

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CERTIFYING THE MARRIOTT TOWNPLACE SUITES PROJECT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT TO THE DOWNTOWN STRATEGY 2040 FINAL ENVIRONMENTAL IMPACT REPORT AND MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT IMPACTS, MITIGATION MEASURES, AND ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED

WHEREAS, the proposed Marriott Townplace Suites Project includes the demolition of up to three residential units, a water tank building (also referred to as the tankhouse), three commercial buildings (approximately 14,176 square feet), and two sheds for the construction of a hotel building with up to 175 rooms on an approximately 0.60-gross acre site (Assessor Parcel Numbers 259-47-013, -014, -015, and -016) located at 491, 495, and 497 West San Carlos Street, and 270 Josefa Street in the City of San José, referred to herein as the “Project; and

WHEREAS, approval of Marriott Townplace Suites 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 impact report to the Downtown Strategy FPEIR was required as further explained in the 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 Marriott Townplace Suites Project (Planning File No. H19-053); 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 August 11, 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 finds that the FSEIR was completed in accordance with the requirements of CEQA; 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.

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MARRIOTT TOWNPLACE SUITES PROJECT

SIGNIFICANT ENVIRONMENTAL IMPACTS

Air Quality

Impact: **Impact AIR-1:** Construction activities associated with the proposed project would expose infants near the project site to toxic air contaminant emissions in excess of BAAQMD thresholds (cancer risk >10.0 and PM2.5 concentration >0.3).

Mitigation: **MM AIR-1.1:** Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement that includes specifications of the equipment to be used during construction and that outlines how the mitigation measure will be achieved. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

- For all construction equipment larger than 25 horsepower operating on-site for more than two days continuously or 20 hours total, use equipment that meets U.S. Environmental Protection Agency (EPA) Tier 4 particulate matter emissions standards.
- If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two days continuously or 20 hours total shall use equipment that 1) meet the U.S. EPA emission standards for Tier 3 engines and include CARB-certified Level 3 Diesel Particulate Filters or equivalent that together achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment (e.g., non-diesel) that would meet this reduction requirement.
- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators, air compressors, and concrete/industrial saws.

Finding: Implementation of Mitigation Measure AIR-1.1 would reduce toxic air contaminant emissions in below BAAQMD thresholds, resulting in a less than significant impact during construction activities. **(Less than Significant Impact with Mitigation)**

Facts in Support of the Finding: As analyzed in detail in the FSEIR, Mitigation Measure AIR-1.1 would reduce infant residential cancer risk to 9.2 per one million cases or less and the maximum PM_{2.5} concentration would be reduced to 0.27 µg/m³. The hazard index would be less than 0.01. Therefore, the community risk impact would be less than significant with implementation of Mitigation Measure AIR-1.1.

Biological Resources

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

Mitigation: **MM BIO-1.1:** Construction activities, such as tree removals and grading, shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.

The applicant shall submit a written statement to the Director of Planning, Building and Code Enforcement or the Director's designee indicating whether the nesting season would be avoided. If the nesting season cannot be avoided, then the applicant shall be required to implement MM BIO-1.2.

MM BIO-1.2: If tree removals and construction cannot be scheduled outside of the nesting season between September 1st and January 31st, inclusive, a qualified ornithologist shall complete pre-construction surveys to identify active raptor or other migratory birds' nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the qualified ornithologist shall designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The

buffer would ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to approval of any ground disturbance activity, including issuance of any tree removal, grading, or building permit (whichever comes first), the applicant shall submit a report indicating the results of the survey and any designated buffer zones for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee.

Finding: Implementation of Mitigation Measure BIO-1.1 would reduce impacts to fertile eggs, displacement of nesting raptors or other migratory birds or nest abandonment to a less than significant level. **(Less than Significant Impact with Mitigation)**

Facts in Support of the Finding: As analyzed in the FSEIR, the measures identified in Mitigation Measures BIO-1.1 and BIO-1.2 would ensure that the impacts to nesting raptors or other migratory birds, fertile eggs, or nest abandonment due to construction activities would be reduced to less than significant levels.

Cultural Resources

Impact: **Impact CUL-1:** Implementation of the proposed project would result in the demolition of two historic structures, that are eligible for Candidate City Landmark status, the mixed-use building at 497-499 W. San Carlos Street and the tankhouse on the project site.

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 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 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 of the buildings and site plan.
- B. Photographs – 35 mm digital photographs meeting the digital photography specifications.
- C. Written Data – a historical report with the history of the property, property description and historical significance.

A qualified architectural 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.

