

From: [Tu, John](#)
To: [Amanda Wolf](#)
Cc: [Downtown West Project](#); [Han, James](#)
Subject: PC Drafts
Date: Friday, April 16, 2021 9:49:27 PM
Attachments: [DTW PD ZONING ORDINANCE RESO.docx](#)
[Exhibit B of GPA GP Consistency Findings .docx](#)
[Draft VTM Reso.docx](#)

Amanda,

Find attached VTM Reso, DTW PD Zoning Ord, and Exhibit B of GPA GP Consistency Findings.
Please review and let me know if you have comments or questions.

Best,

Tong (John) Tu

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE REZONING APPROXIMATELY 80 ACRES OF REAL PROPERTY SITUATED IN DOWNTOWN SAN JOSE FROM THE LIGHT INDUSTRIAL, HEAVY INDUSTRIAL, INDUSTRIAL PARK, COMMERCIAL NEIGHBORHOOD, COMMERCIAL GENERAL, DOWNTOWN PRIMARY COMMERCIAL, PUBLIC, COMBINED INDUSTRIAL/COMMERCIAL, AND PLANNED DEVELOPMENT ZONING DISTRICTS TO THE DC (PD) PLANNED DEVELOPMENT ZONING DISTRICT, AND ADOPTING A CODIFIED AMENDMENT TO TITLE 11, SECTIONS 11.24.070 AND 11.24.250, AND ADOPTING VARIOUS UNCODIFIED AMENDMENTS TO THE MUNICIPAL CODE ASSOCIATED WITH THE PLANNED DEVELOPMENT ZONING DISTRICT

WHEREAS, the City Council of the City of San José (“City”) adopted the Envision San José 2040 General Plan (“General Plan”) in 2011, which includes land use policies to focus new growth capacity in strategically identified “Growth Areas” to facilitate the development of higher-density, mixed-use, urban districts that can accommodate employment and housing growth while reducing environmental impacts of that growth by promoting transit use and walkability; and

WHEREAS, the General Plan identifies Downtown San José as a key “Growth Area” and includes policies intended to support the City’s economic, fiscal, environmental, and urban placemaking goals; and

WHEREAS, the City and Google LLC (“Project Sponsor” or “Google”) entered into a non-binding Memorandum of Understanding (“MOU”), dated December 4, 2018, to collaborate on development in Downtown San José based on a shared vision “to create a vibrant, welcoming, and accessible urban destination consisting of a mix of land uses and that is well-integrated with the intermodal transit station, adjacent neighborhoods, and Downtown” and shared goals to guide the development of Downtown San José; and

WHEREAS, following an extensive public process involving the City, residents of San José, and other stakeholders, Google submitted project applications for the Downtown West Mixed-Use Plan (the “Project” or “Downtown West”) on October 10, 2019, including proposed amendments to the General Plan (“General Plan Amendment”); a Project-specific amendment to the Diridon Station Area Plan (“DSAP Amendment”) that is separate from the City’s DSAP effort; rezoning to a Planned Development Zoning District and General Development Plan, and a Planned Development Permit; and

WHEREAS, on October 7, 2020, Google submitted additional Project applications for a Vesting Tentative Map, two Historic Landmark Boundary amendments to adjust the landmark boundaries of the San José Water Company and the Southern Pacific Depot Historic District, an amendment of an existing Historic Preservation Permit, and other permits and approvals required to implement the Project (File Nos. GP19-009, PDC19-039, PD19-029, HL20-004, HL20-005, HP20-002, PT20-027); and

WHEREAS, since October 7, 2020 Google submitted updated Project applications for the General Plan Amendment; DSAP Amendment; rezoning to a Planned Development Zoning District, including a General Development Plan; a Planned Development Permit consisting of the Downtown West Design Standards and Guidelines, Downtown West Improvement Standards, and Downtown West Conformance Review Implementation Guide; Infrastructure Plan; amendment to the Historic Preservation Permit; Vesting Tentative Map; and for a development agreement; in response to public comments and discussions with City staff; and

WHEREAS, the Downtown West Mixed-Use Plan (the “Project” or “Downtown West”), which is located in the Downtown Growth Area Boundary and within the boundaries of the Diridon Station Area Plan (as such boundaries are amended by Resolution No. ____), advances the shared vision and the shared goals identified in the MOU by optimizing density and a mix of land uses, preserving existing housing and creating new housing, creating broad job opportunities, pursuing equitable development, enhancing and connecting the public realm, pursuing excellence in design, enhancing sustainability and

innovation, prioritizing community engagement regarding community benefits, and proceeding with timely implementation; and

WHEREAS, the Project advances a plan that re-envisioning a significant portion of the Diridon Station Area Plan as a mixed-use area that includes development of: up to 7.3 million gross square feet (gsf) of commercial office space; up to 5,900 residential units; up to 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community spaces, institutional, childcare and education, maker spaces, non-profit, and small-format office space); up to 300 hotel rooms; up to 800 limited-term corporate accommodations; up to 100,000 gsf of event and conference center space; up to 4,800 publicly accessible commercial parking spaces and up to 2,360 unbundled parking spaces for residential use; a "District Systems" approach to delivery of on-site utilities, including designated infrastructure zones with up to two (2) on-site centralized utility plants totaling up to 130,000 gsf; one or more on-site logistics centers to serve the commercial on-site uses that would occupy a total of about 100,000 gsf; a total of approximately 15 acres of parks, plazas and open space, including areas for outdoor seating and commercial activity (such as retail, cafes, and restaurants), green spaces, landscaping, mid-block passages, riparian setbacks, and trails; and various other improvements to the public realm to improve transit access and pedestrian and bicycle circulation and facilitate connectivity, both within the site and to and from surrounding neighborhoods; and

WHEREAS, On December 30, 2019, Governor Gavin Newsom certified the Project under Public Resources Code § 21178 et. Seq. the Jobs and Economic Improvement through Environmental Leadership Act of 2011 (Assembly Bill [AB] 900, as amended by Senate Bill 734 [2013], AB 246 [2017], and Senate Bill 7 [2021] which is currently pending approval in the California State Legislature), as an environmental leadership development project; and

WHEREAS, the Project has complied with requirements related to AB 900 as of the date of adoption of this Ordinance and would comply with post-adoption AB 900 requirements if AB 7 is adopted by the California State Legislature; and

WHEREAS, community outreach for the Project has been ongoing since 2018, which included over 50 meetings with members of the Diridon Station Area Advisory Group (SAAG), as well as over 100 community outreach events that provided the public with the opportunity to review the Project through a combination of in-person and digital engagement with residents, neighbors, business owners and employees, construction trades, and other stakeholders that included: public design workshops; booths at local and regional community events; presentations to and discussions with local neighborhood, business, and community/special interest associations and organizations; focus group discussions; engagement with faculty and students at local universities and schools; and hosting other large and small events reaching communities within and around the Project site; and

WHEREAS, pursuant to Section 20.10.070 of the City of San José's Municipal Code, a Planned Development Zoning District is intended to be individually designed to meet the needs of the subject property, with the uses and requirements of the Planned Development Zoning District reflected in a General Development Plan (GDP) adopted as part of the Planned Development Zoning District ordinance; and

WHEREAS, the requirements for a General Development Plan are set forth in Section 20.120.510; and

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, on April __, 2021, the Planning Commission of the City of San José held a duly noticed and advertised public hearing to receive oral and written testimony regarding

the planned rezoning and recommended to the City Council of the City of San José that the subject property be zoned Downtown West PD Zoning District; and

WHEREAS, the City Council of the City of San José held a duly noticed and advertised public hearing to receive oral and written testimony regarding the planned rezoning based on the recommendations from the City's Planning Commission and the City's Director of Planning, Building and Code Enforcement; and

WHEREAS, the Project's potential environmental impacts, including the proposed rezoning of the Project site, were analyzed in that certain Final Environmental Impact Report for the Downtown West Mixed-Use Plan (File No. ____) ("FEIR"); and

WHEREAS, the City Council of the City of San José has considered, approved, and certified said FEIR and adopted related findings, a Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations pursuant to the California Environmental Quality Act (CEQA) under separate Resolution No. ____ on May __, 2021 prior to making its determination on this rezoning ordinance or any other Project approvals; and

WHEREAS, this Ordinance approving the Downtown West PD Zoning District is a companion to the following approvals relating to Downtown West: certification of the Downtown West Final Environmental Impact Report and adoption of findings pursuant to the California Environmental Quality Act (CEQA), a Mitigation Monitoring and Reporting Program, and Statement of Overriding Considerations (Resolution No. __); override of the Santa Clara County Airport Land Use Commission's inconsistency determination (Resolution No. __); amendments to the General Plan including land use designations applicable to Downtown West (Resolution No. __); amendments to the Diridon Station Area Plan (Resolution No. __); the Development Agreement for the Downtown West Mixed-Use Plan (Ordinance No. __); a Planned Development Permit (Resolution No. __); amendments to Title 20 of the San José Municipal Code (Ordinance No. __); approval of a Vesting Tentative Map (Resolution No. __); amendment to the boundaries

of two Historic Landmarks, the San José Water Company at 374 West Santa Clara Street and the Southern Pacific Depot Historic District (Resolutions No. ___ and ___); an amendment to Historic Preservation Permit (HP16-002) (Resolution No. ___); approval of Major Encroachment Permits (Resolution No. ___); and approval of the Construction Impact Mitigation Plan (CIMP) (Resolution No. ___); and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed rezoning of the Project site to the Downtown West PD Zoning District; and

WHEREAS, the proposed rezoning is consistent with the designation of the site in the General Plan (as amended by Resolution No. ___), and is consistent with the goals, objectives, and policies of the General Plan and the Diridon Station Area Plan (as amended by Resolution No. ___); and

WHEREAS, the Project Sponsor proposes the possible development of a privately-owned, integrated electrical system capable of being disconnected from, and operated independently of, the primary electrical grid serving the City of San Jose (“Microgrid”) which would reduce burdens on the Pacific Gas & Electric Company’s (PG&E’s) electrical network, improving the City’s long-term capacity to grow as described in the General Plan; and

WHEREAS, the Microgrid would provide resilient infrastructure that together with the District Systems helps reduce carbon emissions by 22%, or the equivalent of taking approximately 4,100 cars off the road, and includes 7.8 megawatts of on-site solar generation, equivalent to the energy needed to power approximately 1,500 homes; and

WHEREAS, the Microgrid contributes to achievement of zero net new greenhouse gas emissions for the Project’s construction and operations; and

WHEREAS, all the Project’s infrastructure privately funded with no public subsidy; and

WHEREAS, the above-described environmental criteria area necessary to help achieve the City's policy of reducing San Jose's per capita energy use by 50% (Envision San Jose 2040 General Plan) and to pursue a Paris Accord-compliant pathway for the City (Climate Smart San Jose); and

WHEREAS, the Microgrid would not service projects outside of Downtown West and would implement rigorous service and performance criteria, including but not limited to fixing rates for residential and retail tenants, including safety standards for operations, and ensuring continuity of supply all as described in Resolution No. _____;

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

SECTION 1. The City Council finds that all the facts set forth in the foregoing recitals are true and correct and are incorporated herein by this reference.

SECTION 2. General Plan and DSAP Consistency.

1. **General Plan Consistency.** The subject site consists of the Downtown and Commercial Downtown land use designations on the General Plan Land Use/Transportation Diagram (as amended by Ordinance No. ____). The Downtown land use designation allows office, retail, service, residential and entertainment uses at very high intensities, unless incompatible with other major policies within the General Plan. The Downtown land use designation allows a density of up to 800 dwelling units per acre and FAR up to 30.0. The Commercial Downtown land use designation allows office, hotel, retail, service, and entertainment uses. Residential uses are not allowed in the Commercial Downtown designation. The Commercial Downtown land use designation allows FAR up to 15.0.

The project conforms to the General Plan goals and policies for the reasons set forth in Exhibit [B], to Resolution No. [____], which findings are incorporated herein by reference.

2. **Diridon Station Area Plan Consistency.** The subject site is within the boundaries of the Diridon Station Area Plan (“DSAP”) as amended by Resolution No. ____.

The Project is consistent with the following key DSAP goals:

- a. Create an urban district in the Station Area that maximizes height potential. The Station Area should accommodate a mix of uses including commercial and office, residential and active uses.

The Project consists of a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood and destination. The development program optimizes development density, which consists of up to 7.3 million gsf of commercial office space; up to 5,900 residential units; up to 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community spaces, institutional, childcare and education, maker spaces, non-profit, and small-format office space); up to 300 hotel rooms; up to 800 limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 gsf; a "District Systems" approach to delivery of on-site utilities, including designated infrastructure zones with up to two (2) on-site centralized utility plants totaling up to 130,000 gsf; one or more on-site logistics centers to serve the commercial on-site uses that would occupy a total of about 100,000 gsf; a total of approximately 15 acres of parks and open spaces. The DWDSG includes standards and guidelines that distribute land uses throughout the Project site in a manner that is compatible with adjacent uses, surrounding neighborhoods, and adjacent open spaces (DWDSG Chapter 3). Residential uses are generally located near existing residential neighborhoods and office uses are generally located along the existing rail track. DWDSG (Chapter 3) requires certain land uses on certain development blocks, while allowing for flexibility on other blocks to promote the development of Downtown West into a mixed-use, transit-oriented site. The DWDSG also includes standards and guidelines that distribute active uses throughout Downtown West to create a

vibrant public realm. Active use shall be required, at a minimum, along 30 percent of the ground floor frontage of certain blocks to activate streets and open spaces within Downtown West.

The Project also maximizes height potential within the Project Site. The City Council approved a policy to allow for greater height limits in Downtown, including within the DSAP in March 2019. The Project proposes allowable building heights that range from 160 feet to 290 feet above ground level (AGL), contingent on required Federal Aviation Administration (FAA) review clearance. The DWDSG (Section 5.6) establishes standards and guidelines that establish maximum building heights throughout the Project site. The Project maximizes allowable building heights, while in certain blocks setting heights lower than the maximum height only as needed to establish variation in the skyline and to better respond to contextual adjacencies, including historic resources, existing single-family residential neighborhoods, and Los Gatos Creek and the open space program. For instance, the DWDSG establishes standards that limit building heights at Creekside Walk and on certain blocks to respond to contextual adjacencies.

- b. Establish and strengthen connections to surrounding districts and within the planning area for pedestrians, bicyclists, and motorists, with emphasis on east-west connectivity across SR-87 and the rail corridor.

The Project, located adjacent to Diridon Station, enhances connections to nature, surrounding neighborhoods, and the greater Bay Area region, by strengthening links to Downtown and surrounding neighborhoods. The Project includes improvements to the public realm, including maximizing space for active streetscape - which includes sidewalk, bike lanes and planting areas - to optimize connections to nearby regional transit services. Streets designed in Downtown West prioritize pedestrians and bicyclists with generous sidewalks, protected bike lanes, and traffic calming measures in alignment with the City's

CSDSG. The Project's proposed street network extends the existing street network to enhance connections to the surrounding neighborhood and proposes mid-block passages to optimize walkability. The Project also proposes improvements to east-west connectors, including West Santa Clara Street, West San Fernando Street, Park Avenue, West San Carlos Street, West Julian Street, West St. John Street (new street), West Post Street (new street), and Auzerais Avenue, to provide pedestrian and bicycle priority streets to link neighborhoods east and west of the rail corridor.

The DWDSG (Chapter 6) includes standards and guidelines for the design and development of Downtown West streets that prioritize pedestrians and cyclists and support walking, biking, and public access and ridership. The DWDSG standards include requirements to extend the street network, including Cahill Street north of West Santa Clara Street to North Montgomery Street; Cahill Street south of West San Fernando Street to Park Avenue; West St. John Street to the Cahill Street extension; West Post Street between Cahill Street and Barack Obama Boulevard; North Montgomery Street north of Cinnabar Street to North Autumn Street; and North Autumn Street from the Union Pacific Railroad to Lenzen Avenue. The DWDSG also establishes standards and guidelines for the sidewalk, including minimum overall active streetscape widths and other requirements related to the various sidewalk zones (e.g. frontage zone, through zone, furnishing zones), that enhance pedestrian safety and support safe crossing. The DWDSG establishes standards and guidelines for east-west connectors that link Downtown West to adjacent neighborhoods. East-west connectors within Downtown West include West Santa Clara Street, West San Fernando Street, Park Avenue, West San Carlos Street, West Julian Street, Auzerais Avenue and new street extensions such as West St. John Street and West Post Street.

- c. Prioritize pedestrian circulation and transit.

The Project prioritizes pedestrian space within streets to promote walkability. The street network supports walking, biking, and public transit access and ridership to and from Downtown West. The pedestrian network is enhanced with active street elements, protected bike lanes, and dynamic lanes. The DWDSG includes standards and guidelines for the various sidewalk zones to improve pedestrian experience and increase safety for people walking and biking within Downtown West and to adjacent neighborhoods. The DWDSG further enhance transit access and ridership by leveraging the Project's proximity to Diridon Station, a regional transit hub. The DWDSG includes standards for anticipated transit access streets, shuttle routes, and shuttle stops to provide safe and convenient connections to and from the Project site.

- d. Provide a range of commercial and residential uses.

The Project provides a balanced mix of commercial and residential uses that create a vibrant, mixed-use transit-oriented neighborhood. Commercial uses include up to 7.3 million gsf of commercial office space; up to 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community spaces, institutional, childcare and education, maker spaces, non-profit, and small-format office space); up to 300 hotel rooms; and up to 100,000 gsf of event and conference space. Other commercial land uses are distributed throughout the Project to be compatible with adjacent uses and the surrounding neighborhood.

The Project proposes up to 5,900 residential units. Residential uses are generally located near existing residential neighborhoods within areas with the Downtown land use designation as further set forth in the DWDSG. The Project also provides for a robust affordable housing program, as further set forth in the Development Agreement for the Downtown West Mixed-Use Plan. The Project's affordable housing program assumes development of 4,000 residential units, could include up to 1,000 affordable housing units, and

furtheres Google's and the City's shared goal that development within the DSAP results in twenty-five percent (25%) of all residential units as affordable housing. The DWDSG (Chapter 3 Land Use) includes standards that intentionally distribute a mix of land uses throughout the site to relate to context and to create an active public realm. The DWDSG requires certain land uses on certain development blocks, while allowing for flexibility on other blocks to promote the development of Downtown West into a mixed-use, transit-oriented site. The DWDSG also includes standards and guidelines that distribute active uses - which include commercial, retail/restaurant, arts, cultural, live entertainment, community. The DWDSG (Chapter 3 Land Use) includes standards that intentionally distribute a mix of land uses throughout the site to relate to context and to create an active public realm. The DWDSG requires certain land uses on certain development blocks, while allowing for flexibility on other blocks to promote the development of Downtown West into a mixed-use, transit-oriented site. The DWDSG also includes standards and guidelines that distribute active uses - which include commercial, retail/restaurant, arts, cultural, live entertainment, community center, institutional, childcare and education, maker spaces, non-profit, and small-format office spaces - throughout Downtown West to create a vibrant public realm. Active uses are required, at a minimum, along 30 percent of the ground floor frontage of certain blocks to activate streets and open spaces within Downtown West.

- e. Enhance and expand access to open space and recreational opportunities in the Station area and establish an open space system integrated with Los Gatos Creek and Guadalupe River Park.

The Project will provide a total of approximately 15 acres of parks and open space, consisting of both City-Dedicated Open Space (Los Gatos Creek Multi-Use Trail and City-Dedicated Park) and Project Sponsor-Owned Open Space (Privately-Owned Public Park, Semi-public open space, Los Gatos Creek Riparian Setback, Los Gatos Creek Riparian Corridor, Mid-Block Passages).

The open space program includes a park or plaza at nearly every major intersection, near each neighborhood, and no more than one block away from any location in the Project. The open space program integrates with the surrounding communities and provides areas for outdoor seating and commercial activity (such as retail, cafes, and restaurants), green spaces, landscaping, mid-block passages, riparian setbacks, and trails. The open space network also improves access and connectivity along the riparian corridors and supports biodiversity within a high-density urban context through ecologically beneficial landscape design. As set forth in the DWDSG, the design character of open spaces ranges from natural to more urban, with each open space relating to its adjacent surroundings.

- f. Activate the streets, parks, and Station with art that engages visitors and residents alike. Integrate art into infrastructure to humanize and enliven standard features.

Art is encouraged throughout Downtown West to engage visitors and residents, help share gathering places, and to be used as a tool for learning about culture and history and the regional nature and creek ecology. The DWDSG includes standards, guidelines, and contextual considerations that promote the use of art as appropriate within the Project site. For instance, the Project includes mid-block passages to provide more pedestrian connectivity and optimize walking between neighborhoods. The DWDSG includes guidelines that encourage art in mid-block passages and contextual considerations to incorporate different forms of art into certain mid-block passages to further activate the space. The DWDSG also includes guidelines that encourage the use of art to add a sense of destination, inspire thought and dialogue, commemorate important individuals and events, and connect to the natural environment. Within Downtown West, art is intended to be used as a tool not only for activating streets, parks, and the Diridon Station area, but to engage visitors and

residents by conveying information about the culture and history of the City. While art within Downtown West is encouraged, the DWDSG includes standards regarding art within the riparian setback to protect against environmental disruption within the riparian setback along Los Gatos Creek and Guadalupe River.

- g. Disperse parking in different locations in the planning area and beyond to ensure easy walking access to destinations.

