement, or Director's designee, prior to the issuance of a building permit.					
Impact NOI-2: Project construction activities would result in significant construction noise impacts on nearby sensitive receptors.					
MM NOI-2.1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and	Provide documentation of heavy construction equipment and efforts to reduce vibration levels; and construction vibration monitoring plan	Prior to issuance of any grading or demolition permits for documentation and plan; implementation of measures during construction	Director of PBCE or Director's designee	Review of plans and construction documents for identification of vibration minimization efforts. Review results of construction	Prior to issuance of any grading or demolition permits for review of documentation and plan. Prior to certificate of



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implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of PBCE, or Director's designee, prior to the issuance of any grading or demolition permits. As part of the noise logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices: - Limit construction truck traffic to truck routes and avoid sensitive land uses where feasible. Configure a traffic pattern on the project site to minimize truck backing movements. - The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by				vibration monitoring plan	occupancy permits for review of results of construction vibration monitoring plan



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faulty or poorly maintained engines or other components. • Residences or other noise-sensitive land uses within 500 feet of the construction site shall be notified of the construction schedule, in writing, at least seven days prior to the beginning of construction. • Utilize “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;					



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• Locate staging areas and construction material areas as far away as possible from adjacent land uses; • Prohibit all unnecessary idling of internal combustion engines; • Prepare and submit a construction noise mitigation plan that documents how construction noise from the 24-hour concrete pours would be minimized to reduce noise disturbance to affected residential uses from concrete pours occurring outside the standard construction hours of 7:00 AM and 7:00 PM, Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. The plan shall include a Relocation Plan (described below). The plan shall be reviewed and approved by the Director of PBCE. • Prepare a Relocation Plan that describes the process to temporarily relocate residents at					



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the Casa del Pueblo Residential Tower and St. Claire Apartments that having direct line of sight to the construction site for the duration of the 24-hour concrete pouring construction phase. The plan would describe the process to temporarily relocate residents, describe the alternative housing options, and describe the proposed timing of relocation. If said residents request relocation, the applicant shall provide a copy of the Relocation Plan and implement the plan if requested; A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling or temporary relocation. Noise control blanket barriers can be rented and quickly erected;					



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Designate a “disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.					
Impact NOI-3: Project-related construction-vibration could result in significant impacts at nearby structures.					
MM NOI-3.1: The project applicant shall implement the following measures during construction unless otherwise noted: Prohibit impact, sonic, or vibratory pile driving methods. Drilled piles cause lower	Submit a draft of the Historic Resources Protection Plan.	Prior to issuance of any grading or demolition permits.	Director of PBCE or Director’s designee	Review draft of Historic Resources Protection Plan/Construction Vibration Monitoring Plan	Prior to issuance of any grading or demolition permits for review of draft plan.



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vibration levels where geological conditions permit their use. • Limit other vibration-inducing equipment to the extent feasible. • Prior to issuance of any demolition or grading permits, submit a list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds. • Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.	Implement measures identified in MM NOI-3.1 during construction; implement the Historic Resources Protection Plan/Construction Vibration Monitoring Plan prior, during, and after construction	During and after construction for monitoring activities.		and review of completed plan	Prior to certificate of occupancy permits for review of results of the plan.



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• Use smaller equipment to minimize vibration levels below the limits. • Avoid using vibratory rollers and tampers near sensitive areas. • Select demolition methods not involving impact tools. • Modify/design or identify alternative construction methods to reduce vibration levels below the limits. • Avoid dropping heavy objects or materials. • Prior to issuance of demolition or grading permits, notify neighbors within 500 feet of the construction site of the construction schedule and that there could be noticeable vibration levels during project construction activities. • A Historic Resources Protection Plan/Construction Vibration Monitoring Plan shall be implemented to document conditions prior to, during, and after					



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construction. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods and a qualified historic architect who meets the Secretary of Interior's Professional Qualifications Standards. A draft of the Historic Resources Protection Plan portion shall be submitted to the Director of PBCE or Director's designee for review and approval prior to implementation of the plan. The plan shall include the following tasks: - Education and training of construction workers about the significance of the historic resources around which they would be working. - Guidelines for operating construction equipment adjacent to historic resources.					



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- Identification of sensitivity to ground-borne vibration of the Four Point by Sheraton and Casa Del Pueblo Residential Tower. A vibration survey (described below) shall be performed by a qualified acoustical consultant, licensed historical architect, or licensed Professional Structural Engineer in the State of California. - Performance of a photo survey, elevation survey, and crack monitoring survey for each of these structures, per approval of the property owners. Surveys shall be performed prior to any construction activity, in regular interval during construction, and after completion and shall include internal and external crack monitoring in structures, settlement, and distress and shall document the condition of foundations, walls and other structural					



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elements in the interior and exterior of said structures. - Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction. Alternative construction methods would be identified for when vibration levels approach the limits that are stated in the General Plan, including General Plan Policy EC-2.3. - If vibration levels approach limits, suspend construction and implement alternative construction methods to either lower vibration levels or secure the affected structures.					



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- Conduct post-survey on structures where either monitoring has indicated high levels or complaints of damage have been made. Make appropriate repairs in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties to restore the character-defining features of the resources in a manner that does not affect the eligibility of the historic property as a historic resource. - The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be					



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included together with proper documentation supporting any such claims. - Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.					

Source: City of San José. *Supplemental Environmental Impact Report for the Block 8 Project*. SCH No. 2020029063, File No. H19-033. November 2020.