MM CUL-1.2: Documentation (Digital Scans): Prior to issuance of any certificates of occupancy, the structures and associated features on the project site shall be documented by a qualified architectural historian through a series of digital scans and video production. The architectural historian shall meet the Secretary of the Interior's Professional Qualification Standards. A plan of the proposed procedures for the digital scans shall be submitted to the City's Historic Preservation Officer or equivalent prior to commencement of preparing the digital scans for review and approval.

MM CUL-1.3: 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 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 the 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 mixed-used building and the associated tankhouse structure 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.

MM CUL-1.4: Salvage: If the project applicant and/or a third party cannot agree 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 prior to the issuance of any demolition permits. 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.

MM CUL-1.5: Deconstruction/Reverse Construction: Prior to and during demolition activities, all structures and associated features being salvaged and demolished shall be documented, photographed, and videoed by a qualified architectural historian showing in reverse the original methods of construction and use of materials.

Finding: Mitigation Measures CUL-1.1 through CUL-1.5 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. **(Significant and Unavoidable Impact)**

Facts in Support of the Finding: As analyzed in the FSEIR, the properties at 497-499 W. San Carlos Street and tankhouse structure (APN 259-47-015) have been determined to be eligible as a San José Candidate City Landmark under criteria 1, 4, and 6; and therefore, they are considered historical resources. As proposed by the project, demolishing historic resources on the site is a final act. While Mitigation Measures CUL-1.1 through CUL-1.5 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:** Project soils on the site contain elevated levels of metals that could be released to the environment during project construction and expose construction workers and nearby land uses.

Mitigation: **MM HAZ-1.1:** Prior to issuance of any grading or excavation permits, the project applicant 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 for review and approval prior to issuance of grading or excavation permits.

MM HAZ-1.2: If the contaminated materials are planned to be capped during construction by site improvements (landscape beds, buildings, pavements, turf sections, etc.), it should be included in the SMP or similar document, for the approval under the regulatory oversight of the SCCDEH. If the contaminated soils are planned to be removed from the site, these shall be hauled off-site and disposed of at a licensed hazardous materials disposal site in accordance with applicable regulatory requirements. Capped areas (if and as included in the SMP) will require institutional controls which may include a deed restriction for the affected areas and an operations and maintenance (O&M) Plan. The O&M plan shall be provided to SCCDEH for approval and the approved O&M plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee, and the City's Environmental Compliance Officer, prior to any demolition, grading permits or ground disturbing activities.

Finding: Implementation of Mitigation Measures HAZ-1.1 and 1.2 would ensure that potentially harmful metals would not be released into the environment during project construction; and would not expose construction workers and nearby residents to those potentially harmful metals, and the project would have a less than significant hazardous materials impact. **(Less than Significant Impact with Mitigation)**

Facts in Support of the Finding: As analyzed in the FSEIR, the mitigation measures identified above address the characterization of soil contamination impacts previously disclosed on the project site by the Downtown Strategy 2040 FEIR. With the implementation of the above measures, the project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Implementation of these site-specific measures is consistent with the mitigation measures approved in the Downtown Strategy 2040 FEIR and with expected contamination types and levels in a developed urban area. With implementation of the required mitigation measures the project would have a less than significant hazardous materials impact.

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Noise

Impact: **Impact NOI-1:** Construction noise would exceed ambient levels by 5 dBA for a period of more than one year in the vicinity of residential and commercial uses.

Mitigation: **MM NOI-1.1.** 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 logistics plan shall be prepared by a qualified acoustics professional. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and during construction to respond to noise complaints from neighbors. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to the issuance of any grading or demolition permits.

As part of the noise logistics plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- 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 sensitive receptors. Construct temporary noise barriers to screen stationary noise generating equipment when located near adjoining sensitive land uses.
- Prohibit all unnecessary idling of internal combustion engines.

- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, 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 complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- A "noise disturbance coordinator" shall be designated to respond to any 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 will 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 and included in the notice sent to neighbors regarding the construction schedule.

Finding: Implementation of the above measures during all phases of construction would ensure that construction noise would have a less than significant impact. **(Less than Significant Impact with Mitigation)**

Facts in Support of the Finding: As discussed in the FSEIR, the proposed project would implement Standard Permit Conditions to reduce potential impacts resulting from the operation of mechanical equipment on-site. The proposed project would increase the ambient noise level through traffic operations by less than 2 dBA; as a result, implementation of the proposed project would not result in a permanent noise increase of 3 dBA DNL or more. Additionally, the proposed project would implement mitigation measure MM NOI-1.1 to reduce the impacts of construction noise on sensitive receptors surrounding the project site.