The Project provides safe, convenient, and strategically located parking throughout Downtown West. Off-street parking is intended to support a walkable environment and Downtown West includes public, district-serving garages near entries to the site that service office, active use, and SAP Center events. Additional parking is located within individual residential buildings or clustered buildings. The Project allows up to 4,800 publicly accessible commercial parking spaces and up to 2,360 unbundled parking spaces for residential use. The GDP establishes residential parking standards and a Required Parking Ratio for commercial/public parking as further described in Exhibit K of the Development Agreement. The DWDSG includes standards and guidelines for parking facilities within Downtown West to provide for vehicular access from adjacent streets, and to design parking garages as an integrated component of a building's overall design. The DWDSG also includes off-street parking standards that promote shared district parking that are accessible to the various mixed uses within Downtown West, nearby transit and the SAP Center.

SECTION 3. Development Regulations Applicable to the Downtown West PD Zoning District.

- A.** The Downtown West PD Zoning District consists of approximately 80 acres and is generally bounded by Lenzen Avenue and the Union Pacific Railroad (UPRR)

tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, Barack Obama Boulevard (formerly South Autumn Street and Bird Avenue), and Royal Avenue to the east; Auzerais Avenue to the south; and Diridon Station and the Caltrain railroad tracks to the west (“Downtown West PD Zoning District”).

- B.** The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit “A” attached hereto and incorporated herein by this reference.
- C.** Development and use of property within the Downtown West PD Zoning District shall be subject to the land use regulations and development standards reflected in the Downtown West General Development Plan (“GDP”), dated _____, as it may be amended from time to time. The Downtown West PD Zoning District consists of three (3) sub-areas, identified as Sub-Area 1, Sub-Area 2, and Sub-Area 3 in the GDP. The locations of the sub-areas are generally depicted in the GDP and in Exhibit A.
- D.** The permitted uses, development standards, and use regulations applicable to the Downtown West PD Zoning District shall be those established in the GDP, which authorizes transfers of square footage and conversion of land uses between Sub-Areas subject to the conditions and criteria established in the GDP, including but not limited to compliance with CEQA.
- E.** The regulations and standards established in the Downtown West PD Zoning District and GDP, adopted by this Ordinance, shall control and govern development of the Project within the Downtown West PD Zoning District notwithstanding any contrary provision in Title 20, including but not limited to any greater restrictions on the use of buildings or premises, height of buildings, or open space requirements in Title 20.

- F.** The Downtown West Planned Development Permit dated ____, as it may be amended from time to time (“Downtown West PD Permit”), approved by Resolution No. ____ and effectuates the Downtown West PD Zoning District pursuant to Section 20.60.020 of the Municipal Code. The Downtown West PD Permit consists of the following components: Downtown West Design Standards and Guidelines (“DWDSG”), Downtown West Improvement Standards (“DWIS”), Conceptual Infrastructure Plan Sheets, and the Conformance Review Implementation Guide (“Implementation Guide”), as they may be amended from time to time (collectively, these documents are referred to as the “Downtown West PD Permit”).
- G.** Sub-Area 2, as generally depicted in the GDP, is included within the boundaries of the Downtown West PD Zoning District but is not included within the Downtown West PD Permit. Development within Sub-Area 2 shall be subject to the requirements of the DC Downtown Commercial zoning district, which shall continue to apply to Sub-Area 2 until the issuance of a Planned Development Permit for Sub-Area 2. Any subsequent Planned Development Permit for Sub-Area 2 shall conform to the requirements in the GDP, including the specific development standards applicable to Sub-Area 2 set forth on Sheet 3.02a of the GDP, as those may be amended from time to time. Development of Sub-Area 2 shall also be subject to the Conditions of Approval to the Downtown West PD Permit.
- H.** The GDP establishes the commercial and residential parking requirements for development within the Downtown West PD Zoning District. The project sponsor shall provide publicly accessible off-street parking spaces serving new office development in compliance with the Required Parking Ratio as set forth in the GDP and the Development Agreement, approved by Ordinance No. _____. Residential parking requirements shall be provided in accordance with the standards in the GDP. The GDP also establishes the standards and requirements for bicycle parking in the Downtown West PD Zoning District notwithstanding anything to the contrary in Title 20.

- I. The development of the Project is intended to occur in phases and this Ordinance authorizes and establishes the Downtown West PD Zoning District Design / Conformance Review (“Conformance Review”) process, a subsequent review process for the design and development of vertical improvements, open space, and horizontal improvements within the Downtown West PD Zoning District.

- J. The Conformance Review process, which is further described in the GDP and Implementation Guide, dated _____, and is a component of the Downtown West PD Permit, both as may be amended from time to time, authorizes the Director of Planning, Building, and Code Enforcement (“Director of PBCE”) to review and approve Conformance Review applications for vertical improvements and open space for consistency with the General Plan, GDP, and applicable PD Permit, and authorizes the Director of Public Works (“PW Director”) to review 35%, 65%, and 95% improvement plan sets for consistency with the GDP, applicable PD Permit, Infrastructure Plan, and other applicable Project approvals and documents. The submittal of 35%, 65% and 95% improvement plans during the Conformance Review process for horizontal improvements are interim plan checks prior to the project sponsor’s formal submittal of its applications for a phased final map and 100% improvement plans for the City’s review and approval pursuant to the procedures described in Title 19 of the San José Municipal Code and any ordinances governing the design and permitting of subdivisions and improvements applicable to the Downtown West PD Zoning District.

- K. Development within the Downtown West PD Zoning District shall be allowed pursuant to the standards and requirements set forth in this Ordinance and the GDP, and shall not be subject to provisions of Title 20 that conflict with, or would interfere with development and occupancy of the real property subject to the Downtown West PD Zoning District, including but not limited to the following:
 - 1. The Director of PBCE’s determination on a Conformance Review application shall occur at a Conformance Review Hearing (as set forth in

the Implementation Guide), which may be held on dates when Director of PBCE Hearings is also scheduled to occur for other matter. A Conformance Review Hearing shall not constitute a “Director’s hearing” under Section 20.100.220 and Table 20-260) Appeal Hearing Body). The Director of PBCE’s decision on a Conformance Review application shall not be subject to appeal to the Planning Commission or City Council. The decision of the Director of PBCE is final and shall not be appealable to any other approval body within the City.

2. The GDP for the Downtown West PD Zoning District establishes the maximum allowable building heights for development within the Downtown West PD Zoning District. The GDP further establishes a process where the maximum building heights for individual buildings in the Downtown West PD Zoning District may be increased without amendment to the GDP, provided that (a) such increase correlates to an increase in maximum allowable height authorized by the FAA and approved by City Council following review by the Santa Clara County Airport Land Use Commission, if applicable, and (b) Director of PBCE conducts environmental review of the building’s proposed height increase to determine compliance under CEQA. The provisions of Chapter 20.85 of Title 20 shall not apply to the Downtown West PD Zoning District.
3. The GDP establishes the land uses authorized within the Downtown West PD Zoning District. The GDP identifies whether land uses are: Permitted; a Conditional Use that requires the approval of a subsequent planned development permit; a Special Use that requires the approval of a subsequent planned development permit; and authorized upon the issuance of an Administrative Permit. Certain uses require compliance with conditions of approval that are set forth in the GDP. The land use regulations in the GDP shall control and apply within the Downtown West PD Zoning District notwithstanding anything to the contrary in Title 20.

4. The term of an Administrative Permit issued within the Downtown West PD Zoning District shall be a minimum of five (5) years, subject to a give (5) year extension. A permittee may request the renewal of an Administrative Permit pursuant to the terms of the GDP. This shall supersede Section 20.100.1250 of Title 20 for development within the Downtown West PD Zoning District.
 5. The GDP authorizes special events and limited-term uses (as defined in the GDP) on private property within the Downtown West PD Zoning District, without any further authorization, permits, or approvals from the Director of PBCE or any other City department, except to the extent a permit is required under the San Jose Municipal Fire Code or the event includes amplified noise that exceed 60 decibels (dBA) based on an hourly average noise level (hour L_{eq} ___). The GDP established a process for obtaining a fire permit for special events and limited-term uses on private property, which shall apply to the Downtown West PD Zoning District. The GDP establishes a process for obtaining an Amplified Sound Permit for Special events and limited-term uses that include amplified noise that exceeds 60 dBA based on an hourly L_{eq} ___, which shall apply to the Downtown West PD Zoning District. The GDP also establishes a process for coordinating review of certain special events with other City departments (Police Department and Department of Transportation)
- L. Concurrent with the approval of this Ordinance, the City Council adopted codified Ordinance No. ____, which amends Title 20 to include a new Section 20.70.700. It is the Council's intent that Section 20.70.700, this Ordinance, the San Jose Municipal Code, and all Project approvals and documents should be construed in a manner that fully implements development of the Project consistent with the standards, requirements and procedures set forth in the Downtown West PD Zoning District and the GDP.

M. The GDP is on file in the office of the Director of PBCE and is available for inspection by anyone interested therein and said GDP is by this reference adopted and incorporated herein the same as if it were fully set forth herein.

N. The San José Downtown Design Guidelines and Standards (“DDG”) and the Complete Streets Design Standards and Guidelines (“CSDSG”) shall continue to apply to the development within the Downtown West PD Zoning District unless a DDG or CSDSG standard or guideline has been expressly superseded by the DWDSG as authorized by this Ordinance.

SECTION 4. Codified Amendment of Title 11 and Uncodified Amendments to Titles 15, and Title 21 of the City of San José Municipal Code.

The following provisions of the San José Municipal Code shall be amended as set forth in this section.

A. Codified Amendments to Title 11. Sections 11.24.070 and Section 11.24.250 of Title 11 of the San José Municipal Code require Barack Obama Blvd. (formerly Autumn Street) between Park Avenue and Santa Clara Street and Montgomery Street between Santa Clara Street and Park Avenue to be one-way streets. The Project includes improvements to Barack Obama Blvd. and Montgomery Street to allow for vehicles to travel south and north.

1. Section 11.24.070 shall be amended, as set forth in Section B below, upon the Project Sponsor’s completion and offer of dedication of improvements of Barack Obama Blvd. between Park Avenue and Santa Clara Street to allow for vehicles to travel south and north.
2. Section 11.24.250 shall be amended, as set forth in Section B below, upon the Project Sponsor’s completion and offer of dedication of improvements in that

portion or component of Montgomery Street to allow for vehicles to travel south and north.

Upon the satisfaction of the conditions above, Sections 11.24.070 and 11.24.250 of Title 11 of the San José Municipal Code shall be deemed amended by this Ordinance in the City of San José Municipal Code as follows:

“§ 11.24.070 - Barack Obama Blvd.: Vehicles shall be permitted to travel south and north on Barack Obama Blvd. between Park Avenue and Santa Clara Street.”

“§ 11.24.250 - Montgomery Street: Vehicles shall be permitted to travel north and south on Montgomery Street between Santa Clara Street and Park Avenue.”

After receiving written confirmation from the Director of Public Works and the Office of the City Attorney that the conditions above have been satisfied, the City Clerk is hereby directed to codify, or cause to be codified, the amendments to Sections 11.24.070 and Section 11.24.250 of Title 11 of the San José Municipal Code as set forth above.

B. Uncodified Amendment of Title 15. Notwithstanding anything to the contrary in Section 15.32.020 and elsewhere in Title 15 of the Municipal Code, the following shall apply to development of the Downtown West Project:

1. The City Council is hereby empowered to grant a franchise to any person whether operating under any existing franchise or not, to construct or use poles, wires, conduits or appurtenances for transmitting and distributing electricity for any purpose, or to lay or use pipes or appurtenances for transmitting and distributing gas for any purpose across the public streets, as the same now or may hereafter exist within said city, upon terms as are provided in the

applicable provisions of the Charter, and may in such franchise impose other additional terms not in conflict with said Charter or this chapter, whether governmental or contractual in character, as in the judgement of the council are to the public interest.

2. Notwithstanding any other provision of the City of San José Municipal Code, no franchise shall be required for any person to use wires, conduits or other appurtenances for transmitting and distributing electricity to the extent that such transmission and distribution: (i) is not deemed to be subject to regulation as a public utility by the California Public Utilities Commission; (ii) occurs pursuant to an integrated electrical system capable of being disconnected from, and operated independently of, the primary electrical grid serving the City of San José; and (iii) is limited to the Downtown West PD Zoning District as described in this Ordinance. As such, the Council approves these specific requirements for the Project based on the following:
 - a. Downtown West will be a highly sustainable and environmentally responsible project. District Systems will help underpin the environmental performance of the Project, reducing the burn on existing networks and increasing resilience. This increased performance will be achieved by consolidating plant systems and connecting resources within the Project's boundary. By connecting resources the Project maximizes sustainability outcomes, as the Centralized Utility Plant (CUP) and accompanying microgrid run at higher efficiencies, reducing carbon emissions and potable parties and help achieve the broader objectives including advancing the City's sustainability goals on GHG emissions, climate adaptation and resilience. Further they also establish a system that is innovative and replicable.
 - b. To connect the private networks to the buildings, utilidors, which are private service structures, will be utilized. In designated zones as defined in the

Encroachment Diagram (Resolution No. _____), the utilidors will cross streets at a subterranean level in order to minimize impacts and disruptions on the City's streets. The networks and services will not be publicly dedicated and will serve the Downtown West lands only.

C. Uncodified Amendment of Title 21. Notwithstanding anything to the contrary in Title 21 of the San José Municipal Code, the CEQA procedures in Section 8.01 of the General Development Plan shall apply to all subsequent approvals associated with development of the Project.

1. The Project Sponsor shall provide information to support a determination whether the City's approval of development under the Conformance Review would be consistent with any applicable requirements of CEQA. If necessary, to support that determination, the Project Sponsor shall provide any required technical studies, either associated with any subsequent CEQA review or otherwise required as part of mitigation to reduce identified impacts.
2. The Director of PBCE shall be responsible for making a determination, reflecting the City's independent judgment, regarding the appropriate environmental clearance for a Conformance Review application. The Director of PBCE shall determine whether a Conformance Review application shall be approved in reliance on the Downtown West Final Environmental Impact Report (Final EIR), or in reliance on an Addendum to the Final EIR, or if a Supplemental or Subsequent EIR is required to support any approval. The Director of Public Works shall be responsible for making a determination that discretionary approvals in connection with the Horizontal Conformance Review process (DWIS Modification and amendments to Infrastructure Plan) comply with the requirements of CEQA. The CEQA procedures applicable to subsequent approvals set forth in this Ordinance shall similarly apply to the Director of Public Works.

3. The Director of PBCE shall have jurisdiction over a Conformance Review application if the Director of PBCE determines that a Conformance Review application can be approved in reliance on the Final EIR (without or with an Addendum), or that a Supplemental or Subsequent EIR, if required, does not identify any new or substantially more severe significant environmental effects, following mitigation, than those identified in the Final EIR.
4. Pursuant to this Ordinance, the Director of PBCE's determination regarding the appropriate form of environmental clearance for a Conformance Review application shall not be appealable to the Planning Commission, the City Council, or any other City decision-making body. Pursuant to this Ordinance, the Director of PBCE's reliance on an Addendum to, a Supplemental or Subsequent EIR to, or a Determination of Consistency with the Final EIR in support of a Conformance Review application also shall not be appealable to the City Council, or any other City decision-making body.
5. If the Director of PBCE determines that a Supplemental or Subsequent EIR is required pursuant to CEQA and identifies one or more new or substantially more severe significant environmental effects, following mitigation, than those identified in the Final EIR, the Planning Commission shall hold a public hearing on the Conformance Review application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent EIR. The City Council shall thereafter hold a public hearing to consider certification of the Supplemental or Subsequent EIR for the subject Conformance Review application.
6. The table below summarizes the decision-making authority for each of the potential CEQA determinations in connection with a Conformance Review approval or any other subsequent approval for Downtown West (Subsequent Approval), and whether each determination is appealable.

Decision / Approval	Decision Maker	Appealable?
<p>Determination regarding scope of CEQA compliance (whether Subsequent Approval may be approved in reliance on the Downtown West Final EIR, Addendum to the Final EIR, or Subsequent or Supplemental EIR)</p>	<p>Director of PBCE</p>	<p>No, pursuant to this Ordinance.</p>
<p>Determination that project proposed in Conformance Review or other Subsequent Approval application are within the scope of the Downtown West Final EIR</p>	<p>Director of PBCE</p>	<p>No, pursuant to this Ordinance.</p>
<p>Determination that project may be approved in reliance on an Addendum to the Downtown West Final EIR</p>	<p>Director of PBCE</p>	<p>No, pursuant to this Ordinance.</p>
<p>Certification of Subsequent or Supplemental EIR for project that does not identify any new or substantially more severe significant environmental effects, following mitigation, that those identified in the Downtown West Final EIR</p>	<p>Director of PBCE Sources: Pub. Res. Code § 21151(c); Muni Code § 21.07.040.</p>	<p>Yes. Under CEQA, if a nonelected decision-making body of a local lead agency certifies an EIR, that certification may be appealed to the agency's elected decision-making body (i.e., City Council).</p>
<p>Certification of Subsequent or Supplemental EIR for project that identifies one or more new or substantially more severe significant environmental effects, following mitigation, that those identified in the Downtown West Final EIR.</p>	<p>Planning Commission Recommendation; City Council Certification Source: Muni Code § 20.100.220, footnote 1</p>	<p>N/A because City Council becomes the initial decision maker under these circumstances.</p>

SECTION 4: Exception to Section 13.05.050 of the City of San José’s Municipal Code are hereby approved Chapter 13.05 of the City of San José’s Municipal Code generally requires the implementation of the Complete Streets Design Standards and Guidelines (“CSDSG”), Section 13.05.050 establishes right-of-way widths for streets listed in Table 1 of the same section, Section 13.05.040 provides for exceptions to the CSDSG in certain circumstances. The Downtown West PD Permit, including the DWDSG, provides that development of streets within Downtown West is subject to the standards and guidelines in the CSDSG unless expressly superseded by the DWDSG. Superseded CSDSG standards and guidelines are identified in Appendix E (CSDSG Standards and Guidelines That Do Not Apply to Downtown West) of the DWDSG. As such, the City approves an exception to Section 13.05.050, pursuant to its authority under Section 13.05.040, for CSDSG standards identified in Appendix E of the DWDSG, for the reasons set forth in Appendix E of the DWDSG, which are here incorporated by reference.

SECTION 5. CEQA Determination

1. The City, acting in its capacity as lead agency for the Project, has prepared a Final Environmental Impact Report (“FEIR”) pursuant to and in accordance with the California Environmental Quality Act (“CEQA”). The FEIR is comprised of the Draft Environmental Impact Report for the Project (“Draft EIR”) and all appendices thereto, comments and responses to comments on the Draft EIR, and the revisions to the Draft EIR. The FEIR analyzed the potential environmental impacts from all changes proposed as part of the Project, including the proposed rezoning of the subject area to the Downtown West Planned Development Zoning District.
2. On _____, the Planning Commission of the City of San José reviewed the FEIR and recommended that the City Council certify the FEIR for the Project.
3. On _____, the City Council independently reviewed and analyzed the FEIR and other information in the record, and adopted Resolution No. _____, certifying the

FEIR and adopting findings under CEQA, the Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations in connection with the Project, which resolution is on file with 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, and available on the Planning Department's website.

SECTION 6. PG&E Property and Subsequent Actions

- A. The Downtown West PD Zoning District, as further described in Exhibit "A", currently includes an approximately 0.18 acre-parcel, described as "Parcel #1" in the deed recorded November 25, 1926, in Book 797, page 336 of Santa Clara County Records, generally located at the intersection of Cahill Street and West San Fernando ("PG&E Property"), which is owned by Pacific Gas & Electric Company ("PG&E") and is subject to the jurisdiction of the California Public Utilities Commission ("CPUC") under California Public Utilities Code Section 851. PG&E authorized the inclusion of the PG&E Property within the boundary of the Downtown West PD Zoning District provided that CPUC subsequently confirms that the PG&E Property may be included within the proposed Downtown West PD Zoning District. This Ordinance shall not become effective as to the PG&E Property and the City shall not grant any Subsequent Approvals (as defined in the Development Agreement) over the PG&E Property until Google provides documentation to the Director of PBCE demonstrating that CPUC has provided the requested authorization.

The zoning for the PG&E Property shall remain Light Industrial until Google provides documentation to the Director of PBCE demonstrating that CPUC has provided the requested authorization. If Google fails to provide documentation of CPUC's consent within twenty-four (24) months of the effective date of this Ordinance, PG&E's authorization to include the PG&E Property within the Downtown West PD Zoning District shall be deemed withdrawn. Upon a request

from Google, and subject to the written consent of PG&E, the Director of PBCE may extend the twenty-four month period described in the preceding sentence for an additional period not to exceed twelve months. In the event Google does not provide timely documentation of CPUC's consent, Google shall update the boundaries of the Downtown West PD Zoning District shown in the GDP to exclude the PG&E Property. Notwithstanding anything to the contrary in Section 20.120.510 of the San Jose Municipal Code, such an update to the GDP may be administratively approved by the Director of PBCE.

B. All that real property described in Exhibit "A" as Parcels [1-3] is hereby rezoned to the Downtown West PD Zoning District. The base district zoning of the Downtown West PD Zoning District shall be DC Downtown Commercial. The Planned Development zoning of the subject property shall be the GDP, which City Council finds is consistent with all requirements set forth in Section 20.120.510.

C. The zoning district map of the City is hereby amended accordingly.

D. The City Council authorizes the Director of PBCE to make minor changes to this Ordinance and its attachments, in consultation with the City Attorney, such as the making of corrections including grammatical and typographical changes, minor additions or edits to ensure consistency across Project approvals and documents (e.g. correcting cross-references to other Project approvals or documents), or other non-substantive changes, as necessary or appropriate, to implement this Ordinance and to effectuate the City's performance thereunder.