Impact **Impact NOI-2:** Construction activity associated with the proposed project may result in vibration impacts to adjacent structures within 12 feet for the project site.

Mitigation: **MM NOI-2.1:** The project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities. 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. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of a demolition, grading, or building permit, whichever occurs earliest. The Plan shall include, but not be limited to, the following measures:

- Limit the use of vibratory rollers and avoid clam shovel drops within 15 feet of the property lines shared with residences and commercial structures adjacent to the site.
- 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.
- Select demolition methods not involving impact tools.
- Avoid dropping heavy objects or materials near vibration sensitive locations.
- 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.) shall be submitted 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 required for continuous vibration monitoring.
- A construction vibration-monitoring plan shall be implemented to document conditions at the residences and commercial structures adjacent to the site prior to, during, and after vibration generating construction activities. 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. The construction vibration monitoring plan should be implemented to include the following tasks:
 - Identification of sensitivity to ground-borne vibration of the residences and commercial structures adjacent to the site. A vibration survey (generally described below) would need to be performed.
 - Performance of a photo survey, elevation survey, and crack monitoring survey for the residences and commercial structures adjacent to the site. Surveys shall be performed prior to and after completion of vibration generating construction activities located within 25 feet of the structure. The surveys shall include internal

and external crack monitoring in the structure, settlement, and distress, and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of the structure.

- Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities.
- The results of any vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report will 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 will 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: Mitigation Measure NOI-2.1 would reduce impacts of vibration from heavy construction levels to a less than significant level. **(Less than Significant Impact with Mitigation)**

Facts in Support of the Finding: As discussed in the FSEIR, the use of heavy construction equipment can result in vibration that can cause damage to fragile building design elements or to old historic buildings. Monitoring the use of heavy construction equipment and checking surrounding buildings for damage before, during, and after construction activities can prevent severe and irreparable damage. Mitigation Measure NOI-2.1 would ensure that the surrounding buildings are protected from irreparable damage from vibration caused by the use of heavy construction equipment at the project site. The impacts to fragile or historic commercial and residential structures surrounding the site would be less than significant.

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 no suitable site was identified that could meet the basic objectives of the project and that would reduce all significant impacts of the project.
- Preservation Alternative 1—Relocation of All Historic Structures Off-Site—This alternative was not considered further because a viable receiver site was not identified for either of the historic structures within the Downtown Strategy Plan Area boundary.
- Preservation Alternative 2 – Relocation of Tankhouse—This alternative was not considered further because no viable receiver site for the tankhouse was identified within the downtown core boundary.
- Preservation Alternative 3 – Relocation of Mixed-Use Building—This alternative was not considered further because no viable receiver site for the mixed-use building was identified within the downtown core boundary.

The following are evaluated as alternatives to the proposed Project:

1. No Project – No Development Alternative
2. No Project – Redevelopment with No Rezoning Alternative
3. Preservation Alternative 4 – Preservation of All Historic Structures On-site
4. Preservation Alternative 5 – Preservation of Tankhouse On-Site
5. Preservation Alternative 6 – Preservation of Mixed-Use Building On-Site

1. No Project – No Development Alternative

- A. Description of Alternative:** This alternative would retain the existing land uses on-site as is and the proposed project would not be built.

- B. Comparison of Environmental Impacts:** Under the No Project Alternative, the proposed project would not be constructed and the project site would remain as is. None of the impacts of the project would occur. However, this alternative would not meet any of the project objectives.
- C. Finding:** Although this alternative would avoid all of the impacts that would occur with the proposed project, this alternative would not meet any of the project objectives. The City would lose the opportunity to maximize the development of 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 hotel development on a Downtown site near transit. Therefore, this alternative is rejected.

2. No Project – Redevelopment with No Rezoning Alternative

- A. Description of Alternative:** The No Project – Redevelopment with No Rezoning Alternative proposes redevelopment under the current zoning for the project site, LI Light Industrial. The Light Industrial zoning district is intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. Examples of typical uses include warehousing, wholesaling, and light manufacturing.
- B. Comparison of Environmental Impacts:** The site is developed with two single-story commercial buildings, a tank house, a residential duplex, a mixed-use building and one single-family residence. Assuming that any proposal would try to maximize development on-site (within the parameters of the Downtown Strategy Area Plan), such an alternative would have a floor-area ratio (FAR) of up to 15. Given the maximum allowable development, construction air quality and noise impacts would be comparable or greater compared to the proposed project because the length of construction and amount of grading would likely be similar. Other identified impacts to biological resources, loss of historic structures, and soil contamination impacts would remain the same as the proposed project because this alternative assumes full demolition of existing structures, removal of all landscaping trees on-site, and grading of the site.
- C. Finding:** The No Project – Redevelopment with No Rezoning Alternative would have similar environmental impacts to the proposed project and would not avoid the significant impacts of the project. The City would lose the opportunity to maximize development of an underutilized Downtown site, and to meet the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 by locating high density hotel development on a Downtown site near transit. Therefore, this alternative is rejected.

3. Preservation Alternative 4 – Preservation of All Historic Structures On Site

- A. Description of Alternative:** The mixed-use property with a single-family residence, a corner store, and a combination garage and tank house (a rare remaining building type), all constructed during the period of horticultural expansion (1870-1918) are eligible for consideration as Candidate San José City Landmarks under Criteria 1, 4 and 6. Under this alternative, the two identified historic structures would be retained on-site, all other structures on-site would be demolished, and a new hotel, similar to the proposed project but with reduced square footage and few number of rooms, would be constructed on the remaining site area..
- B. Comparison of Environmental Impacts:** Under Preservation Alternative 4, the hotel would be the same height as the proposed project, but the total square footage and number of rooms would be reduced because the available space for new construction would be reduced. Construction air quality and noise impacts would be reduced compared to the proposed project as it would be a smaller project and preservation of both the existing historic structures would result in less demolition on the site. The biological resource impacts would remain the same as the proposed project. The timeframe and magnitude of demolition and construction activities would be slightly less than the proposed project, but would have the same impact on nesting birds on or in the vicinity of the site. The significant unavoidable impacts to historic resources would be avoided under Preservation Alternative 4. Furthermore, this alternative would be required to implement all other mitigation measures (MM AIR-1.1 and 1.2, BIO-1.1 and 1.2, HAZ-1.1 and 1.2, and MM NOI-1.1 and 2.1), standard measures, and conditions of approval identified for the proposed project. As a result, the impacts to noise, air quality, hazardous waste and biological resources would be reduced to a less than significant level. Preservation Alternative 4 would meet almost all the project objectives except objective 3, complete removal of contaminated soils on the site, because soil contamination beneath the historic buildings would remain in place since the structures would not be demolished. This alternative would avoid the significant and unavoidable historic impacts; however, the historic structures that would be preserved on-site would be required to be maintained and adaptively reused.
- C. Finding:** Preservation Alternative 4 would meet almost all the project objectives except objective 3 because soil contamination beneath the historic buildings would remain in place since the structures would not be demolished. The alternative would avoid the significant and unavoidable historic impacts; however, the historic structures that would be preserved on-site would be required to be maintained and adaptively reused. The tank house could be adaptively reused as a café, concession stand, parking kiosk, small gift shop, restrooms or storage

shed, but reuse options may be limited due to the design of the structure which is relatively small with limited natural light within the building. The mixed-use corner building with its large expanse of windows could be converted to housing, commercial/office, or mixed-use space. 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. In addition, because the hotel building under the alternative would include reductions in the square footage and number of rooms compared to the proposed project, the City would lose the opportunity to maximize development of an underutilized Downtown site, and to meet the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 by locating high density hotel development on a Downtown site near transit. Therefore, this alternative is rejected.

4. Preservation Alternative 5 – Preservation of Tank House On-Site

- A. Description of Alternative:** Preservation Alternative 5 would retain only the tank house and the attached garage at 280 Josefa Street. This alternative would open up more of the site for new construction as the building at 280 Josefa Street is the smaller of the two structures (less than 500 square foot footprint). It could be adaptively reused as a café, concession stand, parking kiosk, small gift shop, restrooms or storage shed, but reuse options may be limited due to the design of the structure which is relatively small with limited natural light within the building.
- B. Comparison of Environmental Impacts:** The overall impact from construction noise/vibration and emissions would be comparable to the proposed project. The biological resource impacts would remain the same as the proposed project. The timeframe and magnitude of demolition and construction activities would be slightly less than the proposed project but would have the same impact on nesting birds on or in the vicinity of the site. Under this alternative, one of the existing structures would be retained (tank house) and would remain eligible for listing as a Candidate City Landmark. However, the project would still result in a significant and unavoidable impact resulting from the demolition of the other historic resource (mixed-use building at 497-499 W. San Carlos Street). The alternative would still be required to implement all mitigation measures (MM AIR-1.1 and 1.2, BIO-1.1 and 1.2, HAZ-1.1 and 1.2, and MM NOI-1.1 and 2.1), standard measures, and conditions of approval identified for the proposed project. As a result, implementation of the mitigation measures would reduce the impacts to noise, air quality, hazardous waste and biological resources to a less than significant level, the same as the proposed project.
- C. Finding:** Preservation Alternative 5 would meet almost all the project objectives except objective 3, complete removal of contaminated soils on the site, because

soil contamination beneath the tank house would remain and not allow for soils remediation of the whole site. The alternative would reduce the project's impacts resulting from the demolition of the historic structure at 280 Josefa Street and construction and occupancy of a new hotel building. In addition, the hotel building under this alternative would include reductions in the square footage and number of rooms compared to the proposed project in order to accommodate the retained historic buildings, the City would lose the opportunity to maximize development of an underutilized Downtown site, and to meet the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 by locating high density hotel development on a Downtown site near transit. Therefore, this alternative is rejected.