SECTION 7. Effective Date.

This Ordinance shall take effect thirty (30) calendar days after adoption.

Exhibit B

Google Downtown West Mixed-Use Project General Plan Consistency Findings

The following constitute findings that the Google Downtown West Mixed-Use Project (the “Project” or “Downtown West”) is, on balance, consistent with the San José 2040 General Plan (“General Plan”).

These findings will apply to other Project actions and related documents including, but not limited to: City approval of an override of the Santa Clara County Airport Land Use Commission’s inconsistency determination (Resolution No. ___); General Plan amendments (Resolution No. ___); DSAP Amendments (Resolution No. ___); approval of the Development Agreement for the Downtown West Mixed-Use Plan (Ordinance No. ___); approval of a Planned Development Rezoning, including a General Development Plan (Ordinance No. ___); approval of a Planned Development Permit (Resolution No. ___); amendments to Title 20 of the City of San José Municipal Code (Ordinance No. ___); approval of a Vesting Tentative Map (Resolution No. ___); approval of amendments to the boundaries of one Historic Landmark (San José Water Company at 374 West Santa Clara Street) amendment to the boundaries of a second Historic Landmark (Southern Pacific Depot Historic District) (Resolutions No. ___ and ___); amendment to Historic Preservation Permit (HP16-002) (Resolution No. ___); approval of a Major Encroachment Permit (Resolution No. ___); and approval of a Construction Impact Mitigation Plan (Resolution No. ___).

These findings are intended to support, to the maximum extent practicable, future approvals by the City, including the Planning Commission and City Council, that are consistent with Project Approvals and Project Documents. To the extent practicable subject to applicable law, the City will rely on these findings, as appropriate, when processing and reviewing discretionary actions related to the Project, including but not limited to Conformance Review applications, Subsequent Approvals (as defined in the

Development Agreement), and any other Project-related actions regarding General Plan determinations pursuant to State Law or Applicable Laws.

The Project, including all Project Approvals and Project Documents referenced in these findings, are consistent with and implement the following General Plan Goals and Policies.

CHAPTER 2: THRIVING COMMUNITY

Goal IE-1 – Land Use and Employment. Proactively manage land uses to provide and enhance economic development and job growth in San José.

IE-1.5 Promote the intensification of employment activities on sites in close proximity to transit facilities and other existing infrastructure, in particular within the Downtown, North San José, the Berryessa International Business Park and Edenvale.

IE-1.6 Plan land uses, infrastructure development, and other initiatives to maximize utilization of the Mineta San José International Airport, existing and planned transit systems including fixed rail (e.g., High-Speed Rail, BART and Caltrain), Light-Rail and Bus Rapid Transit facilities, and the roadway network. Consistent with other General Plan policies, promote development potential proximate to these transit system investments compatible with their full utilization. Encourage public transit providers to serve employment areas.

IE-1.7 Advance the Diridon Station Area as a world-class transit hub and key transportation center for Northern California.

IE-1.13 Achieve goals related to Quality Neighborhoods, including diverse housing options, a walkable/bikable public street and trail network and compact, mixed use

development where infrastructure exists to distinguish San José as a livable and attractive city, to promote interaction among community members, and to attract talented workers to the City.

Goal IE-2 – Business Growth and Retention

Promote San José as an employment center. Nurture existing and attract new companies of all sizes (large anchor companies, emerging growth companies, small businesses) in industries that will drive the job and revenue growth for our City and regional economy.

IE-2.2 Attract and sustain a growing concentration of companies to serve as the economic engine for San José and the region, particularly in driving industries such as information and communication technologies, clean technology, bioscience, and other sectors based on creativity and innovation.

IE-2.7 Encourage business and property development that will provide jobs and generate revenue to support city services and infrastructure.

Goal FS-3 – Fiscally Sustainable Land Use Framework

Make land use decisions that improve the City's fiscal condition. Manage San José's future growth in an orderly, planned manner that is consistent with our ability to provide efficient and economical public services, to maximize the use of existing and proposed public facilities, and to achieve equitable sharing of the cost of such services and facilities.

FS-3.3 Promote land use policy and implementation actions that increase the ratio of Jobs to Employed Residents to improve our City's fiscal condition, consistent with economic development and land use goals and policies. Maintain or enhance the City's net total employment capacity collectively through amendments made to this General Plan in each Annual Review process.

Goal FS-4 – Promote Fiscally Beneficial Land Use

Maintain, enhance, and develop our City's employment lands as part of our strategy for

Fiscal Sustainability.

FS-4.1 Preserve and enhance employment land acreage and building floor area capacity for various employment activities because they provide revenue, near-term jobs, contribute to our City's long-term achievement of economic development and job growth goals, and provide opportunities for the development of retail to serve individual neighborhoods, larger community areas, and the Bay Area.

FS-4.7 Encourage transit-oriented development as a means to reduce costs for expansion and maintenance of our City's street system, in addition to other benefits and consistent with the General Plan Transportation goals and policies.

Consistency Findings. The Project is consistent with and implements Goals IE-1, IE-2, FS-3, and FS-4 and applicable policies. The Project provides for a dense, mixed-use development program that will promote the intensification of employment activities adjacent to Diridon Station, with a broad range of commercial job-generating uses that will result in positive fiscal contributions to the City. The Project will achieve goals related to Quality Neighborhoods, including diverse housing options, walkable and bikeable public streets and trails, mixed use development where infrastructure exists to distinguish San José as a livable and attractive city, to promote interaction among community members, and to attract talented workers to the City. Downtown West, which is located within the General Plan's Downtown Growth Area and the Diridon Station Area Plan ("DSAP") includes the development of: up to 7.3 million gross square feet (gsf) of commercial office space; up to 5,900 residential units; up to 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community, institutional, childcare and education, maker, non-profit, and small-format office spaces); up to 300 hotel rooms; up to 800 limited-term corporate accommodations; up to 100,000 gsf of event and conference centers; a District Systems approach to delivery of on-site utilities, including designated infrastructure zones with up to two (2) on-site centralized utility plants totaling up to 130,000 gsf; one or more on-site logistics centers that would occupy

a total of about 100,000 gsf to serve the commercial on-site uses; a total of approximately 15 acres of parks and open space; and various other improvements to the public realm. The General Plan Amendment, approved by Resolution No. ____, amended the land use designation for the site to Commercial and Downtown Commercial which will allow for more dense development of residential and non-residential uses, advancing the City's jobs and employment ratio. The Project will support a mix of land uses, including employment generating uses that support the General Plan's Major Strategy #9 to focus growth within Downtown San Jose and develop the area into an important employment and residential neighborhood, all in close proximity to existing and planned multi-modal transit resources centered around Diridon Station. The Project's land use development program will promote Major Strategy #9's land use policy and increase the ratio of Jobs to Employed Residents, improving the City's fiscal condition. The Project will create tens of thousands of permanent jobs across a range of skill and income levels, including high wage, highly skilled jobs, implementing the General Plan's goal of attracting and sustaining a growing concentration of companies to serve as the economic engine for San José and the region, particularly in driving industries based on creativity and innovation. The Project, which will be developed in phases, is anticipated to generate up to an annual average of 5,700 construction jobs during construction and, upon completion, approximately 31,000 on-site permanent jobs (consisting of approximately 29,000 office employees and 2,000 non-office employees). The development of the Project with its diverse mix of land uses will enhance employment land acreage and building floor area capacity for various employment activities, providing the City with revenue, near-term jobs, and contributing to the City's long-term achievement of economic development and job growth goals, and supporting City services and infrastructure. The Project is expected to generate approximately \$24 million in projected new annual City General Fund revenue and \$79 million in projected annual property tax revenue. In addition, the Project will provide \$58 million in one-time local construction taxes and \$16 million in one-time school fees, in addition to ongoing school contributions through property taxes. Consistent with the General Plan, the Project will advance the DSAP area as a world-class transit hub and key transportation center for Northern California as the Project will enhance transit access and ridership by leveraging its

proximity to Diridon Station and other existing and planned transit facilities in the City, including the BART and Caltrain, and promote infrastructure development proximate to these transit systems by supporting walking, biking, and public transit to connect residents and visitors within Downtown West to adjacent neighborhoods.

CHAPTER 3: ENVIRONMENTAL LEADERSHIP

Goal MS-1 – Green Building Policy Leadership

Demonstrate San José's commitment to local and global Environmental Leadership through progressive use of green building policies, practices, and technologies to achieve 100 million square feet of new or retrofitted green buildings by 2040.

MS-1.1 Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.

MS-1.2 Continually increase the number and proportion of buildings within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.

MS-1.5 Advocate for new or revised local, regional, state, or national policies and laws that further the use of green building techniques and to further the development of green building technology. Support the development and implementation of new and innovative technologies to achieve the construction of all types of environmentally high-performing buildings.

MS-1.6 Recognize the interconnected nature of green building systems, and, in the implementation of Green Building Policies, give priority to green building

options that provide environmental benefit by reducing water and/or energy use and solid waste.

MS-1.7 Encourage retrofits for existing buildings throughout San José to use green building principles in order to mitigate the environmental, economic, and social impact of those buildings, to achieve greenhouse gas reductions, and to improve air and water quality.

Goal MS-2 – Energy Conservation and Renewable Energy Use

Maximize the use of green building practices in new and existing development to maximize energy efficiency and conservation and to maximize the use of renewable energy sources.

MS-2.2 Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.

MS-2.3 Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.

MS-2.4 Promote energy efficient construction industry practices.

MS-2.5 Encourage responsible forest management in wood material selections and encourage the use of rapidly renewable materials.

MS-2.6 Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.

MS-2.7 Encourage the installation of solar panels or other clean energy power generation sources over parking areas.

MS-2.8 Develop policies which promote energy reduction for energy-intensive industries. For facilities such as data centers, which have high energy demand and indirect greenhouse gas emissions, require evaluation of operational energy efficiency and inclusion of operational design measures as part of development review consistent with benchmarks such as those in EPA's EnergyStar Program for new data centers. Also require consideration of distributed power production for these facilities to reduce energy losses from electricity transmission over long distances and energy production methods such as waste-heat reclamation or the purchase of renewable energy to reduce greenhouse gas emissions.

MS-2.11 Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).

Goal MS-3 – Water Conservation and Quality

Maximize the use of green building practices in new and existing development to minimize use of potable water and to reduce water pollution.

MS-3.1 Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.

MS-3.2 Promote use of green building technology or techniques that can help reduce the depletion of the City's potable water supply, as building codes permit.

For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.

MS-3.3 Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.

MS-3.4 Promote the use of greenroofs (i.e., roofs with vegetated cover), landscape based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.

MS-3.5 Minimize areas dedicated to surface parking to reduce rainwater that comes into contact with pollutants.

Consistency Findings. The Project is consistent with Goal MS-3 and applicable policies identified above. As stated in the Downtown West Environmental Impact Report, the Project demonstrates leadership in the development and implementation of green building policies and practices. The Project will incorporate various green building principles into its design and construction and will be consistent with the City's Green Building Ordinance. For example, the Project is required to comply with the City's Water-Efficient Landscape Ordinance and will use recycled water for non-potable water uses. This will promote the use of green building technology or techniques that help reduce the depletion of the City's potable water supply as building codes permit. The Project will also be designed to be eligible for LEED ND Gold Certification, including Green Infrastructure and Buildings; promote the use of green roofs through the Downtown West Development Standards and Guidelines; minimize surface parking; and reduce existing impervious surfaces on the Project site. The Project's progressive use of green building practices and technologies will increase the number and proportion of buildings within the City that make use of green building practices by incorporating such practices into new construction. The Project will also minimize areas dedicated to surface parking, reducing rainwater that comes into contact with pollutants. Based on the preliminary stormwater evaluation, the proposed Project is designed to include a net reduction of approximately

9 percent of impervious surface area compared to existing conditions, from approximately 97 percent impervious under existing conditions to about 88 percent impervious with project implementation. The existing Project site has minimal tree canopy cover and is approximately 97 percent impervious. The Project reduces existing impervious surfaces by over 50 percent within the Los Gatos Creek Riparian Setback. The DWDSG includes standards requiring existing impervious surfaces within the riparian setback and ecological enhancement zone to be replaced with planting, pervious hardscape, walking paths, or the sidewalk of an adjoining paved street. The Project's reduction in the existing impervious surface area will improve habitat value, water quality, thermal comfort, groundwater recharge, and aesthetics.

Goal MS-5 – Waste Diversion

Divert 100% of waste from landfills by 2022 and maintain 100% diversion through 2040.

MS-5.5 Maximize recycling and composting from all residents, businesses, and institutions in the City.

MS-5.6 Enhance the construction and demolition debris recycling program to increase diversion from the building sector.

Goal MS-6 – Waste Reduction

Reduce generation of solid and hazardous waste.

MS-6.3 Encourage the use of locally extracted, manufactured or recycled and reused materials including construction materials and compost.

MS-6.4 Improve “downstream” reuse and recycling of end-of-life products and materials to ensure their highest and best use.

MS-6.5 Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.

MS-6.8 Maximize reuse, recycling, and composting citywide.

Consistency Findings. The Project is consistent with Goals MS-5 and MS-6 and applicable policies identified above. As stated in the Downtown West Environmental Impact Report, the Project will comply with the City's Zero Waste Strategies Plan, as well as with the waste reduction and diversion requirements of state law, during both demolition/construction and operation of the Project. This will reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials, improve downstream reuse and recycling of end-of-life products and materials to ensure their highest and best use, and assist in the City's goal of maximizing recycling and composting from all residents, business, and institutions in the City.

Goal MS-7 – Environmental Leadership and Innovation

Establish San José as a nationally recognized leader in reducing the amount of materials entering the solid waste stream.

MS-7.2 Collaborate with providers of solid waste collection, recycling, and disposal services to ensure a level of service that promotes a clean environment.

MS-7.3 Support the development of green jobs through investment in zero waste programs and infrastructure.

Goal MS-10 – Air Pollutant Emission Reduction

Minimize air pollutant emissions from new and existing development.

MS-10.1 Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.

MS-10.2 Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.

MS-10.3 Promote the expansion and improvement of public transportation services and facilities, where appropriate, to both encourage energy conservation and reduce air pollution.

MS-10.5 In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.

MS-10.6 Encourage mixed land use development near transit lines and provide retail and other types of service oriented uses within walking distance to minimize automobile dependent development.

MS-10.7 Encourage regional and statewide air pollutant emission reduction through energy conservation to improve air quality.

Consistency Findings. The Project is consistent with Goal MS-10 and applicable policies identified above. The Downtown West Environmental Impact Report analyzed the Project's projected air emissions in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards, and the Project will implement certain Mitigation Measures set forth in the Project's Mitigation Monitoring and Reporting Program (MMRP) that will reduce the Project's air quality impacts. The Downtown West Environmental Impact Report also considered the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and state law. The Project will promote the expansion and improvement of public transportation services and facilities, where appropriate, to encourage energy conservation and reduce air pollution. For

example, the Project will enhance transit access and ridership by leveraging its proximity to Diridon Station and supporting walking, biking, and public transit to connect residents and visitors within Downtown West to adjacent neighborhoods. The Project, which implements a mixed land use development near Diridon Station and other transit lines, provides service oriented uses (e.g. active uses) within walking distance of existing and planned transit to minimize automobile dependence. Under the Project's TDM program and Mitigation Measure AQ-2h, the Project would provide transit incentives to reduce vehicle miles traveled and traffic congestion and to minimize the dependence on the automobile. The Project would further encourage regional and statewide air pollutant emission reduction by being designed to be eligible for LEED ND Gold Certification.

Goal MS-11 – Toxic Air Contaminants

Minimize exposure of people to air pollution and toxic air contaminants such as ozone, carbon monoxide, lead, and particulate matter.

MS-11.1 Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.

MS-11.2 For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.

MS-11.3 Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.

MS-11.4 Encourage the installation of appropriate air filtration at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.

MS-11.5 Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.

Consistency Findings. The Project is consistent with Goal MS-11 and the applicable policies set forth above. The Downtown West Environmental Impact Report included air quality modeling for sensitive land uses and analyzed impacts of the Project on sensitive receptors, including proposed new residential development. The Project is consistent with Goal MS-11 and its applicable policies as the Project will implement certain Mitigation Measures set forth in the Project's MMRP to incorporate effective mitigation into project designs or be located an adequate distance from sources of TACs to minimize risks to health and safety. The Project also provided a health risk assessment in accordance with BAAQMD-recommended procedures as part of environmental review and the Project will implement certain Mitigation Measures set forth in the Project's MMRP to reduce possible health risks. The Project is consistent with Policy MS-11.3 as the Project will designate operational truck routes to minimize exposure of sensitive receptors to TACs and particulate matter through implementation of certain Mitigation Measure set forth in the MMRP. Consistent with Policy MS-11.4, the Project will install MERV 13 air filtration systems at all on-site buildings. The Project will also encourage the use of pollution absorbing trees and vegetation as it will provide for approximately 2,280 replacement street trees and approximately 15 total acres of open space throughout Downtown West that would provide a buffer between sources of TACs and sensitive land uses.

Goal MS-12 – Objectionable Odors

Minimize and avoid exposure of residents to objectionable odors.

MS-12.1 For new, expanded, or modified facilities that are potential sources of objectionable odors (such as landfills, green waste and resource recovery facilities, wastewater treatment facilities, asphalt batch plants, and food processors), the City requires an analysis of possible odor impacts and the provision of odor minimization and control measures as mitigation.

MS-12.2 Require new residential development projects and projects categorized as sensitive receptors to be located an adequate distance from facilities that are existing and potential sources of odor. An adequate separation distance will be determined based upon the type, size and operations of the facility.

Consistency Findings. Consistent with MS-12.1, the Project Sponsor analyzed facilities that are potential sources of objectionable odors, such as the potential wastewater treatment facility(s), for possible odor impacts and the provision of odor minimization and control measures as mitigation. The Downtown West Environmental Impact Report noted that the Project's potential wastewater treatment facility(s) would be a potential odor source and analyzed whether the Project's proposed wastewater treatment facility and operation of such facility would generate objectionable odors that would likely worsen or improve existing conditions and would likely affect a substantial number of people. The Project proposes up to two wastewater potential facilities, one in each central utility plant. The Downtown West Environmental Impact Report provides that the wastewater treatment facilities are located within BAAQMD's standard screening distances for wastewater treatment plans, however, the wastewater treatment plants would be enclosed within the central utility plant. The Project is consistent with Goal MS-12 and Policies MS-12.1 and MS-12.2 because the facility will have odor controls to manage any objectionable odors. The Project will also implement Mitigation Measures in the MMRP that will require, among other measures, air blowers and odor control units to be incorporated into the wastewater treatment design and best management practices and emissions controls to address objectionable odors.

Goal MS-13 – Construction Air Emissions

Minimize air pollutant emissions during demolition and construction activities.

MS-13.1 Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

MS-13.2 Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

Consistency Findings. The Project is consistent with Goal MS-13 and Policies MS-13.1, and MS-13.2. The Project will implement Mitigation Measure AQ-2a which will include a construction emission minimization plan that will include dust control requirements. The Project will include as a condition of approval to the Downtown West PD Permit that all construction equipment be certified to Tier 4 Final emission standards or electric, as feasible, which conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the project size and type. The Project is consistent with Policy MS-13.2 as the Project Sponsor will determine the presence of asbestos (and other hazardous building materials) prior to obtaining demolition permits and will comply with all requirements of California Air Resource Board's ATCMs for construction and demolition activities that have the potential to disturb asbestos. Consistent with Policy MS-13.3, the project will limit grading to development blocks and will conform to existing grades at the edge conditions along the block boundaries and rights-of-way. The Project will comply with all applicable dust, particulate, and exhaust control measures for demolition and grading activities as a condition of Project approval, the Project will prohibit

unpaved and unprotected access to public roadways from construction sites, and otherwise comply with all requirements set forth in the City's grading ordinance.

Goal MS-14 – Reduce Consumption and Increase Efficiency

Reduce per capita energy consumption by at least 50% compared to 2008 levels by 2022 and maintain or reduce net aggregate energy consumption levels equivalent to the 2022 (Green Vision) level through 2040.

MS-14.1 Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.

MS-14.2 Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.

MS-14.3 Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan, as revised, and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.

MS-14.4 Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

Goal MS-15 – Renewable Energy

Receive 100% of electrical power from clean renewable sources (e.g., solar, wind, hydrogen) by 2022 and to the greatest degree feasible increase generation of clean, renewable energy within the City to meet its own energy consumption needs.

MS-15.3 Facilitate the installation of at least 100,000 solar roofs in San José by 2022 and at least 200,000 solar roofs by 2040.

MS-15.5 Showcase and apply innovative technologies within San José, including developments that achieve maximum energy efficiency or net zero energy, and renewable energy systems that generate energy equal to or greater than that consumed on site.

Goal MS-16 – Energy Security

Provide access to clean, renewable, and reliable energy for all San José residents and businesses.

MS-16.2 Promote neighborhood-based distributed clean/renewable energy generation to improve local energy security and to reduce the amount of energy wasted in transmitting electricity over long distances.

MS-16.3 Consider benefits and risks of alternative energy sources, and evaluate the City's position on alternative energy sources.

Goal MS-18 – Water Conservation

Continuously improve water conservation efforts in order to achieve best in class performance. Double the City's annual water conservation savings by 2040 and achieve half of the Water District's goal for Santa Clara County on an annual basis.

MS-18.1 Demonstrate environmental leadership by adopting citywide policies that encourage or require new and existing development to incorporate measures to

reduce potable water demand and/or increase water efficiency in order to reduce the City's need for imported water.

MS-18.3 Demonstrate environmental leadership by encouraging the creation and use of new technologies that reduce potable water demand and/or increase the efficiency of water use.

MS-18.4 Retrofit existing development to improve water conservation.

MS-18.5 Reduce citywide per capita water consumption by 25% by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.

MS-18.6 Achieve by 2040, 50 Million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.

Goal MS-19 – Water Recycling

Recycle or beneficially reuse 100% of the City's wastewater supply, including the indirect use of recycled water as part of the potable water supply.

MS-19.1 Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.

MS-19.3 Expand the use of recycled water to benefit the community and the environment.

MS-19.4 Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.

Goal MS-20 – Water Quality

Ensure that all water in San José is of the highest quality appropriate for its intended use.

MS-20.2 Avoid locating new development or authorizing activities with the potential to negatively impact groundwater quality in areas that have been identified as having a high degree of aquifer vulnerability by the Santa Clara Valley Water District or other authoritative public agency.

MS-20.3 Protect groundwater as a water supply source through flood protection measures and the use of stormwater infiltration practices that protect groundwater quality. In the event percolation facilities are modified for infrastructure projects, replacement percolation capacity will be provided.

Goal MS-21 – Community Forest

Preserve and protect existing trees and increase planting of new trees within San José to create and maintain a thriving Community Forest that contributes to the City's quality of life, its sense of community, and its economic and environmental well being.

MS-21.1 Manage the Community Forest to achieve San José's environmental goals for water and energy conservation, wildlife habitat preservation, stormwater retention, heat reduction in urban areas, energy conservation, and the removal of carbon dioxide from the atmosphere.

MS-21.2 Provide appropriate resources to preserve, protect and expand the City's Community Forest.

MS-21.3 Ensure that San José's Community Forest is comprised of species that have low water requirements and are well adapted to its Mediterranean climate. Select and plant diverse species to prevent monocultures that are vulnerable to pest invasions. Furthermore, consider the appropriate placement of tree species and their lifespan to ensure the perpetuation of the Community Forest.

MS-21.4 Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

MS-21.5 As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse affect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

MS-21.6 As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

MS-21.8 For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals:

- Avoid conflicts with nearby power lines.
- Avoid potential conflicts between tree roots and developed areas.
- Avoid use of invasive, non-native trees.
- Remove existing invasive, non-native trees.
- Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.
- Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.

MS-21.9 Where urban development occurs adjacent to natural plant communities (e.g., oak woodland, riparian forest), landscape plantings shall incorporate tree

species native to the area and propagated from local sources (generally from within 5-10 miles and preferably from within the same watershed).

Consistency Findings. The Project is consistent with and implements the General Plan's Measurable Environmental Sustainability goals and policies (MS-1 - MS-21) in Chapter 3 (Environmental Leadership), to the extent not described in the above consistency findings. The Project is certified under Public Resources Code Section 21178 et seq., the Jobs and Economic Improvement through Environmental Leadership Act of 2011 (Assembly Bill [AB] 900, as amended by Senate Bill 734 [2013], AB 246 [2017], and Senate Bill 7 [2021], which is currently pending approval in the California State Legislature as an environmental leadership development project and strives to optimize environmental sustainability through the design of infrastructure, buildings, and improvements to the public realm. As an environmental leadership development project under AB 900, the Project includes a number of project features and requirements that support the development and implementation of new and innovative technologies to achieve the construction of environmentally high-performing buildings. The Project promotes green building policies and practices and includes sustainability strategies that prioritize green building options that provide environmental benefits and range from use of electric and Tier IV construction equipment to district-wide central utility systems and sustainable building practices.

The Project's sustainability strategies include a commitment to meeting the AB 900 requirement that the Project will result in no net new additional emissions of greenhouse gases (GHG). The Project's sustainability strategies will also support the development of green jobs through investment in zero waste programs and infrastructure. The project sponsor may purchase carbon offset credits to achieve the no net new commitment. The Project has made a commitment to be designed to be eligible for LEED ND Gold certification for the entire mixed-use plan and the Project would consider local, recycled, and reused materials as part of the process. The Project, which includes up to 7.3 million square feet of office space, makes the commitment that all office buildings will be designed to be eligible for LEED Gold certification through LEED for Building Design and

Construction rating system, which exceeds the City's New Construction Green Building Requirement. In addition, the Project will promote energy-efficient construction industry practices. All new buildings greater than 10,000 square feet will comply with the City's New Construction Green Building Requirement, including the following: all high-rise residential buildings must receive a minimum certification of LEED Certified; mid-rise residential projects must receive a minimum green building performance requirement of LEED Certified or GreenPoint Rated; and all buildings that are not office or residential uses must receive a minimum certification of LEED Silver. All buildings will be entirely powered by electricity with no use of natural gas permitted.

The Project would be subject to and comply with the City's local recycling and composting ordinances and would therefore help maximize reuse, recycling and composting citywide and help ensure that disposal services provide a level of service that promotes a clean environment.

The DWDSG includes a number of standards and guidelines that promote sustainable open space, buildings, and mobility. In particular, the Project's sustainable mobility design strategy seeks to reduce carbon emissions by promoting transit access and ridership, reducing use of single-occupancy vehicles, and encouraging activity mobility through streetscape improvements that include protected bike lanes, dynamic lanes, and bikeway buffers that result in a robust micro-mobility network that prioritizes walking and biking. The Project will implement a TDM plan to reduce the share of single occupancy vehicle (SOV) trips. The Project has committed to providing charging infrastructure for 15% of on-site parking spaces.

The Project also aspires to adapt, retain, and reuse selected existing buildings and Project resources to mitigate the environmental, economic, and social impact of such buildings. For example, the DWDSG includes development standards that apply to existing structures at Creekside Walk to minimize impacts to the riparian setback.

The Project's commitments promote energy conservation and reduction, water conservation, waste diversion, and environmental leadership through design aspects such as the incorporation of 7.8 MW solar PV (which would promote the City's goal of installing at least 100,000 solar roofs by 2022 and at least 200,000 solar roofs by 2040), public transit accessibility, and co-location of land uses that create a walkable network. The Project encourages the integration of green stormwater infrastructure such as bioswales or other stormwater management into residential landscaping. The Project will use energy efficiency strategies, including a potential district-wide utility system, and on-site renewable energy to reduce energy consumption. The Project proposes a district systems approach to utilities which would reduce the Project's on-site GHG emissions by consolidating and centralizing the Project's infrastructure, including heating and cooling, electricity generation and distribution, and on-site wastewater treatment and recycled water distribution. Consolidation of utility services within the central utility plants would result in greater spatial efficiency by eliminating areas within individual buildings dedicated to facilities and services and promote neighborhood-based distributed clean/renewable energy to reduce the amount of energy wasted in transmitting electricity over long distances.

In addition to incorporation of water conservation strategies, the Project will include district water reuse facility(s) that would treat wastewater, producing recycled water for non-potable uses and thereby reducing the need for imported water; alternatively, recycled water could be supplied by the San José–Santa Clara Regional Wastewater Facility. The use of district systems would result in certain benefits, including an anticipated 29% reduction of potable water consumption. Such water conservation strategies will help promote the City's goal of water conservation (including the goal to reduce citywide per capita water consumption by 25% by 2040 and to achieve by 2040, 50 million gallons per day of water conservation savings).

Buildings in Downtown West will utilize technology that minimize environmental impact and optimize building performance and encourage the use of high quality materials derived from local, renewable sources. The Project encourages use of on-site generation

of renewable energy, and utilizes solar orientation, landscaping, and design to minimize energy consumption. The DWDSG includes building sustainability strategies regarding the solar orientation of buildings, solar PV systems and green roofs, and high reflectivity roof materials as approaches to reduce energy consumption in buildings and promote roofing designs and surface treatments that reduce the heat island effect.

The Project will also create approximately 15 acres of parks and open space, including parks, plazas, green spaces, mid-block passages, and a minimum 50-foot setback from riparian corridors, in addition to various improvements to public areas such as sidewalk widening, plazas, and nearly 2,300 new trees. Specific species of trees will be considered in the final design of the project but are expected to be consistent with City policies for biological resources. Consistent with the City's policy of incorporating native tree species, the Downtown West planting strategy prescribes for native species. The Project will incorporate a planting strategy that requires native species, including native oak species as part of the re-oaking strategy for certain open spaces which will reinforce a local sense of place and support native wildlife species. The Project's open spaces, which will be distributed throughout the Project site, will mitigate the urban heat island effect. The DWDSG sets forth standards and guidelines that promote sustainable open space strategies, including requirements for a planting plan that supports native ecosystems and riparian species near Los Gatos Creek. The DWDSG also establishes standards regarding the planting and maintenance of streets trees ensure that trees, streetlights, signs and other infrastructure assets are integrated. The Project's open space and parks will help contribute to the City's environmental goals for water and energy conservation, wildlife habitat preservation, stormwater retention, heat reduction in urban areas, energy conservation, and the removal of carbon dioxide from the atmosphere.

The Project would promote job and housing growth in an area served by public transit as the Project would place a mix of land uses, including residential, office, and active uses, in close proximity to Diridon Station, reducing the number of VMT and vehicle trips while facilitating biking, walking, or transit ridership through improved access to a diverse mix of uses.

Goal ER-2 – Riparian Corridors

Preserve, protect, and restore the City’s riparian resources in an environmentally responsible manner to protect them for habitat value and recreational purposes.

ER-2.1 Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City’s Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/ Natural Communities Conservation Plan (HCP/NCCP).

ER-2.2 Ensure that a 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.

ER-2.3 Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.

ER-2.4 When disturbances to riparian corridors cannot be avoided, implement appropriate measures to restore, and/or mitigate damage and allow for fish passage during construction.

ER-2.5 Restore riparian habitat through native plant restoration and removal of nonnative/invasive plants along riparian corridors and adjacent areas.

Consistency Findings. Portions of the Project located within 300 feet of riparian corridors are subject to Section A of City Council Policy 6-34, Riparian Corridor Protection and Bird-Safe Design (“Policy 6-34”). In addition, the Project as a whole is subject to the Santa Clara Valley Habitat Plan (“VHP”). Based on the following findings, the Council has determined that the Project is consistent with Policy 6-34 and is conditionally consistent with the VHP, with final

- *Policy 6-34 permits riparian setbacks of less than 100 feet for projects that are located within the boundaries of the Downtown area, as is the Project (Section A.2.a). The City may require a report certifying that the reduced setback will not significantly reduce or adversely impact the Riparian Corridor and/or that the proposed uses are not fundamentally incompatible with riparian habitats (Section A.3.b & A.3.c.). Section 6.2 of the FEIR concludes, based on reports by qualified professionals, that with its 50-foot riparian corridor setbacks for new buildings and its 50-100-foot ecological enhancement zones, and with implementation of Standard Conditions of Approval SCA BI-1 and SCA BI-2 and Project Mitigation Measures BI-1a - BI-1f, BI-2a - BI-2d, BI-3 and BI-4, the Project will cause no significant impact to riparian corridors or riparian habitats.*
- *Policy 6-34, Sections A.4 -A.6, provide that material and lighting design should reduce light and glare impacts to Riparian Corridors; lighting should not be directed into Riparian Corridors; restoration and rehabilitation of Riparian Corridors are strongly encouraged; and erosion control should avoid soil erosion and minimize runoff. Sections 6.2 and 3.8 of the FEIR, as well as Standards S4.7.2, S4.8.1 - S4.8.7, S4.16.3 - S4.16.5, S4.17.1 - S4.17-3, S4.17.5, S4.18.5, S5.5.7 - S5.5.9, and S7.4.1 - S7.4.7 of the DWDSG, demonstrate that the Project meets these requirements.*
- *The VHP permits riparian setbacks of less than 100 feet, and no less than 35 feet, where the reduced setback does not preclude achieving the biological goals and objectives of the VHP or conflict with other applicable requirements of the VHP and local policies. Section 6.2 of the FEIR concludes, based on reports by qualified professionals, that with its 50-foot riparian corridor setbacks for new buildings and its 35-foot setback from the Guadalupe River channel wall for historic buildings, its 50-100-foot ecological enhancement zones, and with implementation of Standard Conditions of Approval SCA BI-1 and SCA BI-2 and Project Mitigation Measures BI-1a - BI-1f, BI-2a - BI-2d, BI-3 and BI-4, the Project will cause no significant impact to riparian corridors or riparian habitats. Accordingly, the Project appears to be consistent with the VHP. The City will assess final consistency with the VHP prior to issuance of grading permits for specific phases of development; to obtain*

such permits, the Project Sponsor will be required, under SCA BI-1, to submit a VHP Coverage Screening Form to the Director of PBCE and comply with applicable VHP conditions and fees.

Goal ER-5 – Migratory Birds

Protect migratory birds from injury or mortality.

ER-5.1 Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.

ER-5.2 Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

Consistency Findings. The Project incorporates mitigation measures to avoid impacts to nesting birds during project construction. The Project includes certain Mitigation Measures to avoid impacts on nesting migratory birds, which include avoiding certain activities - for example, avoiding demolition and construction activities during nesting season - that result in the loss of active native birds. Among other measures, the project sponsor shall establish a buffer zone if an active nest is found within 250 feet of work areas disturbed by construction. In addition, bird-safe treatment measures under the DDG and the DWDSG include enhanced bird-safe design standards to reduce bird mortality. The Project's bird-safe design standards include bird safe treatment strategies for certain buildings located within 300 feet of a riparian corridor. Such bird safe treatment strategies may include high translucency / low reflectivity glazing, angled glazing, screening awnings, or other methods to reduce the likelihood of bird collisions.

Goal ER-6 – Urban Natural Interface

Minimize adverse effects of urbanization on natural lands adjacent to the City's developed areas.

ER-6.3 Employ low-glare lighting in areas developed adjacent to natural areas, including riparian woodlands. Any high-intensity lighting used near natural areas will be placed as close to the ground as possible and directed downward or away from natural areas.

ER-6.5 Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.

ER-6.8 Design and construct development to avoid changes in drainage patterns across adjacent natural areas and for adjacent native trees, such as oaks.

Goal ER-8 - Stormwater

Minimize the adverse effects on ground and surface water quality and protect property and natural resources from stormwater runoff generated in the City of San José.

ER-8.1 Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

ER-8.2 Coordinate with regional and local agencies and private landowners to plan, finance, construct, and maintain regional stormwater management facilities.

ER-8.3 Ensure that private development in San José includes adequate measures to treat stormwater runoff.

ER-8.4 Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.

ER-8.5 Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.

ER-8.6 Eliminate barriers to and enact policies in support of the reuse of stormwater runoff for beneficial uses in existing infrastructure and future development in San José.

ER-8.7 Encourage stormwater reuse for beneficial uses in existing infrastructure and future development through the installation of rain barrels, cisterns, or other water storage and reuse facilities.

ER-8.8 Consider the characteristics and condition of the local watershed and identify opportunities for water quality improvement when developing new or updating existing development plans or policies including, but not limited to, specific or area land use plans.

Goal ER-9 – Water Resources

Protect water resources because they are vital to the ecological and economic health of the region and its residents.

ER-9.1 In consultation with the Santa Clara Valley Water District, other public agencies and the SCVWDs Water Resources Protection Guidelines and Standards (2006 or as amended), restrict or carefully regulate public and private development in streamside areas so as to protect and preserve the health, function and stability of streams and stream corridors.

ER-9.2 In consultation with the SCVWD restrict or carefully regulate public and private development in upland areas to prevent uncontrolled runoff that could impact the health and stability of streams.

ER-9.3 Utilize water resources in a manner that does not deplete the supply of surface or groundwater or cause overdrafting of the underground water basin.

ER-9.4 Work with the SCVWD to preserve water quality by establishing appropriate public access and recreational uses on land adjacent to rivers, creeks, wetlands, and other significant water courses.

ER-9.5 Protect groundwater recharge areas, particularly creeks and riparian corridors.

ER-9.6 Require the proper construction and monitoring of facilities that store hazardous materials in order to prevent contamination of the surface water, groundwater and underlying aquifers. In furtherance of this policy, design standards for such facilities should consider high groundwater tables and/or the potential for freshwater or tidal flooding.

Consistency Findings. The Project's lighting objectives will enhance the experience of the public realm while reducing the impact of lighting on natural habitat, especially in and surrounding the riparian corridor. Lighting across Downtown West is scaled to complement the public realm, buildings, adjacent to riparian corridors, and streets. In particular, lighting of buildings and open space within the riparian setback and ecological enhancement zones would improve visibility and promote safety, while protecting the ecological habitat of riparian corridors. *Consistent with the Riparian Corridor Policy Study, lighting located in riparian setbacks and the ecological enhancement zone shall be located low to the ground and directed downward. The Project also requires the project sponsor to avoid the use of non-native species (except as expressly permitted), plants of low ecological value and species incompatible with existing and projected site conditions. Invasive species are not permitted.*

The Project complies with all applicable stormwater management requirements under the City's Green Stormwater Infrastructure Plan (GSI), dated September 2019, which reflects

the General Plan's stormwater-related goals and policies. The GSI Plan includes integrated design measures to capture and treat stormwater runoff using soils, plants, and pervious surfaces. The Project would implement design measures consistent with the hydrology and water quality goals of the GSI Plan, including but not limited to, capturing, infiltrating, treating and/or repurposing stormwater with multibenefit projects that can enhance public spaces, water supply, flood control, habitat and green spaces. The Project is designed to be consistent with local guidelines for land use to protect streams and water resources in Santa Clara County, and includes upgrades to existing storm drain infrastructure that would intercept contaminants and reduce runoff during storms. The Project will implement stormwater treatment and runoff pollution prevention measures to reduce runoff and prevent increases in runoff flows. The Project will implement post-construction monitoring and treatment controls pursuant to City Policy 6-20 ensure that the Project will not have ongoing adverse residual impacts on receiving waters. The Project's planting plan also enhances native ecosystems and improves stormwater management strategies. Streetscapes throughout the Project site will use durable materials and include space for planting zones that accommodate stormwater management.

The Project will also be designed and constructed to avoid changes in drainage patterns across adjacent natural areas. Project-related construction of larger storm drainage pipes and a new storm drain would occur outside of the riparian corridor to minimize impacts on riparian habitat. Before undertaking specific construction activity within close proximity of drainages, appropriate measures shall be taken to ensure protection of the wetland from construction runoff or direct impact from equipment or materials.

Goal ER-10 – Archaeology and Paleontology

Preserve and conserve archaeologically significant structures, sites, districts and artifacts in order to promote a greater sense of historic awareness and community identity.

ER-10.1 For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the

planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

ER-10.2 Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

ER-10.3 Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Consistency Findings. The Project is consistent with Goal ER-10 and applicable policies. The Downtown West Environmental Impact Report (EIR) analyzed the project's potential impact on an archaeological resources as defined under the California Environmental Quality Act (CEQA). The EIR determined that with the implementation of certain mitigation measures (MM CU-8a, 8b, 8c, and 8d), the potential impacts of the Project on archaeological resources would be less than significant. The Project will also impose the City's standard conditions of approval during Project construction and operation to address impacts on subsurface cultural resources and human remains. Pursuant to the conditions of approval, if prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the site shall be stopped, the Director of PBCE notified, and a qualified archaeologist shall examine the find and make appropriate recommendations regarding the disposition of such finds. Upon discovery of human rains during construction, no further excavation or disturbance of the site is permitted, and a qualified archaeologist shall determine whether the remains

are Native American. If the remains are believed to be Native American, the Native American Heritage Commission will be contacted, and the remains will be further inspected and a designated most likely descendant will make a recommendation (if feasible).

Goal EC-1 – Community Noise Levels and Land Use Compatibility

Minimize the impact of noise on people through noise reduction and suppression techniques, and through appropriate land use policies.

EC-1.1 Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

Interior Noise Levels

- The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

- The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below:
- For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.
- For single family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as backyards.

EC-1.2 Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or

- Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level.

EC-1.3 Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

EC-1.4 Include appropriate noise attenuation techniques in the design of all new General Plan streets projected to adversely impact noise sensitive uses.

EC-1.6 Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City’s Municipal Code.

EC-1.7 Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City’s Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

EC-1.9 Require noise studies for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, implement mitigation so that recurring maximum instantaneous noise levels do not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms.

EC-1.11 Require safe and compatible land uses within the Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.

Goal EC-2 – Vibration

Minimize vibration impacts on people, residences, and business operations.

EC-2.1 Near light and heavy rail lines or other sources of ground-borne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.

EC-2.3 Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are

not limited to: excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

Consistency Findings. The Project is consistent with and will implement Goals EC-1 and EC-2 and applicable policies. The Project site is located in an area of Downtown San Jose that is surrounded by a network of regional transportation facilities that influence the local noise environment, including Diridon Station located west of the Project boundary, and state and federal highways (State Route 87 located adjacent to easternmost portion of the Project site, Interstate 280 one block south of the southern Project boundary, and I-880 located approximately one-mile northwest of the site's northern boundary).

Land uses in Downtown West are intended to align with the neighboring context so that new residential uses are generally located along existing residential neighborhoods and office uses are focused along the Project's industrial edge and adjacent to Downtown. Residential and hotel uses will implement certain design controls (as set forth in the City's Standard Condition of Approval NO-2) that would require design plans and building design and acoustical treatments to ensure controls to reduce interior noise levels to 45 dBA DNL or lower within residential units. Moreover, the Project will implement Mitigation Measure NO-1a (Operational Noise Performance Standard) that requires the Project Sponsor to ensure that all mechanical equipment is selected and designed to reduce

impacts on surrounding uses by meeting the applicable noise performance standards under the City's Municipal Code.