5. Preservation Alternative 6 – Preservation of Mixed-Use Building On-Site

- A. Description of Alternative:** Preservation Alternative 6 would retain the corner mixed-use building in its current location on-site. This building is more conducive to reuse than the tank house structure with its large expanse of windows and could be converted to housing, commercial/office, or mixed-use space. Due to its size and specific orientation as a corner building, relocation of the building within the project site was not considered.
- B. Comparison of Environmental Impacts:** Under Alternative 6, construction air quality and noise impacts would be reduced compared to the proposed project due to the fact that preservation of one of the existing historic structures would result in less demolition on the site. The biological resource impacts would remain the same as the proposed project. The timeframe and magnitude of demolition and construction activities would be slightly less than the proposed project, but would have the same impact on nesting birds on or in the vicinity of the site. Under this alternative, the mixed-use corner building would be retained and would remain eligible for listing as a Candidate City Landmark. However, the project would still result in a significant and unavoidable historic impact resulting from the demolition of the tankhouse at 280 Josefa Street. The alternative would still be required to implement all mitigation measures (MM AIR-1.1 and 1.2, BIO-1.1 and 1.2, HAZ-1.1 and 1.2, and MM NOI-1.1 and 2.1), standard measures, and conditions of approval identified for the proposed project. Implementation of the mitigation measures would reduce impacts to noise, air quality, hazardous waste and biological resources to a less than significant level. Final design of the project to incorporate the corner building would be required to comply with the City's Historic Design Guidelines and the Secretary of the Interior Standards to ensure compatibility of design.
- C. Finding:** Preservation Alternative 6 would meet almost all the project objectives except for objective 3, complete removal of contaminated soils on the site,

because soil contamination beneath the corner building would remain and not allow for soils remediation of the whole site. In addition, given the area available for new construction under this alternative, it is estimated that preservation of the corner mixed-use building would reduce the total square footage of new development by approximately 30,154 square feet and reduce total hotel rooms by 38 hotel rooms and parking by 41 parking spaces. This would equate to approximately 146,930 square feet of total new development square footage on-site. Preservation of the corner building would not alter the site access and operations compared to the proposed project. But by retaining the corner building, the hotel would lose a corner frontage in downtown area. The alternative would reduce the project's impacts resulting from the demolition of the historic structure at 497-499 W. San Carlos Street and construction and occupancy of a new hotel building on the site. In addition, Because the total square footage and number of rooms in the hotel building under this alternative would be reduced in size from that of the proposed project in order to accommodate the retained historic building, the City would lose the opportunity to maximize development of an underutilized Downtown site, and to meet the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 by locating high density hotel development on a Downtown site near transit. Therefore, this alternative is rejected.

Environmentally Superior Project

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.

Preservation Alternative 4 would result in reduced noise and air quality impacts compared to the proposed project, and preservation of both the historic structures would reduce demolition on the site. Preservation Alternative 4 would meet almost all the project objectives except objective 3 because if the historic buildings remain on-site in their current location, it would not allow for soil remediation of the whole site. The alternative would avoid the significant and unavoidable historic impacts; however, the historic structures that would be preserved on-site would be required to be maintained and adaptively reused. 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.

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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 the historic buildings at 497-499 W. San Carlos Street, which include the mixed-use building and the tankhouse and garage.
- 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 jobs that are accessible to transit, activities, services, and housing in the Downtown.** The Project would add jobs in the hotel service industry in proximity to transit in the Downtown. 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 Upgraded Public Facilities.** The project includes new sidewalks and infrastructure to be consistent with City policies and planning documents.
- **Increases Economic Development.** The Project will advance the goals of the Envision San José 2040 General Plan by adding commercial (hotel) 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 a hotel locating commercial and hotel development on a Downtown site that would complement the office development underway in Downtown San José and meet the significant anticipated future demand from adjacent tech campus development. The Project is also located in proximity to a variety of services, employment centers, educational institutions, and transit. The Project would contribute to the “complete community” consistent with development strategies in the Envision San José 2040 General Plan.
 - Major Strategy #9 Destination Downtown: The Project would add to the number of jobs in Downtown. 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 for employees and commercial uses.