Sources of vibration in the Project vicinity include Caltrain, Amtrak, and ACE railroad operations. The Project will implement a condition of approval requiring residential development with vibration exposure exceeding 72 VdB from operations on the Caltrain tracks to be designed to reduce vibration exposure from Caltrain and other rail operations to 72 VdB or less. Under this condition of approval, before any building permit issued for structures intended for human occupancy within 100 feet of the mainline track, a detailed vibration design study must be completed confirming the ground vibration levels and frequency along the Caltrain tracks and to determine the appropriate design to limit interior vibration levels to 72 VdB for residences, if necessary.

The Project is consistent with Policy EC-2.3 as the Project requires the implementation of Mitigation Measure NO-2a (Master Construction Vibration Avoidance and Reduction Plan), which requires the Project Sponsor to prepare a Master Construction Vibration Avoidance and Reduction Plan prior to the issuance of the first building permit for the Project, which must include certain vibration avoidance and reduction measures, including notification of neighbors within 500 feet of the construction site and implementation of a construction vibration monitoring plan to document conditions before, during and after pile driving. The Project Sponsor will also implement Mitigation Measure NO-2b (Master Construction Vibration Avoidance from Compaction) for construction activities that will not involve impact or vibratory pile driving but will employ a vibratory roller. The Project Sponsor also will implement Mitigation Measure CU-4 (Construction Vibration Operation Plan for Historic Resources) which requires submission of a Construction Vibration Operation Plan for work within 170 feet of a historic resource.

The Project complies with Goal EC-1 and applicable policies. For portions of the Project site that are within the Airport Influence Area (AIA) for the Mineta San Jose International Airport, a two-thirds vote of the City Council to override the Airport Land Use Commission's determination of inconsistency with the Comprehensive Land Use Plan's

height and noise policies is required and is proposed. Project Conditions of Approval include aviation easements in the AIA, as well as notice to prospective residents of dwelling units where outdoor use areas would be affected by Airport-related noise exceeding 65 dBA CNEL. The General Plan identifies outdoor noise environmental levels of 60-75 dBA DNL as “conditionally acceptable” for residential and hotel uses, as long as interior noise levels are mitigated to 45 dBA DNL. Interior noise levels in residences and hotel rooms will not exceed 45 dBA DNL (EIR Mitigation NO-3, a condition of approval to the Downtown West PD Permit). The residential outdoor activities areas at Downtown West Blocks E3 and C3 are located both in the environs of the Mineta San Jose International Airport and in Downtown. These areas are exempt from the 60 dBA DNL exterior noise limit the City applies in other residential areas. Residential exterior spaces such as apartment balconies and ground-floor common areas within the 65 dBA DNL noise contour would be consistent with orderly development of the Mineta San Jose International Airport. Moreover, a Condition of Approval in the Downtown West PD Permit requires a “Determination of No Hazard” to Air Navigation be issued by the FAA for all buildings prior to issuance of any building permits.

Goal EC-3 – Seismic Hazards

Minimize the risk of injury, loss of life, property damage, and community disruption from seismic shaking, fault rupture, ground failure (liquefaction and lateral spreading), earthquake-induced landslides, and other earthquake-induced ground deformation.

EC-3.1 Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

EC-3.3 The City of San José Building Official shall require conformance with state law regarding seismically vulnerable unreinforced masonry structures within the City.

Goal EC-4 – Geologic and Soil Hazards

Minimize the risk of injury, loss of life, and property damage from soil and slope instability including landslides, differential settlement, and accelerated erosion.

EC-4.1 Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

EC-4.2 Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

EC-4.3 Locate new public improvements and utilities outside of areas with identified soils and/or geologic hazards (e.g., deep seated landslides in the Special Geologic Hazard Study Area and former landfills) to avoid extraordinary maintenance and operating expenses. Where the location of public improvements and utilities in such areas cannot be avoided, effective mitigation measures will be implemented.

EC-4.4 Require all new development to conform to the City of San José's Geologic Hazard Ordinance.

EC-4.5 Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and

building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 15.

EC-4.6 Evaluate development proposed in areas with soils containing naturally occurring asbestos (i.e., serpentinite) that would require ground disturbance and/or development of new residential or other sensitive uses, for risks to people from airborne asbestos particles during construction and postconstruction periods. Hazards shall be assessed, at minimum, using guidelines and regulations of the Bay Area Air Quality Management District and the California Air Resources Board.

EC-4.7 Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

Goal EC-5 – Flooding Hazards

Protect the community from flooding and inundation and preserve the natural attributes of local floodplains and floodways.

EC-5.1 The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the “100-year” flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.

EC-5.2 Allow development only when adequate mitigation measures are incorporated into the project design to prevent or minimize siltation of streams, flood protection ponds, and reservoirs.

EC-5.3 Preserve designated floodway areas for non-urban uses.

EC-5.4 Develop flood control facilities in cooperation with the Santa Clara Valley Water District to protect areas from the occurrence of the “1%” or “100-year” flood or less frequent flood events when required by the State.

Goal EC-6 – Hazardous Materials

Protect the community from the risks inherent in the transport, distribution, use, storage, and disposal of hazardous materials.

EC-6.1 Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, state and federal laws, regulations and guidelines.

EC-6.2 Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Require proper disposal of hazardous materials and wastes at licensed facilities.

EC-6.4 Require all proposals for new or expanded facilities that handle hazardous materials that could impact sensitive uses off-site to include adequate mitigation to reduce identified hazardous materials impacts to less than significant levels.

EC-6.5 The City shall designate transportation routes to and from hazardous waste facilities as part of the permitting process in order to minimize adverse impacts on

surrounding land uses and to minimize travel distances along residential and other non-industrial frontages.

EC-6.6 Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.

EC-6.7 Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released without the incorporation of adequate mitigation or separation buffers between uses.

Goal EC-7 – Environmental Contamination

Protect the community and environment from exposure to hazardous soil, soil vapor, groundwater, and indoor air contamination and hazardous building materials in existing and proposed structures and developments and on public properties, such as parks and trails.

EC-7.1 For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

EC-7.2 Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and

groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.

EC-7.3 Where a property is located in near proximity of known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City's Environmental Compliance Officer and appropriate regional, state and federal agencies prior to approval of a development or redevelopment project.

EC-7.4 On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.

EC-7.5 On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.

Consistency Findings. The Project is consistent with and implements General Plan Goals EC-3 through EC - 7 and applicable policies. The Project site is not located within an active earthquake fault zone under the Alquist-Priolo Special Studies Zone Act and will not directly or indirectly cause adverse effects related to fault rupture. The design of the Project's buildings, structures, and infrastructure will comply with California Building Code (CBC) requirements in order to significantly reduce the risk of damage to structures caused by strong seismic ground shaking. Pursuant to the CBC, the Project will prepare a final, design-level geotechnical investigation and accompanying report to evaluate all

identified geotechnical hazards, including liquefaction, and provide design recommendations to address any liquefaction risks. Mitigation Measures GE-1 and GE-3 will be incorporated to reduce the potential impacts of liquefaction and expansive soils to less than significant levels. Further, Project buildings will meet all applicable City Building and Fire Code requirements, and a Public Works Certificate of Geologic Hazard Clearance will be obtained prior to issuance of any grading or building permits. The Landslide Inventory Map of the San José West Quadrangle by Weigers indicates that there are no active or historic landslides within the project site and therefore, there is no landslide hazard.

The Project will obtain a Construction General Permit pursuant to the Clean Water Act requiring the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP will implement specific best management practices (BPMs) designed to prevent sediment and pollutants from coming into contact with stormwater and moving off-site into receiving waters. Specifically, the SWPPP will help prevent site runoff of any potentially hazardous materials into Los Gatos Creek and Guadalupe River. Consistent with City policies, the Project will include placement of straw wattles, silt fences, and other erosion control measures to reduce the potential for erosion or siltation near waterways, in conformance with applicable development design standards and guidelines. To reduce any other potential water quality impacts associated with in-stream activities and increased runoff during construction, the Project will incorporate Mitigation Measures HY-1 and BI-1a. Mitigation Measures HY-3a and HY-3b will provide for flood risk reduction and stream rehabilitation (if needed).

The Project will upgrade green stormwater infrastructure to accommodate stormwater drainage or tie into the City's storm drain network. Project design includes an improved storm drain network that could incorporate stormwater facilities with bioretention, flow-through planters, pervious paving, green roofs, and possibly rainwater harvesting or infiltration facilities. Additionally, the Project is designed such that the ground floor of buildings would be flood-proofed or constructed at an elevation outside of the modeled Zone A of the 1% (100-year) flood plain. The Project proposes flood control improvements

which would serve to decrease the portion of the site within the floodplain. The Project proposes replacement of the existing West San Fernando Bridge with a new clear span bridge and rehabilitation of a section of Los Gatos Creek including removal of debris such as debris and logjams and ongoing maintenance. The Project will include Mitigation Measure HY-3a to require flood risk analysis and modeling.

All hazardous materials associated with the Project will be used, stored, transported, and disposed of in compliance with the code requirements of the City of San José Fire Department, the San José–Santa Clara Wastewater Treatment Facility, the SCCDEH, and Caltrans. Project contractors will prepare and implement a Hazardous Materials Business Plan providing that hazardous materials used during construction be used and stored properly in appropriate containers, with secondary containment as needed to contain a potential release. Additionally, before grading, trenching, or excavation, or structure demolition on the Project site, Project applicant will retain a qualified professional to prepare a site-specific health and safety plan in accordance with federal Occupational Safety and Health Administration regulations and California Occupational Safety and Health Administration regulations. The Project will include Mitigation Measures HA-3a, HA-3b, HA-3c, HA-3d to reduce the risk of accidental spill, seepage from existing site conditions, or exceedances of indoor air standards, to less than significant levels.

Goal IN-1 – General Provision of Infrastructure

Provide and maintain adequate water, wastewater, stormwater, water treatment, solid waste and recycling, and recycled water infrastructure to support the needs of the City's residents and businesses.

IN-1.5 Require new development to provide adequate facilities or pay its fair share of the cost for facilities needed to provide services to accommodate growth without adversely impacting current service levels.

IN-1.7 Implement financing strategies, including assessment of fees and establishment of financing mechanisms, to construct and maintain needed infrastructure that maintains established service levels and mitigates development impacts to these systems (e.g., pay capital costs associated with existing infrastructure that has inadequate capacity to serve new development and contribute toward operations and maintenance costs for upgraded infrastructure facilities).

IN-1.11 Locate and design utilities to avoid or minimize impacts to environmentally sensitive areas and habitats.

Goal IN-3 – Water Supply, Sanitary Sewer and Storm Drainage

Provide water supply, sanitary sewer, and storm drainage infrastructure facilities to meet future growth planned within the City, to assure high-quality service to existing and future residents, and to fulfill all applicable local, State and Federal regulatory requirements.

IN-3.1 Achieve minimum level of services:

- For sanitary sewers, achieve a minimum level of service “D” or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines.
- For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal regulatory requirements.

IN-3.3 Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs,

there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.

IN-3.4 Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to:

- Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters.
- Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems.
- Ensure adequate funding and timely completion of the most critically needed sewer capacity projects.
- Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.

IN-3.5 Require mitigation for development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D". Mitigation measures to improve the LOS to "D" or better can be provided by either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.

IN-3.9 Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

Goal IN-4 – Wastewater Treatment and Water Reclamation

Provide, maintain and operate wastewater treatment and water reclamation facilities to support City development goals and planned future growth through the implementation of innovative technologies and operational practices and to fulfill all applicable local, State and federal regulatory requirements.

IN-4.1 Monitor and regulate growth so that the cumulative wastewater treatment demand of all development can be accommodated by San José's share of the treatment capacity at the San José/Santa Clara Regional Wastewater Facility.

IN-4.2 Maintain adequate operational capacity for wastewater treatment and water reclamation facilities to accommodate the City's economic and population growth.

IN-4.3 Adopt and implement new technologies for the operation of wastewater treatment and water reclamation facilities to achieve greater safety, energy efficiency and environmental benefit.

IN-4.4 Maintain and operate wastewater treatment and water reclamation facilities in compliance with all applicable local, State and federal clean water, clean air, and health and safety regulatory requirements.

IN-4.6 Encourage water conservation and other programs which result in reduced demand for wastewater treatment capacity.

Goal IN-5 – Solid Waste-Materials Recovery / Landfill

Develop and maintain materials recovery and landfill facilities to meet community needs, advance the City's Zero Waste goals and to comply with applicable regulatory requirements.

IN-5.3 Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.

IN-5.7 Achieve a high level of public awareness of solid waste issues and alternatives to use of landfills.

Consistency Findings. The Project is consistent with and implements Goals IN-1, IN-3, IN-4, and IN-5 and applicable policies. The Project proposes a District Systems approach for delivery of on-site utilities, including designated infrastructure zones with up to two (2) on-site centralized utility plants totaling up to 130,000 gsf and various other infrastructure improvements. The District Systems approach would reduce the Project's on-site GHG emissions by consolidating and centralizing the Project's infrastructure, including heating and cooling, electricity generation and distribution, and on-site wastewater treatment and recycled water distribution. District Systems would improve the overall efficiency of buildings. The use of District Systems would result in certain benefits, including reduced potable water consumption and reduced electrical consumption compared to traditional utility systems. The District Systems approach will also reduce the Project's reliance on municipal systems, including sanitary sewer, and regional systems, such as recycled water.

The Project will be in compliance with the City of San José's local recycling and composting ordinances. Per Resolution 74077, the City established a goal of reducing the amount to be landfilled by 75 percent by 2013 and zero waste by 2022. "Zero waste" is defined as landfilling no more than 10 percent of waste or recycling 90 percent. The

Project would also comply with diversion targets in accordance with the City's Zero Waste Strategic Plan 2022. The Project will have an 84 percent waste diversion rate, higher than the 66 percent diversion rate achieved citywide in 2015. At a minimum, the Project's construction would be consistent with the Construction and Demolition Diversion Program in Part 15, Chapter 9 of the San José Municipal Code. The Project will also consider local, recycled, and reused materials as part of the LEED ND Gold certification process. Additionally, the Project will directly generate tens of thousands of permanent jobs, a portion of which would be "green." Green jobs would support eligibility for LEED ND Gold certification.

Consistent with Goal IN-3 and applicable policies, the Project will provide water supply, sanitary sewer, and storm drainage infrastructure facilities to meet future growth planned as a result of the Project. The Downtown West Environmental Impact Report analyzed and determined that the Project would not result in significant environmental impacts related to water supply as confirmed by a Water Supply Assessment. The Project would result in an increase in population on the Project site, leading to an increased demand for potable water; however, the Project would use water provided by the San Jose Water Company, which has multiple sources of water. The Project's anticipated net increase in water demand can be met by the San Jose Water Company even without the use of recycled water. Under the City's policy, new developments must meet a level of service of D or better in order for a sewer main to adequately serve development. At LOS D, the sewer main runs full during peaking conditions. For the two main sanitary sewer trunk lines flowing through the project site, the Lincoln Line is flowing at approximately half-full during dry-weather flows and the Sunoi Line is flowing at greater than 2/3s full in dry conditions. The Downtown West Environmental Impact Report further analyzed and determined that the Project, in combination with past, present, existing, approved, pending, and reasonably foreseeable projects in the vicinity, would not contribute considerably to cumulative impacts on stormwater utility systems. While the Project would increase density beyond what was previously considered in the Diridon Station Area Plan, the Project includes stormwater infrastructure improvements (bioretention, flow-through

planters, pervious paving, green roofs, etc.) that would fully address stormwater demands for the Project.

The use of District Systems to treat wastewater and provide recycled water will both offset Project-related impacts and maintain capacity in municipal and regional systems. Further, and notwithstanding that the Project will incorporate onsite wastewater treatment, the Project applicant will pay fees as otherwise required under Title 15.16 of the Municipal Code for connection to the sanitary sewer system and for treatment plant capacity.

Chapter 4: Quality of Life

Goal CD-1 – Attractive City

Create a well-designed, unique, and vibrant public realm with appropriate uses and facilities to maximize pedestrian activity; support community interaction; and attract residents, business, and visitors to San José.

CD-1.1 Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

CD-1.3 Further the Major Strategies of this Plan to focus growth in appropriate locations; design complete streets for people; promote Grand Boulevards, Main Streets, and Downtown; support transit; and foster a healthful community.

CD-1.5 Encourage incorporation of publicly accessible spaces, such as plazas or squares, into new and existing commercial and mixed-use developments.

CD-1.6 Promote vibrant, publicly accessible spaces that encourage gathering and other active uses that may be either spontaneous or programmed. Place a variety

of uses adjacent to public spaces at sufficient densities to create critical mass of people who will activate the space throughout the day and night.

CD-1.10 Promote shared parking arrangements between private uses and the provision of commonly accessible commercial or public parking facilities which can serve multiple users in lieu of providing individual off-street parking on a property-by-property basis. Consider in-lieu parking fees or other policy actions to support this goal.

CD-1.12 Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

CD-1.15 Consider the relationship between street design, use of the public right-of-way, and the form and uses of adjoining development. Address this relationship in the Urban Village Planning process, development of new zoning ordinances, and the review of new development proposals in order to promote a well-designed, active, and complete visual street environment.

CD-1.24 Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse affect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

CD-1.25 Apply Riparian Corridor Goals and Policies of this Plan when reviewing development adjacent to creeks.

- Development adjacent to creekside areas should incorporate compatible design and landscaping, including appropriate setbacks and plant species that are native to the area or are compatible with native species.
- Development should maximize visual and physical access to creeks from the public right-of-way while protecting the natural ecosystem. Consider whether designs could incorporate linear parks along creeks or accommodate them in the future.

Consistency Findings. The Project will provide a unique and vibrant public realm with appropriate uses and facilities to maximize pedestrian activity, support community interaction, and attract residents, business, and visitors. The DWDSG, a component of the Downtown West PD Permit, establishes standards and guidelines that support high quality architecture and site design, a complementary mix of land uses and diverse programming that guide the relationship between land uses and the public realm. The DWDSG includes standards and guidelines in the areas of land use, open space, buildings, mobility, lighting and signage and sustainability. The DWDSG standards and guidelines reflect the unique character of the site, leveraging the proximity of Diridon Station, by promoting design strategies that prioritize pedestrian and bicyclists, connect residents, employees, and visitors to nature, and offer a diverse experience through a complementary mix of uses. The Project will provide a total of approximately 15 acres of publicly accessible open space, including parks, plazas, green spaces, mid-block passages, riparian setbacks, and trails. The Project's open space network will support a range of activities that relate to adjacent land uses and buildings while complementing new development and neighboring communities.

New development within Downtown West will further activate and enhance the experience of the public realm through the distribution of ground floor active uses

throughout Downtown West and building design standards that emphasize transparency, facade articulation, and materials—particularly within the Pedestrian and Podium levels (up to 70' in height). Active uses, which include a wide range of uses authorized under the Downtown West PD Zoning District and GDP, will create an attractive pedestrian environment along building frontages and enliven streetscapes and open spaces. Skyline level building design standards within Downtown West will establish a varied skyline including a requirement to differentiate buildings from their neighbors. Buildings—and Downtown West as a whole—are also held to sustainability performance standards through AB900 and LEED.

The Project includes a commitment to a TDM Plan with a performance goal of reducing the share of office and residential trips by single occupancy vehicles (SOVs). TDM measures will include a set of base commitments and supplemental optional measures to achieve the performance goals. The Project proposes a public realm that enhances connections to nearby regional transit services, improvements to pedestrian and bicycle infrastructure throughout the district and linkages to adjacent neighborhoods and improvements to regional trails. The Project proposes limited parking supplies on-site including no more than 4,800 commercial parking spaces and no more than 2,360 parking spaces. A portion of the residential spaces could be made available as shared-use spaces for commercial uses.

The Project will provide for approximately 2,280 new trees throughout Downtown West. An Arborist Report (dated March 25, 2020) prepared for the Project, conducted a tree inventory and determined that a significant number of trees were in declining health. Of the 537 trees inventoried, 254 of the trees are classified as Ordinance Trees under the City's regulations. The removed trees would be replaced according to tree replacement ratios required by the City. Based on the City's tree replacement ratios, a total number of 1,507 replacement trees would be required. Approximately 2,280 new trees will be planted throughout Downtown West, exceeding the number of replacement trees required under the City's requirements. The removal of street trees and replacement with 2,280 new trees is consistent with the General Plan's policy of providing replacement trees to

maintain and enhance the public realm. Beyond the quantity of new trees, the project prescribes the quality of native planting palette to further General Plan ecological goals by incorporating native trees and vegetation to enhance the Community Forest.

Development of Downtown West adjacent to Los Gatos Creek and Guadalupe River includes appropriate setbacks and compatible plant species to maximize visual and physical access to creeks from the public right-of-way while protecting the natural ecosystem. The Project is consistent with and incorporates goals and policies of the Riparian Corridor Goals and Policies. Portions of the Project located within 300 feet of riparian corridors are subject to Section A of City Council Policy 6-34, Riparian Corridor Protection and Bird-Safe Design (“Policy 6-34”). In addition, the Project as a whole is subject to the Santa Clara Valley Habitat Plan (“VHP”). The DWDSG includes standards and guidelines to minimize lighting within the riparian corridor and setback areas, avoid light and glare impacts to wildlife within a riparian corridor, and keep lighting adjacent to riparian areas as low in height as feasible and directing it downward, with light sources not visible from riparian areas.

Goal CD-2 – Function

Create integrated public and private areas and uses that work together to support businesses and to promote pedestrian activity and multi-modal transportation.

CD-2.3 Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate.

1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.

2. Strongly discourage drive-through services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area.
3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies.
4. Locate retail and other active uses at the street level.
5. Create easily identifiable and accessible building entrances located on street frontages or paseos.
6. Accommodate the physical needs of elderly populations and persons with disabilities.
7. Integrate existing or proposed transit stops into project designs.

CD-2.4 Incorporate public spaces (squares, plazas, etc.) into private developments to encourage social interaction, particularly where such spaces promote symbiotic relationships between businesses, residents, and visitors.

CD-2.11 Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the applicable Land Use / Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface

parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks above parking structures.

Goal CD-3 – Connections

Maintain a network of publicly accessible streets and pathways that are safe and convenient for walking and bicycling and minimize automobile use; that encourage social interaction; and that increase pedestrian activity, multi-modal transit use, environmental sustainability, economic growth, and public health.

CD-3.1 Promote development patterns that cause areas to function and provide connectivity as a whole rather than as individual developments.

CD-3.2 Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.

CD-3.3 Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

CD-3.4 Encourage pedestrian cross-access connections between adjacent properties and require pedestrian and bicycle connections to streets and other public spaces, with particular attention and priority given to providing convenient access to transit facilities. Provide pedestrian and vehicular connections with cross-access easements within and between new and existing developments to encourage walking and minimize interruptions by parking areas and curb cuts.

CD-3.5 Encourage shared and alternative parking arrangements and allow parking reductions when warranted by parking demand.

CD-3.7 Encourage development to maximize pedestrian, bicycle, and vehicular connections to adjacent existing and planned neighborhoods and community facilities. Use cul-de-sacs only when no current or future options exist to connect one area to another, or if such design would help preclude development from extending to areas where it is not planned.

CD-3.11 Encourage new development to connect with the surrounding community and continue the existing street grid to integrate with the neighborhood.

Goal CD-4 – Compatibility

Provide aesthetically pleasing streetscapes and new development that preserves and builds on the unique characteristics of the local area and contributes to a distinctive neighborhood or community identity.

CD-4.5 For new development in transition areas between identified Growth Areas and non-growth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher intensity areas and that reduces potential shade, shadow, massing, viewshed, or other land use compatibility concerns.

CD-4.9 For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Goal CD-5 – Community Health, Safety, and Wellness

Create great public places where the built environment creates attractive and vibrant spaces, provides a safe and healthful setting, fosters interaction among community members, and improves quality of life.

CD-5.1 Design areas to promote pedestrian and bicycle movements, to facilitate interaction between community members, and to strengthen the sense of community.

CD-5.2 Foster a culture of walking by designing walkable urban spaces; strategically locating jobs, residences and commercial amenities; providing incentives for alternative commute modes; and partnering with community groups and health services organizations to promote healthful life-styles for San José residents.

CD-5.8 Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

CD-5.9 To promote safety and to minimize noise and vibration impacts in residential and working environments, design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units, yards or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials, and the like. To the extent possible, devote areas of development closest to an adjacent railroad line to use as parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth. In industrial facilities, where the primary function is the production, processing or storage of hazardous materials, for new development follow the setback guidelines and other protective measures called for in the City's Industrial Design Guidelines when such facilities are to be located adjacent to or near a main railroad line.

Goal VN-1 – Vibrant, Attractive, and Complete Neighborhoods

Develop new and preserve and enhance existing neighborhoods to be vibrant, attractive and complete.

VN-1.7 Use new development within neighborhoods to enhance the public realm, provide for direct and convenient pedestrian access, and visually connect to the surrounding neighborhood. As opportunities arise, improve existing development to meet these objectives as well.

Consistency Findings. The Project is consistent with General Plan goals and policies CD-2, CD-3, CD-4, CD-5, and VN-1 as it will create public spaces that integrate with private areas to support businesses, promote pedestrian activity and multi-modal transportation and maintain a network of public streets and pathways that are safe and convenient for walking and bicycling.

The Project re-envision a significant portion of the DSAP as a vibrant transit-oriented urban destination consisting of a mix of land uses that is well-integrated with the intermodal transit station, adjacent neighborhoods, and greater Downtown area. The Project includes improvements to the active streetscape, the area of the street outside the curb-to-curb including sidewalks, bikeways, and planning areas, that serves as multi-purpose space for active mobility circulation. The Project establishes an extensive pedestrian network to promote pedestrian activity and provide pedestrian connections within Downtown West and neighboring communities and will provide over 5 miles of new walking paths, trails, and bikeways. The Downtown West Design Standards and Guidelines (“DWDSG”), which builds upon the Complete Streets Design Standards and Guidelines (“CSDSG”) standards and guidelines, includes Project-specific standards and guidelines that enhance the pedestrian network by establishing sidewalk zones (frontage zone, through zone, and furnishing zone) to improve the pedestrian experience and increase safety for people walking and biking within Downtown West and to adjacent neighborhoods. The Project’s mobility network - consisting of its pedestrian, bicycle and micro-mobility, transit networks, and vehicular networks – includes the extension of the existing street grid and is designed to connect transit with nature and surrounding

neighborhoods. The mobility network prioritizes pedestrian and bicycle connections by providing protected bicycle lanes, generous sidewalk widths, and shared streets which are curbless streets that prioritize pedestrians and limit vehicle traffic.

The Project is further consistent with the General Plan as development within Downtown West will activate and enhance pedestrian activity with the distribution of ground floor active uses throughout the Project site. Active uses, which include a wide range of uses authorized under the Downtown West PD Zoning District and GDP, will generate pedestrian activity on the ground level of buildings, especially those fronting streets and open spaces. The Project will create and maintain a pedestrian-friendly environment by requiring certain frontages identified in the DWDSG to include an entry to an active use to further enliven streetscapes and open spaces. The Project also includes mid-block passages, small-scale pedestrian passages that provide pedestrian connectivity between neighborhoods and to transit. The DWDSG (Section 4.6) includes standards, guidelines and contextual considerations for mid-block passages that promote mid-block passages as pedestrian connections between buildings, open space, and transit. The Project will provide a total of approximately 15 acres of publicly accessible open space, including parks, plazas, green spaces, mid-block passages, riparian setbacks, and trails. The open space network will include a minimum of 4.8 acres of City-Dedicated Open Space, which consists of City-Dedicated Parks and portions of the Los Gatos Creek Multi-Use Trail that will be dedicated to the City. Approximately 10.2 acres of Project-Sponsor Owned Publicly Accessible Open Space will be provided and distributed throughout Downtown West. The Project's open space network will encourage social interaction and support a range of activities and programmatic elements (e.g. outdoor performance areas, plazas, neighborhood amenities, shared use paths that connect Downtown West to the nearby transit) that will support community health and wellness, and encourage social interaction and activities that complement adjacent land uses and the neighboring community.

Development of Downtown West is consistent with the Project site's Commercial and Downtown Commercial land use designations. The Project is also consistent with the General Plan's policy of minimizing surface parking lots, except as an interim use. The

Project would replace surface parking lots with development that includes commercial, residential and open space development and structure parking. The Project includes public, shared-district parking facilities near entries that serve office, active-use, transit, and SAP Center event parking.

The Project will comply with FAA regulations including those that require submittal of a Form 7460-1 for any structure higher than 200 feet, initiating preparation of an aeronautical study to determine whether the structure would be a hazard to aviation. For portions of the Project site that are within the Airport Influence Area (AIA) for the Mineta San Jose International Airport, a two-thirds vote of the City Council to override the Airport Land Use Commission's determination of inconsistency with the Comprehensive Land Use Plan's height and noise policies is required and is proposed. Project Conditions of Approval include aviation easements in the AIA, as well as notice to prospective residents of dwelling units where outdoor use areas would be affected by Airport-related noise exceeding 65 dBA CNEL. Moreover, a Condition of Approval in the Downtown West PD Permit requires a "Determination of No Hazard" to Air Navigation be issued by the FAA for all buildings prior to issuance of any building permits.

Goal CD-6 – Downtown Urban Design

Promote and achieve the Downtown's full potential as a regional destination and diverse cultural, recreational, civic, and employment center through distinctive and high-quality design.

CD-6.1 Recognize Downtown as the most vibrant urban area of San José and maximize development potential and overall density within the Downtown.

CD-6.2 Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.

CD-6.3 New development within the Downtown Growth Area that is adjacent to existing neighborhoods that are planned for lower intensity development should

provide transitions in height, bulk and scale to ensure that the development is compatible with and respects the character of these neighborhoods, as they are designated in the General Plan.

CD-6.4 Design publicly-accessible and welcoming areas, allow easy access and facilitate movement of pedestrians and bicyclists throughout the Downtown, and provide strong physical and visual connections across potential barriers (i.e., roadways and creeks). Promote Downtown as a focal point for community activity (e.g., festivals, parades, etc.) for the entire City.

CD-6.5 Design quality publicly-accessible open spaces at appropriate locations that enhance the pedestrian experience and attract people to the Downtown. Use appropriate design, scale, and edge treatment to define, and create publicly accessible spaces that positively contribute to the character of the area and provide public access to community gathering, recreational, artistic, cultural, or natural amenities.

CD-6.7 Promote development that contributes to a dramatic urban skyline. Encourage variations in building massing and form, especially for buildings taller than 75 feet, to create distinctive silhouettes for the Downtown skyline.

Consistency Findings. The Project is consistent with Goal CD-6 and applicable policies set forth above. The Project is located within the General Plan's Downtown Growth Area and furthers the City's strategy of developing Downtown San Jose into a major urban center that is recognized as the most vibrant urban area of San Jose and maximizes development potential and overall density within the Downtown. The Project provides a balanced mix of commercial and residential uses that create a vibrant, mixed-use transit-oriented neighborhood with approximately half of the developable area proposed to be developed for non-office uses, including residential and active uses. The General Plan land use designations for the Project are Downtown and Commercial Downtown, pursuant to the General Plan Amendment approved by Resolution No. _____. The

Downtown land use designation allows office, retail, service, residential and entertainment uses at very high intensities, unless incompatible with other major policies within the General Plan. The Downtown land use designation allows a density of up to 800 dwelling units per acre and FAR up to 30.0.

The Project is located within the Downtown West PD Zoning District (approved by Ordinance No. __) and is subject to the use regulations and development standards set forth in the General Development Plan and the Downtown West PD Permit (approved by Resolution No. __). The Downtown West Design Standards and Guidelines (DWDSG), which are a component of the Downtown West PD Permit, establish design standards and guidelines that strengthen Downtown's status as a major urban center. The DWDSG includes standards that will promote Downtown's full potential as a regional destination by: distributing land uses throughout the Project site in a manner that is compatible with adjacent uses, surrounding neighborhoods, and adjacent open spaces; establishing an open space network that improves access and connectivity along the riparian corridors and supports biodiversity within a high-density urban context through ecologically beneficial landscape design; providing areas for outdoor seating and commercial activity (such as retail, cafes, and restaurants), green spaces, landscaping, mid-block passages, riparian setbacks, and trails; improving the public realm through by promoting transit access and pedestrian and bicycle circulation; facilitating connectivity, both within the site and to and from surrounding neighborhoods. The Project will also promote development that promotes variations in building massing and form and establishing variation in the skyline to better respond to contextual adjacencies, including historic resources, existing single-family residential neighborhoods, and Los Gatos Creek and the open space program. For example, new development within blocks D5, D6, D8-13, F6, H1, H5, and H6 include lower height limits under the DWDSG to respond to better respond to the character of surrounding neighborhoods. The DWDSG sets forth maximum building height standards for development of the site and encourages variations in building massing and form to create distinctive architecture and building silhouettes in Downtown. The Project's transportation network is therefore designed to be publicly-accessible and to allow easy access and facilitate movement of pedestrians and bicyclists throughout the

Downtown. The Project also includes a total of approximately 15 acres of parks and open space that will be distributed throughout Downtown West in appropriate locations that enhance the pedestrian experience and attract people to the Downtown. The DWDSG includes park specific design standards and guidelines that create publicly accessible spaces that positively contribute to the character of the area and promote open spaces as areas for community gathering, recreational, artistic, cultural, or natural amenities.

Goal CD-8 – Building Height

Regulate the height of new development to avoid adverse land use incompatibility while providing maximum opportunity for the achievement of the *Envision General Plan* goals for economic development and the provision of new housing within the identified Growth Areas.

CD-8.3 While the height of new development should be regulated to avoid longterm land use incompatibilities, ensure proposed Zoning Ordinance changes establish adequate maximum building heights to allow full build-out of the planned job and housing growth capacity within each of the identified Growth Areas.

CD-8.4 For properties subject to a Planned Development Zoning which makes reference to a General Plan height limit and/or which does not specify a height limit, provide that the allowable height is the greater of either 35 feet or the height that was allowed through the General Plan at the time of the adoption of the Planned Development Zoning.

Consistency Findings. The Project is consistent with Goal CD-8 and applicable policies identified above. As stated in the Downtown West Environmental Impact Report, in March 2019 the City Council directed staff to develop increased height limits for portions of Downtown, including the Project site, to allow increased housing and job growth Downtown. Evidence presented to the City Council supported height limits ranging from

160-290 feet above grade west of SR 87. The Project's height limits are consistent with this range.

Goal H-1 Housing —Social Equity and Diversity.

Provide housing throughout our City in a range of residential densities, especially at higher densities, and product types, including rental and for-sale housing, to address the needs of an economically, demographically, and culturally diverse population.

H-1.2: Facilitate the provision of housing sites and structures across location, type, price and status as rental or ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless and individuals with special needs.

Goal H-2 Housing —Affordable Housing. Preserve and improve San José's existing affordable housing stock and increase its supply such that 15% or more of the new housing stock developed is affordable to low, very low and extremely low income households. Nothing in this language is intended, directly or indirectly, to impose any requirement on any individual housing project to include an amount or percentage of affordable units. Nothing in this language is intended to, directly or indirectly, result in a finding or determination that an individual housing project is inconsistent with the General Plan, if it does not contain any affordable housing units.

H-2.2: Integrate affordable housing in identified growth locations and where other housing opportunities may exist, consistent with Envision General Plan.

Consistency Findings. The Project provides for the development of up to 5,900 residential units. Project's General Plan Amendment includes changing the land use designation of the site to Downtown and Commercial Downtown. The Downtown designation allows residential uses (in addition to other non-residential uses) to be developed up to 800 dwelling units per acre, increasing the allowable density on the site. The Project facilitates the provision of housing across the site that responds to needs of various economic and demographic segments of the community. The Project includes a robust affordable

housing program that supports the goal for 25% of new housing in the DSAP to be affordable at a mix of affordability levels, ranging from extremely low-income to moderate income. The residential portion of the Project will comply with the City's Inclusionary Housing Ordinance (IHO) pursuant to the Development Agreement by dedicating three pad ready sites to the City to be used for the construction of approximately 600 units for extremely low to low-income households; paying IHO fees for residential development once the credit from the dedicated land sites is exhausted, and providing 5% of the units built on-site for moderate income households to be integrated with market-rate housing. The commercial office portion of the Project will pay the required Commercial Linkage Fee for office construction, which could generate up to \$87.6 million for affordable housing. The Project also provides a strong Community Benefits package, where the project sponsor will provide an additional 30 moderate-income units, integrated onsite with market-rate housing and provide early dedication to the City of an additional 0.8-acre site located in the DSAP, outside of Downtown West. The City is recommending rezoning of this site, which, if approved, could allow for potentially 200 units of affordable housing. The Community Benefits package also includes the establishment of a Community Stabilization and Opportunity Pathways Fund, which will serve as a resource to minimize displacement from rising costs and to maximize opportunities for youth and adults to participate in job opportunities through training education and support.

Goal H-4 Housing - Environmental Sustainability

Provide housing that minimizes the consumption of natural resources and advances our City's fiscal, climate change, and environmental goals.

H-4.1 Implement green building principles in the design and construction of housing and related infrastructure, in conformance with the Green Building Goals and Policies in the *Envision General Plan* and in conformance with the City's Green Building Ordinance.

H-4.2 Minimize housing's contribution to greenhouse gas emissions, and locate housing, consistent with our City's land use and transportation goals and policies, to reduce vehicle miles traveled and auto dependency.

H-4.3 Encourage the development of higher residential densities in complete, mixed use, walkable and bikeable communities to reduce energy use and greenhouse gas emissions.



Consistency Findings. *The Project is certified under Public Resources Code Section 21178 et Seq., the Jobs and Economic Improvement through Environmental Leadership Act of 2011 (Assembly Bill [AB] 900, as amended by Senate Bill 734 [2013], AB 246 [2017], and Senate Bill 7 [2021], which is currently pending approval in the California State Legislature as an environmental leadership development project and strives to optimize environmental sustainability through the design of infrastructure, buildings, and improvements to the public realm. The Project will encourage the development of higher residential densities in a mixed-use, walkable and bikeable community by providing up to 5,900 residential units, which will be distributed across the site in a mix of high-rise residential buildings, mid-rise residential buildings, and mixed-use buildings. The Project will implement green building principles in the design and construction of housing and related infrastructure in conformance with the Green Building Goals and Policies and minimize housing's contribution to greenhouse gas emissions. The Project's sustainability strategies include a commitment to meeting the AB 900 requirement of LEED Gold for the entire mixed-use plan. In addition, all new buildings greater than 10,000 square feet will comply with the City's New Construction Green Building Requirement which require all high-rise residential buildings to receive a minimum certification of LEED Certified, mid-rise residential projects to receive a minimum green building performance requirement of LEED Certified or GreenPoint Rated. As an environmental leadership development project under AB 900, the Project also must demonstrate, among other things, that it will not result in any net additional emission of GHG. The DWDSG includes a number of standards and guidelines that promote sustainable open space, building, mobility, and lighting and signage design. In particular, the Project's sustainable mobility*

design strategy seeks to reduce carbon emissions by promoting transit access and ridership, reducing use of single-occupancy vehicles, and encouraging activity mobility through streetscape improvements that include protected bike lanes, dynamic lanes, and bikeway buffers that result in a robust micro-mobility network that prioritizes walking and biking. As discussed below, the Project includes a TDM plan that would accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled. The TDM plan would reduce single occupancy vehicle use to and from the Project-site, promote car-sharing, and promote use of nearby transit, bicycle, and pedestrian facilities

The Project also proposes a District Systems approach for delivery of on-site utilities, including designated infrastructure zones with up to two (2) on-site centralized utility plants totaling up to 130,000 gsf and various other infrastructure improvements. The District Systems approach would reduce the Project's on-site GHG emissions by consolidating and centralizing the Project's infrastructure, including heating and cooling, electricity generation and distribution, and on-site wastewater treatment and recycled water distribution. District Systems would improve the overall efficiency of buildings and would result in certain benefits, including reduced potable water consumption and reduced electrical consumption compared to traditional utility systems, and reduce the Project's reliance on municipal systems, including sanitary sewer, and regional systems, such as recycled water. Such benefits advance the City's fiscal, climate change, and environmental goals.

Goal ES-1 – Education

Promote the operation of high-quality educational facilities throughout San José as a vital element to advance the City's Vision and goals for community building, economic development, social equity, and environmental leadership.

ES-1.9 Provide all pertinent information on General Plan amendments, rezonings and other development proposals to all affected school districts in a timely manner.

Goal ES-3 – Law Enforcement and Fire Protection

Provide high-quality law enforcement and fire protection services to the San José community to protect life, property and the environment through fire and crime prevention and response. Utilize land use planning, urban design and site development measures and partnerships with the community and other public agencies to support long-term community health, safety and well-being.

ES-3.1 Provide rapid and timely Level of Service response time to all emergencies:

1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls.
2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models.
4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community.
5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.

ES-3.3 Locate police and fire service facilities so that essential services can most efficiently be provided and level of service goals met. Ensure that the development of police and fire facilities and delivery of services keeps pace with development and growth of the city.

ES-3.4 Construct and maintain architecturally attractive, durable, resource-efficient, environmentally sustainable and healthful police and fire facilities to minimize operating costs, foster community engagement, and express the significant civic functions that these facilities provide for the San José community in their built form. Maintain City programs that encourage civic leadership in green building standards for all municipal facilities.

ES-3.5 Co-locate public safety facilities with other public or private uses to promote efficient use of space and provision of police and fire protection services within dense, urban portions of the city.

ES-3.6 Work with local, State, and Federal public safety agencies to promote regional cooperation in the delivery of services. Maintain mutual aid agreements with surrounding jurisdictions for emergency response.

ES-3.13 Maintain emergency traffic preemption controls for traffic signals.

Consistency Findings. The Project is consistent with and implements Goals ES-1 and ES-3 and applicable policies. As analyzed and described in the FEIR, the Project provides for a mixed-use development that would not adversely impact the provision of libraries and law enforcement and fire protection services. The Project would also include a robust community benefits package that prioritizes affordable housing, community stabilization, and opportunity pathways. The community benefits, which are further set forth in the Development Agreement, include but are not limited to: a Community Stabilization and Opportunity Pathways Fund that will support programs such as education and workforce development, small business capacity building and incubation, affordable housing preservation, homeless prevention, and homeless services; an affordable housing program that furthers the City's goal that development within the DSAP result in 25% of all residential units as affordable housing achieved through a combination of land dedication, on-site affordable units, and off-site land dedication to the City; and a 30%

local hire goal for the Project for on-site building construction, and paying state prevailing wages for all on-site construction workers.