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.

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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.

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

Marriott Townplace Suites Project **File Nos. C19-051 & H19-053** **March 2021**



PREFACE

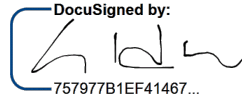
Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the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

The Supplemental EIR prepared for the Marriott Townplace Suites Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This MMRP addresses those measures in terms of how and when they will be implemented.

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

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

Project Applicant's Signature

DocuSigned by:

757977B1EF41467...

7/12/2021

Date _____

DS

TH

DS

PR



Planning, Building and Code Enforcement

ROSALYNN HUGHEY, DIRECTOR

EXHIBIT "A"
(File Nos. H19-053; T20-004)

Marriott Townplace Suites Project
File Nos. C19-051 & H19-053

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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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: Construction activities associated with the proposed project would expose infants near the project site to toxic air contaminant emissions in excess of BAAQMD thresholds (cancer risk > 10.0 and PM2.5 concentration >0.3).					
<p>MM AIR-1.1: Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement that includes specifications of the equipment to be used during construction and that outlines how the mitigation measure will be achieved. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.</p> <ul style="list-style-type: none"> For all construction equipment larger than 25 horsepower operating on-site for more than two days continuously or 20 hours total, use equipment that meets U.S. Environmental Protection Agency (EPA) Tier 4 particulate matter emissions standards. If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two days continuously or 20 hours total shall use 	Submit a construction operations plan prepared by the construction contractor 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, 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 issuance of any grading and/or building permits (whichever occurs earliest).



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<p>equipment that 1) meet the U.S. EPA emission standards for Tier 3 engines and include CARB-certified Level 3 Diesel Particulate Filters or equivalent that together achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment (e.g., non-diesel) that would meet this reduction requirement.</p> <ul style="list-style-type: none"> • Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators, air compressors, and concrete/industrial saws. 					
BIOLOGICAL RESOURCES					
<p>Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, displacement of nesting raptors or other migratory birds, or nest abandonment.</p>					
<p>MM BIO-1.1: Construction activities, such as tree removals and grading, shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.</p> <p>The applicant shall submit a written statement to the Director of Planning, Building and Code Enforcement or the Director's designee indicating</p>	<p>Avoid construction activities during the nesting season. Submit a Statement to the Director of Planning, Building and Code Enforcement or the Director's designee that the nesting period would be avoided.</p>	<p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.</p>	<p>Director of Planning, Building and Code Enforcement or Director's designee.</p>	<p>Confirm that demolition and construction activities are scheduled outside of the nesting season.</p>	<p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.</p>



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<p>whether the nesting season would be avoided. If the nesting season cannot be avoided, then the applicant shall be required to implement MM BIO-1.2.</p> <p>MM BIO-1.2: If tree removals and construction cannot be scheduled outside of the nesting season between September 1st and January 31st, inclusive, a qualified ornithologist shall complete pre-construction surveys to identify active raptor or other migratory birds' nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the qualified ornithologist shall designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The</p>	<p>Conduct a pre-construction nesting bird survey by a qualified ornithologist and, in consultation with the California Department of Fish and Wildlife, designate a construction-free buffer zone around any discovered nest.</p> <p>The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the Director of Planning, Building and Code Enforcement or Director's designee.</p>	<p>No more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season and no more than 30 days prior to the initiation of demolition/construction activities during the late part of the breeding season.</p>	<p>Director of Planning, Building and Code Enforcement or Director's designee and California Department of Fish and Wildlife.</p>	<p>Review and approve report indicating the results of the survey (or any other environmental investigation reports, if applicable) and any designated buffer zones.</p>	<p>No more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season and no more than 30 days prior to the initiation of demolition/construction activities during the late part of the breeding season.</p>



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<p>buffer would ensure that raptor or migratory bird nests shall not be disturbed during project construction.</p> <p>Prior to approval of any ground disturbance activity, including issuance of any tree removal, grading, or building permit (whichever comes first), the applicant shall submit a report indicating the results of the survey and any designated buffer zones for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee.</p>					
CULTURAL RESOURCES					
Impact CUL-1: Implementation of the proposed project would result in the demolition of two historic structures, that are eligible for Candidate City Landmark status, the mixed-use building at 497-499 W. San Carlos Street and the tankhouse on the project site.					
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 historic structure in accordance with the Action Plan timeline. The	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.	The Director of Planning, Building and Code Enforcement or Director's designee.	Review and approve Action Plan and associated documents.	Prior to issuance of any grading, demolition, or building permits or any other approval.