Goal PR-1 – High Quality Facilities and Programs

Provide park lands, trails, open space, recreation amenities, and programs, nationally recognized for their excellence, which enhance the livability of the urban and suburban environments; preserve significant natural, historic, scenic and other open space resources; and meet the parks and recreation services needs of San José’s residents, workers, and visitors.

PR-1.1 Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

PR-1.2 Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

PR-1.3 Provide 500 square feet per 1,000 population of community center space.

PR-1.7 Design vibrant urban public spaces and parklands that function as community gathering and local focal points, providing opportunities for activities such as community events, festivals and/or farmers markets as well as opportunities for passive and, where possible, active recreation.

PR-1.8 Enhance existing parks and recreation facilities in built-out areas through new amenities and other improvements to ensure that residents’ needs are being met.

PR-1.9 As Urban Village areas redevelop, incorporate urban open space and parkland recreation areas through a combination of high-quality, publicly

accessible outdoor spaces provided as part of new development projects; privately or, in limited instances, publicly owned and maintained pocket parks; neighborhood parks where possible; as well as through access to trails and other park and recreation amenities.

PR-1.11 Develop an integrated parks system that connects new and existing large parks together through a network of interconnected trails and/or bike lanes/routes.

Goal PR-2 – Contribute to a Healthful Community

Build healthful communities through people, parks, and programs by providing accessible recreation opportunities that are responsive to the community's health and wellness needs.

PR-2.4 To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a 3/4 mile radius of the project site that generates the funds.

PR-2.5 Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

PR-2.6 Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or shall include one or more of these elements in its project design.

Goal PR-3 – Provide an Equitable Park System

Create a balanced park system that provides all residents access to parks, trails, open space, community centers, dog parks, skate parks, aquatics facilities, sports fields, community gardens, and other amenities.

PR-3.2 Provide access to an existing or future neighborhood park, a community park, recreational school grounds, a regional park, open space lands, and/or a major City trail within a 1/3 mile radius of all San José residents by either acquiring lands within 1/3 mile or providing safe connections to existing recreation facilities outside of the 1/3 mile radius. This is consistent with the United Nation's Urban Environmental Accords, as adopted by the City for recreation open space.

Goal PR-5 – Grand Parks

Develop and promote a series of grand parks to act as focal points for the City, its residents, and its visitors.

PR-5.5 Connect the Guadalupe River Park & Gardens to other assets in the City via a network of trails and bike paths to encourage connectivity and community and to maximize the park's use and accessibility.

Goal PR-6 – Sustainable Parks and Recreation

Provide environmentally sustainable programs, facilities, and infrastructure assets, accompanied by a network of trails and pathways throughout the City to provide an alternate means of transportation.

PR-6.2 Develop trails, parks and recreation facilities in an environmentally sensitive and fiscally sustainable manner.

PR-6.5 Design and maintain park and recreation facilities to minimize water, energy and chemical (e.g., pesticides and fertilizer) use. Incorporate native and/or drought-resistant vegetation and ground cover where appropriate.

Goal PR-7 – Interconnected Parks System

Provide an integrated system of parks connected by a citywide network of trails and pathways that provide opportunities for walking and biking for both recreation and transportation, thus fostering a healthful community.

PR-7.2 Condition land development and/or purchase property along designated Trails and Pathways Corridors in order to provide sufficient trail right-of-way and to ensure that new development adjacent to the trail and pathways corridors does not compromise safe trail access nor detract from the scenic and aesthetic qualities of the corridor. Locate trail rights-of-way consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).

Goal PR-8 – Fiscal Management of Parks and Recreation Resources

Provide fiscally sustainable recreation programs, facilities, and infrastructure assets.

PR-8.2 Encourage privately owned and maintained and publicly accessible recreation spaces that encourage community interaction; compliment the private property uses; and, when adjacent to existing and planned parks, trails, recreation facilities, or open spaces, connect them to these facilities. This policy is particularly important in dense, urban areas.

PR-8.4 Consider open space land dedications when public ownership will preserve the natural and scenic beauty, protect natural and man-made landmarks, or provide a land supply to meet future recreation needs.

PR-8.5 Encourage all developers to install and maintain trails when new development occurs adjacent to a designated trail location. Use the City's Parkland Dedication Ordinance and Park Impact Ordinance to have residential developers build trails when new residential development occurs adjacent to a designated trail location, consistent with other parkland priorities. Encourage developers or

property owners to enter into formal agreements with the City to maintain trails adjacent to their properties.

PR-8.7 Actively collaborate with school districts, utilities, and other public agencies to provide for appropriate recreation uses of their respective properties and rights-of-ways. Consideration should be given to cooperative efforts between these entities and the City to develop parks, pedestrian and bicycle trails, sports fields and recreation facilities.

PR-8.10 Encourage the development of private/commercial recreation facilities that are open to the public to help meet existing and future demands (i.e. plazas, swimming pools, fitness centers and gardens).

Consistency Findings. The Project implements Goals PR-1 to PR-3 and PR-5 to PR-8 and applicable policies, building on the existing network of adjacent parks and open spaces. The Project site currently lacks parks within the planned development area and is composed of many vacant buildings and impervious surface parking lots. The Project's open space objectives are consistent with the General Plan as the Project proposes to establish an open space network that provides approximately 15 acres of parks and open spaces that will serve Downtown West and surrounding communities, improve access to a variety of recreation within Project open spaces, and improve visibility, access, and connectivity along the riparian corridors through ecologically beneficial landscape design. The project site is currently surrounded by existing parks, with six neighborhood parks and regional parks located within 0.33 miles and eight neighborhood parks within 0.5 miles. As discussed in the Downtown West EIR, the General Plan service level goal for neighborhood- and community-serving recreational lands is 3.5 acres per 1000 residents and the regional/citywide parklands General Plan service level goal is 7.5 acres per 1000 residents throughout the entirety of the city. When analyzed city wide, the existing service level for neighborhood- and community-serving recreational lands is 2.9 acres per 1000 residents, and following the development of the Project, the parkland service levels of

neighborhood- and community-serving recreational lands will remain the same. Development of the Project will advance the City's goals to provide adequate open space and meet the General Plan service level goal for regional/Citywide parklands.

The Project, which includes a Parkland Agreement between the Project Sponsor and the City, dated ____, shall satisfy the Project Sponsor's Parkland Dedication Obligation under the City's Parkland Dedication Ordinance (Chapter 19.38 of the San José Municipal Code) through a (1) dedication of a minimum of 4.8 acres of real property for public parks and trail to the City; and (ii) construction of turnkey improvements, enhanced landscaping, and new plantings to these dedicated parks and trail, providing design and programming that would meet or exceed the requirements of the City's Parkland Dedication Ordinance; and (iii) payment of a fee of \$4850 for each Long Term Corporate Accommodation and (iv) for development of residential units in excess of four thousand (4,000), payment of in-lieu fees or use of credits as set forth in the Parkland Agreement. The Project's open space network includes a diverse range of open spaces, in addition to the 4.8 acres of City-Dedicated Open Space, which consists of City-Dedicated Parks and certain segments of the Los Gatos Creek Multi-Use Trail. The Project will provide an additional approximately 10.2 acres of Project-Sponsor Owned Publicly Accessible Open Space, which is beyond the requirements of the City's Parkland Dedication Ordinance and shall not be used to satisfy Developer's Parkland Dedication Obligation. The Project's open space network will support a range of activities and programmatic elements (e.g. outdoor performance areas, plazas, neighborhood amenities, shared use paths that connect Downtown West to the nearby transit) that will encourage social interaction and activities that complement adjacent land uses and the neighboring community and function as community gathering and local focal points. The Project's open spaces will be widely distributed throughout Downtown West and will provide a park or plaza at almost every major intersection, near each neighborhood, and no more than a block away from any location in the Project - existing and proposed open spaces will be located within a 1/3 mile radius from the Project's proposed residential blocks.

The Project's open space strategies also include design standards that specifically tailor each open space to better serve the surrounding adjacent neighborhoods. The Project's open space program will also include enhanced landscaping and new plantings on the approximately 15 acres of parks and open space for the use and enjoyment of area residents, employees, and visitors alike. The approximately 15 acres would also include programming elements such as outdoor performance spaces that would provide space for passive recreational uses, and an array of potential active recreational features along publicly accessible trails and open spaces.

The Project area also contains a portion of the last remaining incomplete section (Reach 5) of the Los Gatos Creek Trail Master Plan. The Los Gatos Creek Multi-Use Trail is an extension of the Los Gatos Trail that currently ends at the Caltrain crossing of Los Gatos Creek. The project will provide two off-street segments; one from Caltrain to Park Avenue and another from the VTA light rail north to Santa Clara Street. On-street facilities will be provided from Park Avenue to West San Fernando Street on Autumn Street. The design standards for the Los Gatos Creek Multi-Use Trail, which are set forth in the DWDSG and the City's Trail Design Guidelines, are intended to connect people to nature and the trail, extending off-street walking and biking access along Los Gatos Creek. The design of the Los Gatos Creek Multi-Use trail minimizes impacts and enhances the environment within sensitive riparian and other natural areas. The Los Gatos Creek Multi-Use Trail and the Downtown to Diridon Shared Use Path are kept outside of the Los Creek Riparian Setback to the extent possible. A creek footbridge, which can accommodate bicycles for convenience and crossing, and passive boardwalk are contemplated for additional accessibility and creek views to promote use and enhance the the user experience. In addition, the Project will include a series of off-site transportation network improvements to prioritize pedestrian and bicycle connections and linkages to parks and open spaces and trails.

Chapter 5: LAND USE AND TRANSPORTATION

Goal LU-1 – General Land Use

Establish a land use pattern that fosters a more fiscally and environmentally sustainable, safe, and livable city.

LU-1.1 Foster development patterns that will achieve a complete community in San José, particularly with respect to increasing jobs and economic development and increasing the City's jobs-to-employed resident ratio while recognizing the importance of housing and a resident workforce.

LU-1.2 Encourage Walking. Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.

LU-1.3 Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.

LU-1.5 Encourage developers of large commercial and industrial projects to identify and appropriately address the potential need generated by these projects for child care facilities or services. The provision of on-site child care may be considered for a single tenant building in industrial areas primarily for use by employees of the industrial facility. Do not locate off-site, freestanding child care facilities within industrial areas, except for those areas that have been designated for such uses.

LU-1.6 With new development or expansion and improvement of existing development or uses, incorporate measures to comply with current Federal, State, and local standards.

LU-1.7 Locate employee-intensive commercial and industrial uses within walking distance of transit stops. Encourage public transit providers to provide or increase services to areas with high concentrations of residents, workers, or visitors.

LU-1.8 Collaborate with appropriate external agencies with land use authority or regulations in San José. Consider applicable Airport Land Use Commission, Santa Clara Valley Water District, Local Area Formation Commission, and other policies from outside agencies when reviewing new or expanded uses.

Goal LU-2 – Growth Areas

Focus new growth into identified Growth Areas to preserve and protect the quality of existing neighborhoods, including mobilehome parks, while establishing new mixed use neighborhoods with a compact and dense form that is attractive to the City's projected demographics i.e., a young and senior population, and that supports walking, provides opportunities to incorporate retail and other services in a mixed-use format, and facilitates transit use.

LU-2.1 Provide significant job and housing growth capacity within strategically identified "Growth Areas" in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.

Goal LU-3 – Downtown

Strengthen Downtown as a regional job, entertainment, and cultural destination and as the symbolic heart of San José.

LU-3.1 Provide maximum flexibility in mixing uses throughout the Downtown area. Support intensive employment, entertainment, cultural, public/quasi-public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the *Envision General Plan*.

LU-3.2 Support Downtown as a primary employment center in the region, especially for financial institutions, insurance companies, government offices,

professional services, information and communication technology companies, and businesses related to conventions.

LU-3.3 Support the development of Downtown as an arts, cultural, and entertainment center for San José and the region. Promote special events, parades, celebrations, performances, concerts, and festivals.

LU-3.4 Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of this Plan.

LU-3.5 Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.

LU-3.8 Leverage Downtown's urban nature and promote projects that will help achieve economic, fiscal, environmental, cultural, transportation, social, or other objectives of this plan.

Consistency Findings. The Project is consistent with and would implement General Plan Goals LU-1, LU-2, LU-3 and applicable policies. The Project is located in the Downtown Growth Area and within the boundaries of the Diridon Station Area Plan. Consistent with the General Plan's Major Strategy #9, the Project will support the continued growth of Downtown San Jose into a unique and important employment and residential neighborhood. The Project consists of a mix of complementary land uses, including: up to 7.3 million gross square feet (gsf) of commercial office space; up to 5,900 residential units; up to 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community, institutional, childcare and education, maker, non-profit, and small-format office spaces); up to 300 hotel rooms; up to 800 limited-term corporate

accommodations; up to 100,000 gsf of event and conference space; up to 4,800 publicly accessible commercial parking spaces and up to 2,360 unbundled parking spaces for residential use; a District Systems approach to delivery of on-site utilities, including designated infrastructure zones with up to two (2) on-site centralized utility plants totaling up to 130,000 gsf; one or more on-site logistics centers that would occupy a total of about 100,000 gsf to serve the commercial on-site uses; a total of approximately 15 acres of parks and open space. The Project will develop a significant portion of the DSAP into a dense, mixed-use neighborhood that includes not only workplaces, but housing, active commercial and open spaces with the amenities and services necessary to support a community of residents and workers. The Downtown West PD Zoning District authorizes a diverse mix of land uses and authorizes special events and limited-term uses, including but not limited to open space program activities, markets and fairs, exhibits, festivals, circuses, and musical and theatrical performances. Such special events and limited term uses support the development of Downtown West into a site that serves as a focal point for residents, businesses, and visitors and an arts and cultural center for San Jose. The Project contemplates balancing a mix of uses with improvements to the public realm that optimize connections to nearby regional transit services and promote pedestrian and cycling linkages to adjacent neighborhoods. The Project will increase jobs and economic development, increasing the City's jobs to employed resident ratio while recognizing the importance of housing and a resident workforce. The Project proposes 7.3 million sf of office space for Google, a technology company, increasing the ratio of jobs to employed residents in San José, resulting in an estimated 30,551 new jobs, improving the City's overall fiscal condition. The Project generally locates residential uses near existing residential uses and employee-intensive office uses are located along existing infrastructure, industrial, and rail edges and within walking distance of transit stops

The Project will also take full advantage of the transit connectivity the site affords. The Project has been designed to provide contiguous indoor-outdoor ground-level experiences, ensure efficient delivery of services, and create a walkable urban environment in the Downtown area. The Project will develop jobs and housing in close proximity to existing transit facilities and infrastructure in Downtown San José, including

intensifying development near Diridon Station. Introducing additional housing and employment to the Diridon Station area will reinforce its use as a key transportation hub for the region and to reduce costs for maintenance of the City's street system. Further, the Downtown West Environmental Impact Report analyzed the potential impacts of childcare facilities within the site and the Downtown West PD Zoning District authorizes childcare facilities as part of the "active uses" proposed in its mixed-use buildings, to help support working parents. The potential location of the childcare facilities are further identified in the DWDSG.

The Project's DWDSG reflect the City's standards of architectural and site design for the proposed project and the area. The Project will also continue to be subject to the Downtown Design Guidelines ("DDG") and Complete Streets Design Standards and Guidelines ("CSDDSG"), which will apply to the project site unless a standard or guideline is superseded by the DWDSG. In addition, the Project will comply with all Federal, State, and local standards, and will collaborate with the appropriate land use authorities.

Project prioritizes pedestrian and bicyclists and will create safe, attractive, and accessible pedestrian connections between Downtown West and adjacent public streets and neighborhoods. The Project includes micro-mobility parking and sharing, including bike parking, bike share, scooter share, and mobility hub design. The DWDSG encourages micro-mobility parking and sharing to be flexible and adaptable to support the overall mobility network of the Project. The mobility hubs are encouraged to be located on the same block as high capacity transit stops or stations where feasible, and include supportive amenities to promote cyclists and pedestrian safety and otherwise provide for the needs of bicyclists and pedestrians (e.g. wayfinding and travel maps, EV charging stations).

The project sponsor has also collaborated with appropriate external agencies with land use authority or regulations in San Jose, including the Airport Land Use Commission. The project sponsor has also collaborated with public entities, such as VTA and Caltrain, adjacent property owners, when reviewing the Project's proposed development program.

Goal LU-4 – Commercial

Establish commercial uses that maximize revenue to the City and provide employment for its residents in order to achieve fiscal sustainability and our desired jobs per employed resident ratio.

LU-4.4 Allow limited industrial uses in commercially designated areas if such uses are of a scale, design, or intensity that creates less than significant negative impacts to surrounding uses.

Goal LU-5 – Neighborhood Serving Commercial

Locate viable neighborhood-serving commercial uses throughout the City in order to stimulate economic development, create complete neighborhoods, and minimize vehicle miles traveled.

LU-5.1 In order to create complete communities, promote new commercial uses and revitalize existing commercial areas in locations that provide safe and convenient multi-modal access to a full range of goods and services.

LU-5.2 To facilitate pedestrian access to a variety of commercial establishments and services that meet the daily needs of residents and employees, locate neighborhood-serving commercial uses throughout the city, including identified growth areas and areas where there is existing or future demand for such uses.

LU-5.3 Encourage new and intensification of existing commercial development, including stand-alone, vertical mixed-use, or integrated horizontal mixed-use projects, consistent with the Land Use / Transportation Diagram.

LU-5.4 Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public

sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.

LU-5.5 Encourage pedestrian and vehicular connections between adjacent commercial properties with reciprocal-access easements to encourage safe, convenient, and direct pedestrian access and “one-stop” shopping. Encourage and facilitate shared parking arrangements through parking easements and cross-access between commercial properties to minimize parking areas and curb-cuts.

LU-5.7 Encourage retail, restaurant, and other active uses as ground-floor occupants in identified growth areas and other locations with high concentrations of development.

LU-5.8 Encourage outdoor cafes and other outdoor uses in appropriate commercial areas to create a vibrant public realm, maximize pedestrian activity, and capitalize on San José’s temperate climate.

Consistency Findings. The Project contemplates a mix of land uses to stimulate greater economic development, including a range of commercial uses such as office and active uses that promote new commercial uses in locations that provide safe and convenient multi-modal access to a full range of goods and services. Development of the site, which currently consists of approximately 480,000 gross square feet of occupied building space, will revitalize the area by optimizing density and encouraging new uses consistent with the Project site’s Commercial and Downtown Commercial land use designations. The Downtown West PD Zoning District authorizes a diverse mix of uses that include a range of commercial job-generating uses that will provide employment for residents. The diverse mix of uses and services, including those that meet the daily needs of residents and employees, will facilitate pedestrian access within Downtown West. The Project encourages ground floor active uses to activate and enhance pedestrian activity on the ground level of buildings, especially those fronting streets and open spaces. The location of the Project within the Downtown Growth Area is consistent with the General Plan’s

Major Strategy #9 which seeks to support the continued growth of Downtown San Jose into a unique and important employment and residential neighborhood. The Project has also been designed to create a walkable urban environment to facilitate pedestrian access to the variety of commercial uses within Downtown West and the greater Downtown area. The broad range of uses authorized within Downtown West include up to 500,000 square feet of active uses, which are intended to generate pedestrian activity on the ground level of buildings and include, but are not limited to, commercial, educational, artistic, cultural, retail, or institutional uses (for example, food and beverage, libraries, museums, gymnasiums, daycare centers, movie theaters and entertainment venues, event spaces, maker spaces, non-profit and small-format offices, art studios, and start-up incubators). The Project also provides approximate 15 acres of parks and open spaces, where open space programming and active uses (e.g., outdoor cafes and other outdoor uses) are encouraged to create a vibrant public realm.

Goal LU-9 – High-Quality Living Environments

Provide high quality living environments for San José's residents.

LU-9.1 Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas. Consistent with Transportation Policy TR-2.11, prohibit the development of new cul-de-sacs, unless it is the only feasible means of providing access to a property or properties, or gated communities, that do not provide through- and publicly-accessible bicycle and pedestrian connections.

LU-9.2 Facilitate the development of complete neighborhoods by allowing appropriate commercial uses within or adjacent to residential and mixed-use neighborhoods.

LU-9.3 Integrate housing development with our City's transportation system, including transit, roads, and bicycle and pedestrian facilities.

LU-9.6 Require residential developments to include adequate open spaces in either private or common areas to partially provide for residents' open space and recreation needs.

Consistency Findings. The Project is consistent with and implements Goal LU-9 as it includes a complementary mix of residential and non-residential uses in addition to improvements to the public realm that enhance connections to nearby regional transit services, improve pedestrian and bicycle linkages to adjacent neighborhoods and regional trails. The Project provides for the development of up to 5,900 residential units, which are located adjacent to a mix of other uses and open spaces. The DWDSG includes standards and guidelines that enhance the pedestrian network, facilitating pedestrian access within Downtown West and adjacent neighborhoods, by establishing sidewalk zones (frontage zone, through zone, and furnishing zone) to improve the pedestrian experience and increase safety for people walking. The Project's mobility network - consisting of its pedestrian, bicycle and micro-mobility, transit networks, and vehicular networks - is designed to connect transit with nature and surrounding neighborhoods. The mobility network prioritizes pedestrian and bicycle connections by providing protected bicycle lanes, generous sidewalk widths, and shared streets which are curbless streets that prioritize pedestrians and limit vehicle traffic. The Project also includes the development of adequate open spaces that includes a diversified and balanced open space network, consisting of a total of approximately 15 acres of high quality open space that will provide opportunities for recreation and the enjoyment of open space by residents and visitors.