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<p>Action Plan shall include roles and responsibilities between the project applicant, City staff, and outside individuals, groups, firms, and consultants.</p> <p>Documentation (HABS): The 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:</p> <p>A. Drawings – Prepare sketch floor plans of the buildings and site plan.</p> <p>B. Photographs – 35 mm digital photographs meeting the digital photography specifications.</p> <p>C. Written Data – a historical report with the history of the property, property description and historical significance.</p> <p>A qualified architectural historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs, research and written data.</p> <p>The documentation shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and</p>	<p>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.</p> <p>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.</p>		City's Historic Preservation Officer or equivalent.		



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(File Nos. H19-053; T20-004)

Marriott Townplace Suites Project
File Nos. C19-051 & H19-053

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<p>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.</p> <p>MM CUL-1.2: Documentation (Digital Scans): Prior to issuance of any certificates of occupancy, the structures and associated features on the project site shall be documented by a qualified architectural historian through a series of digital scans and video production. The architectural historian shall meet the Secretary of the Interior's Professional Qualification Standards. A plan of the proposed procedures for the digital scans shall be submitted to the City's Historic Preservation Officer or equivalent prior to commencement of preparing the digital scans for review and approval.</p> <p>MM CUL-1.3: 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 structures for relocation for a period of no less than 60 days. The advertisements must include</p>	<p>An architectural historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the digital scans.</p> <p>Date-stamped photographs of the notice posted on the site, proof of publication of notice in large circulation newspaper, links to websites where the notice is posted, and any other relevant information.</p>	<p>Prior to occupancy of the new building.</p> <p>Prior to issuance of demolition or other ground disturbing permits.</p>	<p>City's Historic Preservation Officer or equivalent.</p> <p>City's Historic Preservation Officer or equivalent.</p>	<p>Digital scans and video production in a format approved by the City's Historic Preservation Officer or equivalent.</p> <p>Review and approve the compliance documents</p>	<p>Prior to issuance of any certificates of occupancy of the new building.</p> <p>Prior to issuance of demolition or other ground disturbing permits.</p>



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<p>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.</p> <p>If the project applicant or third party agrees to relocate the structures, the following measures must be followed:</p> <ol style="list-style-type: none"> 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 mixed-used building and the associated tankhouse structure 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 	<p>Submit documentation to City's Historic Preservation Officer or equivalent for review and approval.</p>				



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<p>Preservation Officer prior to the structure being moved.</p> <p>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.</p> <p>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.</p> <p>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.</p>					



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MM CUL-1.4: Salvage: If the project applicant and/or a third party cannot agree 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 prior to the issuance of any demolition permits. 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.	Submit documentation of salvage noticing to City's Historic Preservation Officer or equivalent.	Prior to issuance of any demolition permits.	City's Historic Preservation Officer or equivalent.	Receive documentation	Prior to issuance of any demolition permits.
MM CUL-1.5: Deconstruction/Reverse Construction: Prior to and during demolition activities, all structures and associated features being salvaged and demolished shall be documented, photographed, and videoed by a qualified architectural historian showing in reverse the original methods of construction and use of materials.	An architectural historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of documentation, photographing and videotaping.	Prior to and during demolition activities.	City's Historic Preservation Officer or equivalent.	Receive documentation.	Prior to issuance of certificate of occupancy.
HAZARDOUS MATERIALS					
Impact HAZ-1: Project soils on the site contain elevated levels of metals that could be released to the environment during project construction and expose construction workers and nearby land uses.					



Planning, Building and Code Enforcement
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EXHIBIT "A"
(File Nos. H19-053; T20-004)

Marriott Townplace Suites Project
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MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<p>MM HAZ-1.1: Prior to issuance of any grading or excavation permits, the project applicant 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 Santa Clara County Department of Environmental Health (SCCDEH) for review and approval.</p> <p>Proof of the approved 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 prior to issuance of grading or excavation permits.</p> <p>MM HAZ-1.2: If the contaminated materials are planned to be capped during construction by site improvements (landscape beds, buildings, pavements, turf sections, etc.), it should be included in the SMP or similar document, for the approval</p>	<p>Prepare and submit SMP and/or O&M Plan to the SCCDEH for review and approval.</p> <p>Submit the requirements and recommendations of the SCCDEH to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Environmental Compliance Officer.</p>	<p>Prior to the issuance of any demolition, grading or excavation permits.</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee and the City's Environmental Compliance Officer.</p>	<p>Receive approved copy of the SMP and/or O&M Plan</p>	<p>Prior to any demolition, grading, or excavation permits.</p>



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<p>under the regulatory oversight of the SCCDEH. If the contaminated soils are planned to be removed from the site, these shall be hauled off-site and disposed of at a licensed hazardous materials disposal site in accordance with applicable regulatory requirements. Capped areas (if and as included in the SMP) will require institutional controls which may include a deed restriction for the affected areas and an operations and maintenance (O&M) Plan.</p> <p>The O&M plan shall be provided to SCCDEH for approval and the approved O&M plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee, and the City's Environmental Compliance Officer for approval prior to any demolition, grading permits or ground disturbing activities.</p>					
NOISE					
Impact NOI-1: Construction noise would exceed ambient levels by 5 dBA for a period of more than one year in the vicinity of residential and commercial uses.					
<p>MM NOI-1.1: 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 logistics plan shall be prepared by</p>	<p>Prepare and submit a construction noise logistics plan including best management practices that would be used for noise reduction during construction activities.</p>	<p>Prior to the issuance of any demolition or grading permits (whichever occurs earliest).</p>	<p>Director of Planning, Building and Code Enforcement, or the Director's designee.</p>	<p>Review and approve the construction noise logistics plan.</p>	<p>Prior to the issuance of any demolition or grading permits (whichever</p>



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Marriott Townplace Suites Project
File Nos. C19-051 & H19-053

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<p>a qualified acoustics professional. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and during construction to respond to noise complaints from neighbors. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to the issuance of any grading or demolition permits.</p> <p>As part of the noise logistics plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:</p> <ul style="list-style-type: none"> Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. Utilize 'quiet' models of air compressors and other stationary noise sources where technology exists. 	<p>The noise logistics plan shall be prepared by a qualified acoustics professional and submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee.</p>				<p>occurs earliest).</p>



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MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<ul style="list-style-type: none"> 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 sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Prohibit all unnecessary idling of internal combustion engines. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site. Notify all adjacent business, 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 complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites. A "noise disturbance coordinator" shall be designated to respond to any complaints about construction noise. The disturbance coordinator 					



Planning, Building and Code Enforcement
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Marriott Townplace Suites Project
File Nos. C19-051 & H19-053

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shall determine the cause of the noise complaint (e.g., beginning work too early, bad muffler, etc.) and will 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 and include it in the notice sent to neighbors regarding the construction schedule.					
Impact NOI-2: Construction activity associated with the proposed project may impact adjacent structures within 12 feet for the project site.					
MM NOI-2.1: The project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities. 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. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of a demolition, grading, or building permit, whichever occurs earliest. The Plan shall include, but not be limited to, the following measures:	Prepare and submit a construction vibration monitoring plan which includes measures to reduce vibration impacts on nearby structures as outlined in the mitigation measure. The plan shall be prepared by a licensed professional structural engineer in the State of California.	Prior to, issuance of a demolition or grading permit (whichever occurs earliest).	Director of Planning, Building and Code Enforcement or the Director's designee.	Review and approve Construction Vibration Monitoring Plan.	Prior to issuance of a demolition, grading, or building permit, (whichever occurs earliest).



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EXHIBIT "A"
(File Nos. H19-053; T20-004)

Marriott Townplace Suites Project
File Nos. C19-051 & H19-053

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<ul style="list-style-type: none"> Limit the use of vibratory rollers and avoid clam shovel drops within 15 feet of the property lines shared with residences and commercial structures adjacent to the site. 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. Select demolition methods not involving impact tools Avoid dropping heavy objects or materials near vibration sensitive locations. 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.) shall be submitted 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 required for continuous vibration monitoring. A construction vibration-monitoring plan shall be implemented to document conditions at the residences and commercial structures adjacent to the site prior to, during, and after vibration 					



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Marriott Townplace Suites Project
File Nos. C19-051 & H19-053

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<p>generating construction activities. 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. The construction vibration monitoring plan should be implemented to include the following tasks:</p> <ul style="list-style-type: none"> ○ Identification of sensitivity to ground-borne vibration of the residences and commercial structures adjacent to the site. A vibration survey (generally described below) would need to be performed. ○ Performance of a photo survey, elevation survey, and crack monitoring survey for the residences and commercial structures adjacent to the site. Surveys shall be performed prior to and after completion of vibration generating construction activities located within 25 feet of the structure. The surveys shall include internal and external crack monitoring in the structure, settlement, and distress, and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of the structure. 					



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Marriott Townplace Suites Project
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<ul style="list-style-type: none"> ○ Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities. ○ The results of any vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report will 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 will 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. 					

Source: City of San José. Supplemental Environmental Impact Report. Marriott Townplace Suites Project, File Nos. C19-051 & H19-053. March 2021.