Goal LU-10 – Efficient Use of Residential and Mixed-Use Lands

Meet the housing needs of existing and future residents by fully and efficiently utilizing lands planned for residential and mixed-use and by maximizing housing opportunities in

locations within a half mile of transit, with good access to employment areas, neighborhood services, and public facilities.

LU-10.1 Develop land use plans and implementation tools that result in the construction of mixed-use development in appropriate places throughout the City as a means to establish walkable, complete communities.

LU-10.2 Distribute higher residential densities throughout our city in identified growth areas and facilitate the development of residences in mixed-use development within these growth areas.

LU-10.3 Develop residentially- and mixed-use-designated lands adjacent to major transit facilities at high densities to reduce motor vehicle travel by encouraging the use of public transit.

LU-10.4 Within identified growth areas, develop residential projects at densities sufficient to support neighborhood retail in walkable, main street type development.

LU-10.5 Facilitate the development of housing close to jobs to provide residents with the opportunity to live and work in the same community.

LU-10.6 In identified growth areas, do not approve decreases in residential density through zoning change or development entitlement applications or through General Plan amendments.

LU-10.8 Encourage the location of schools, private community gathering facilities, and other public/quasi public uses within or adjacent to Urban Villages and other growth areas and encourage these uses to be developed in an urban form and in a mixed-use configuration.

Consistency Findings. *The Project is consistent with Goal LU-10 and the applicable policies above. The Project is located within the Downtown Growth Area and within the DSAP and will result in the construction of a mixed-use development program that will foster a walkable and complete community. The Project incorporates diverse and complementary land uses that optimize density - consistent with the Downtown and Commercial Downtown land use designations - establish new housing, and create broad job opportunities while enhancing and connecting the public realm through improvements to improve transit access and pedestrian and bicycle circulation and connectivity, both within the site and to and from surrounding neighborhood. The Project and the proposed General Plan Amendment will not result in a decrease in residential density through the Downtown West PD Zoning District. Rather, the Project and the Downtown West PD Zoning District will increase the existing residential density as it proposes the development of up to 5,900 residential units, adding to the City's housing stock while providing residents with the opportunity to live in a neighborhood that prioritizes the pedestrian experience. The site is also located in a Priority Development Area and Transit Priority Area, adjacent to Diridon Station, a central passenger rail hub that is served by Caltrain, ACE, VTA light rail, Amtrak Capitol Corridor, and Amtrak Coast Starlight. Diridon Station is currently served by bus lines including local and express VTA bus lines, Monterey-Salinas Transit, Santa Cruz Metro, Amtrak Thruway Bus, Greyhound Lines, Megabus, and employer shuttles. The program development will place a mix of land uses including residential, office, and retail uses in close proximity to Diridon Station, thereby reducing the number of VMT and vehicle trips. The project will be designed to achieve LEED ND Gold Certification and use energy efficiency strategies and on-site renewable energy to reduce energy consumption. The active use spaces may include daycare facilities, educational facilities, restaurants, and open spaces for community gatherings. Consistent with LU-10 and the policies set forth above, the Project locates new residential uses adjacent to jobs-generating uses, with residential uses and non-residential uses located adjacent to Diridon Station, creating a transit-oriented development comprised of office, residential and active uses intermixed with one another.*

Goal LU-13 – Landmarks and Districts

Preserve and enhance historic landmarks and districts in order to promote a greater sense of historic awareness and community identity and contribute toward a sense of place.

LU-13.2 Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.

LU-13.3 For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping, and residential areas.

LU-13.4 Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.

LU-13.6 Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.

LU-13.8 Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.

LU-13.15 Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

Goal LU-14 – Historic Structures of Lesser Significance

Preserve and enhance historic structures of lesser significance (i.e., Structures of Merit, Identified Structures, and particularly Historic Conservation Areas) as appropriate, so that they remain as a representation of San José's past and contribute to a positive identity for the City's future.

LU-14.4 Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource.

Consistency Findings. The Project is consistent with Goals LU-13 and LU-14 and the relevant policies concerning historic landmarks and districts and structures of lesser significance (i.e., Structures of Merit).

The Project site contains nine historical resources under CEQA and the Project will preserve and enhance, to the maximum extent feasible, one ddesignated City Landmark and four Candidate City Landmarks. The Project will preserve in place and rehabilitate for a new use the San Jose Water Works City Landmark (374 West Santa Clara Street); preserve, relocate on site and rehabilitate for new uses two Candidate City Landmarks (Kearney Pattern Works and Foundry at 40 South Montgomery Street and a grouping of three houses at 559, 563, and 567 West Julian Street)) and preserve, relocate and rehabilitate on-site one Contributing Structure to a Candidate Discontiguous (citywide) Commercial Signage District (Stephen's Meat Products Sign at 105 South Montgomery Street) . The rehabilitation of the Kearney Pattern Works and Foundry will comply with the Secretary of the Interior's Standards for Rehabilitation and also incorporate the reuse of a hopper tower, an industrial artifact determined to be a non-contributing addition to

the property. The Candidate City Landmark at 150 South Montgomery (Hellwig Iron Works) will also be retained for new uses and will maintain a dominant presence on site to create a sense of place, and provide a connection to the past, but portions of the building will likely be modified through one or more vertical additions above and/or horizontal additions south of the existing structure in conformance with the Downtown West Design Standards and Guidelines (DWDSG) and the San Jose Downtown Design Guidelines and Standards (SJDDGS). The façade of a Candidate City Landmark at 145 South Montgomery Street (Sunlite Bakery) will also be salvaged and reused on site. In addition, the Project will preserve and relocate on-site one eligible Structure of Merit ([35 Barack Obama Boulevard, formerly South Autumn Street](#)) and provide funding support the off-site relocation of an eligible Structure of Merit at (357 North Montgomery Street and a Structure of Merit listed in the Historic Resources Inventory at (102 South Montgomery Street). In addition, the Project will separately provide funding support for the off-site relocation of 91 Barack Obama Boulevard, a listed Structure of Merit. The Project is likely to demolish four Candidate City Landmarks at 343 North Montgomery Street (Advance Metal Spinning), 345 North Montgomery (Circus Ice Cream), 580 Lorraine Street (Democracy Hall) and the remainder of 145 South Montgomery (Sunlite Bakery). These buildings were assessed in a historic-resource move feasibility study prepared to identify reasonable candidates for relocation. The study identified existing conditions for each resource proposed for demolition, its construction, and a proposed methodology for relocating each resource should an appropriate receiver site be identified. The majority of 145 South Montgomery Street and 343 North Montgomery Street and the entire building at 580 Lorraine Avenue were determined not to be good candidates for relocation because of their irregular construction, poor construction quality, and instability if separated into movable segments; their walls would need to be cut vertically and horizontally into numerous manageable pieces, greatly affecting the historic fabric. If the buildings are demolished, they will be thoroughly documented, offered for relocation and/or salvage, and interpreted and commemorated through required mitigation measures. General Plan goals and policies permit demolition where, as in this case, the City's hierarchy of preservation efforts has been applied, and if relocation proves to be infeasible.

Project development will be sensitive to the character of the adjacent Lakehouse City Landmark District, San Jose Water Works City Landmark and Southern Pacific Depot City Landmark through the use of building setbacks, height caps, stepbacks, and architectural height references. In addition, the Project will include on-site interpretive programming regarding the City's diverse culture, past and present.

The Project complied with the adopted City Council Policy on the Preservation of Historic Landmarks. The proposed Project was brought to the HLC on January 15, 2020 for comments under the Early Referral Policy, and on November 4, 2020 for comments on the Cultural Resources component of the Draft EIR. The Project was amended to address HLC and public comments, which resulted in the proposed preservation of 559, 563, and 567 West Julian Street, the Kearney Pattern Works and Foundry hopper tower, the façade of the Sunlite Bakery and several Structures of Merit. In addition, the Historic Preservation Permit (San Jose Water Works City Landmark) and Landmark Designation Amendments (San Jose Water Works City Landmark and Southern Pacific Depot City Landmark) were found by the HLC to comply with the required findings in the Historic Preservation Ordinance and recommended approval of the applications on March 17, 2021.

Goal TR-1 – Balanced Transportation System

Complete and maintain a multimodal transportation system that gives priority to the mobility needs of bicyclists, pedestrians, and public transit users while also providing for the safe and efficient movement of automobiles, buses, and trucks.

TR-1.1 Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).

TR-1.2 Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.

TR-1.3 Increase substantially the proportion of commute travel using modes other than the single-occupant vehicle. The 2040 commute mode split targets for San José residents and workers are presented in the following table.

TR-1.4 Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand.

- Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems.
- The City Council may consider adoption of a statement of overriding considerations, as part of an EIR, for projects unable to mitigate their VMT impacts to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with Public Resources Code Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate housing located within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or

pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1.

- Area Development Policy. An “area development policy” may be adopted by the City Council to establish special transportation standards that identifies development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.

TR-1.6 Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.

TR-1.7 Require that private streets be designed, constructed and maintained to provide safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.

TR-1.8 Actively coordinate with regional transportation, land use planning, and transit agencies to develop a transportation network with complementary land uses that encourage travel by bicycling, walking and transit, and ensure that regional greenhouse gas emission standards are met.

TR-1.10 Require needed public street right-of-way dedication and improvements as development occurs. The ultimate right-of-way shall be no less than the dimensions as shown on the Functional Classification Diagram except when a lesser right-of-way will avoid significant social, neighborhood or environmental impacts and perform the same traffic movement function. Additional public street right-of-way, beyond that designated on the Functional Classification Diagram, may be required in specific locations to facilitate left-turn lanes, bus pullouts, and right-turn lanes in order to provide additional capacity at some intersections.

Goal TR-2 – Walking and Bicycling

Improve walking and bicycling facilities to be more convenient, comfortable, and safe, so that they become primary transportation modes in San José.

TR-2.1 Coordinate the planning and implementation of citywide bicycle and pedestrian facilities and supporting infrastructure. Give priority to bicycle and pedestrian safety and access improvements at street crossings (including proposed grade separated crossings of freeways and other high vehicle volume roadways) and near areas with higher pedestrian concentrations (school, transit, shopping, hospital, and mixed-use areas).

TR-2.3 Construct crosswalks and sidewalks that are universally accessible and designed for use by people of all abilities.

TR-2.4 Encourage walking and bicycling and increase pedestrian and bicycle safety through education programs.

TR-2.6 Require that all new traffic signal installations, existing traffic signal modifications, and projects included in San José's Capital Improvement Plan include installation of bicycle detection devices where appropriate and feasible.

TR-2.7 Give priority to pedestrian improvement projects that: improve pedestrian safety; improve pedestrian access to and within the Urban Villages and other growth areas; and that improve access to parks, schools, and transit facilities.

TR-2.8 Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

TR-2.11 Prohibit the development of new cul-de-sacs, unless it is the only feasible means of providing access to a property or properties, or gated communities that

do not provide through and publicly accessible bicycle and pedestrian connections. Pursue the development of new through bicycle and pedestrian connections in existing cul-de-sac areas where feasible.

Goal TR-3 – Maximize use of Public Transit

Maximize use of existing and future public transportation services to increase ridership and decrease the use of private automobiles.

TR-3.2 Ensure that roadways designated as Grand Boulevards adequately accommodate transit vehicle circulation and transit stops. Prioritize bus mobility along Stevens Creek Boulevard, The Alameda, and other heavily traveled transit corridors.

TR-3.3 As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

TR-3.4 Maintain and improve access to transit stops and stations for mobility challenged population groups such as youth, the disabled, and seniors.

TR-3.5 Work with the Valley Transportation Authority (VTA) and other public transit providers to increase transit frequency and service along major corridors and to major destinations like Downtown and North San José.

TR-3.6 Collaborate with Caltrans and Santa Clara Valley Transportation Authority to prioritize transit mobility along the Grand Boulevards identified on the Growth Areas Diagram. Improvements could include installing transit signal priority, queue jump lanes at congested intersections, and/or exclusive bus lanes.

TR-3.7 Regularly collaborate with BART to coordinate planning efforts for the proposed BART extension to San José/Santa Clara with appropriate land use designations and transportation connections.

Goal TR-4 – Passenger Rail Service

Provide maximum opportunities for upgrading passenger rail service for faster and more frequent trains, while making this improved service a positive asset to San José that is attractive, accessible, and safe.

TR-4.1 Support the development of amenities and land use and development types and intensities that increase daily ridership on the VTA, BART, Caltrain, ACE and Amtrak California systems and provide positive fiscal, economic, and environmental benefits to the community.

TR-4.3 Support the development of amenities and land use and development types and intensities that contribute to increased ridership on the potential high-speed rail system, and also provide positive benefits to the community.

Consistency Findings. The Project is consistent with Goals TR-1, TR-2, TR-3 and TR-4 and the relevant policies as it establishes land use patterns with complementary uses in close proximity to one another. As discussed below, the Project includes a TDM plan that would accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled. The TDM plan would reduce single occupancy vehicle use to and from the Project-site, promote car-sharing, and promote use of nearby transit, bicycle, and pedestrian facilities. The Project's mobility network - consisting of its pedestrian, bicycle and micro-mobility, transit networks, and vehicular networks - is designed to connect transit with nature and surrounding neighborhoods and prioritizes travel by transit, bike, and by foot. The Project includes new streets and transportation facilities that enhance pedestrian and bicycle connections by providing protected bicycle lanes, generous sidewalk widths, and shared streets which are curbsless streets that prioritize pedestrians

and limit vehicle traffic. As development occurs, public streets and improvements would be dedicated to the City for public use. The Project would include other improvements to the public realm including the construction of crosswalks and sidewalks that are accessible and designed for use by people of all abilities, traffic signal installations, and on-site facilities such as bicycle storage. The Project also includes private streets, which are subject to DWDSG standards that encourage such streets to be constructed and maintained to provide safe, comfortable, and convenient access and travel for motorists and pedestrians, and cyclists. Located adjacent to Diridon Station, improvements also serve to increase connectivity, access and ridership on the VTA, BART, Caltrain, and bus services that serve the Downtown area. The Project also limits the number of off-street parking spaces to 4,800 commercial/public parking spaces and up to 2,360 residential parking spaces and manages parking and loading in a strategic manner to emphasize pedestrian and bicycle connections and infrastructure over parking convenience.

The Project includes improvements to W. Santa Clara Street and W. San Carlos Street, which are designated as Grand Boulevards. These streets will be able to adequately accommodate transit vehicle circulation and transit stops. The Project also includes transit access streets that will be designed to accommodate and provide access to transit facilities and improve access to transit stops.

Goal TR-7 – Transportation Demand Management

Implement effective Transportation Demand Management (TDM) strategies that minimize vehicle trips and vehicle miles traveled.

TR-7.1 Require large employers to develop and maintain TDM programs to reduce the vehicle trips and vehicle miles generated by their employees through the use of shuttles, provision for car-sharing, bicycle sharing, carpool, parking strategies and other measures.

Goal TR-8 – Parking Strategies

Develop and implement parking strategies that reduce automobile travel through parking supply and pricing management.

TR-8.1 Promote transit-oriented development with reduced parking requirements and promote amenities around appropriate transit hubs and stations to facilitate the use of available transit services.

TR-8.2 Balance business viability and land resources by maintaining an adequate supply of parking to serve demand while avoiding excessive parking supply that encourages automobile use.

TR-8.3 Support using parking supply limitations and pricing as strategies to encourage use of non-automobile modes.

TR-8.5 Promote participation in car share programs to minimize the need for parking spaces in new and existing development.

TR-8.6 Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Urban Villages and other Growth Areas.

TR-8.7 Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.

Consistency Findings. The Project is consistent with Goals TR-7 and TR-8 and applicable policies. The Project includes a TDM plan, which would reduce the vehicle trips and vehicle miles generated by their employees through the use of shuttles, provision for car-sharing, bicycle sharing, carpool, parking strategies and other measures. The Project's approved TDM plan will meet and exceed the 15 percent transportation efficiency requirement of AB 900, including a mode-share commitment that is estimated to be

equivalent to a 24 percent reduction in daily vehicle trips prior to Caltrain electrification which will increase up to a 27 percent reduction following Caltrain electrification and commencement of BART service to Diridon Station. The TDM plan will reduce vehicle trips made by both employees and residents through measures that will include limited on-site parking; market-rate parking for nonresidential uses and unbundled parking for residential uses; on-site and off-site improvements to pedestrian and bicycle facilities; pre-tax commuter benefits for employees; marketing of non-SOV travel options; and carpool matching and may include other measures such as carshare programs express bus or commuter shuttle services, and preferential carpool and vanpool parking. The program includes monitoring and enforcement mechanisms.

The Downtown West PD Zoning District establishes the maximum number of residential and commercial parking spaces authorized, including target number parking spaces and target ratios for residential parking. The Development Agreement and the Downtown West General Development Plan (“GDP”) further establish a Required Parking Ratio for commercial/public parking spaces. Commercial parking will be publicly-available and have market pricing. A portion of the residential spaces could be made available for shared use with the office employees. The Project improves and enhances local pedestrian circulation and bicycling linkages to Downtown, adjacent neighborhoods, and regional trails for residents and visitors to provide alternative modes of transportation and reduce parking demand.

Goal TR-9 – Tier I Reduction of Vehicle Miles Traveled

Reduce Vehicle Miles Traveled (VMT) by 10% per service population, from 2009 levels, as an interim goal.

TR-9.1 Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

Goal TR-10 – Tier II Vehicle Miles Traveled Reduction

Reduce vehicle miles traveled by an additional 10% per service population above Goal TR-9 (a 20% reduction as measured from 2009), at a later date to be determined by the City Council, based on staff analysis of the City's achieved and anticipated success in reducing VMT.

TR-10.1 Explore development of a program for implementation as part of Tier II, to require that parking spaces within new development in areas adjacent to transit and in all mixed-use projects be unbundled from rent or sale of the dwelling unit or building square footage.

TR-10.3 Encourage participation in car share programs for new development in identified growth areas.

TR-10.5 Work with employers in Tier II to monitor employer achievement of TDM program measures and explore incentives for successes and/or consider penalties for non-compliance.

Consistency Findings. The Project is consistent with Goals TR-9 and TR-10 and applicable policies. As described in the Final EIR, due to the Project's transit-adjacent location, mixed uses, and TDM program, Project residents are anticipated to generate VMT at least 22 percent below the City's 2018 average and Project employees are anticipated to generate VMT at least 35 percent below the City's 2018 average. The Project includes enhanced facilities for walking and bicycling, unbundled residential parking, encouragement of car sharing, and a TDM program that includes monitoring and remedies for any failure to achieve objectives. Unbundled parking would be provided for all market-rate dwelling units.

Goal TR-14 – Safe Airport

Ensure that airport facilities in San José are safe by removing potential conflicts between land use and airport operations.

TR-14.2 Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.

TR-14.3 For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid- Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.

TR-14.4 Require aviation and “no build” easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

Consistency Findings. The Project complies with Goal TR-14 and applicable policies. The City has established maximum allowable building heights for the Project based on the City's 2018 analysis of the FAA's Terminal Instrument Procedures surfaces. The Project will comply with FAA regulations including those that require submittal of a Form 7460-1 for any structure higher than 200 feet, initiating preparation of an aeronautical study to determine whether the structure would be a hazard to aviation. For portions of the Project site that are within the Airport Influence Area (AIA) for the Mineta San Jose International Airport, a two-thirds vote of the City Council to override the Airport Land Use Commission's determination of inconsistency with the Comprehensive Land Use Plan's height and noise policies is required and is proposed (Resolution No. ____). A condition of approval in the Downtown West PD Permit requires all property owners within the AIA who rent or lease their property for residential use shall include in their rental/lease agreements with the tenant a statement advising that the tenants that they are living within an exterior aircraft noise exposure area designated by the ALUC as greater than 65 dBA

CNEL. The General Plan identifies outdoor noise environmental levels of 60-75 dBA DNL as “conditionally acceptable” for residential and hotel uses, as long as interior noise levels are mitigated to 45 dBA DNL. Interior noise levels in residences and hotel rooms will not exceed 45 dBA DNL (EIR Mitigation NO-3, a condition of approval to the Downtown West PD Permit). The residential outdoor activities areas at Downtown West Blocks E3 and C3 are located both in the environs of the Mineta San Jose International Airport and in Downtown. These areas are exempt from the 60 dBA DNL exterior noise limit the City applies in other residential areas. Residential exterior spaces such as apartment balconies and ground-floor common areas within the 65 dBA DNL noise contour would be consistent with orderly development of the Mineta San Jose International Airport. Project Conditions of Approval include aviation easements in the AIA, as well as notice to prospective residents of dwelling units where outdoor use areas would be affected by Airport-related noise exceeding 65 dBA CNEL. Moreover, a Condition of Approval in the Downtown West PD Permit requires a “Determination of No Hazard” to Air Navigation be issued by the FAA for all buildings prior to issuance of any building permits.

Goal TN-1 – National Model for Trail Development and Use

Develop the nation’s largest urban network of trails. Become a national model for trail development and use. Remain a national leader in terms of the scale and quality of trails.

TN-1.2 Minimize environmental disturbance in the design, construction and management of trails.

TN-1.3 Design trail system alignments to minimize impacts and enhance the environment within sensitive riparian and other natural areas. Follow Riparian Corridor Goals, Policies, and Actions regarding trail design and development in proximity to riparian areas.

TN-1.4 Provide gateway elements, interpretive signage, public art, and other amenities along trails to promote use and enhance the user experience.

Goal TN-2 – Trails as Transportation

Develop a safe and accessible Trail Network to serve as a primary means of active transportation and recreation within an integrated multi-modal transportation system.

TN-2.1 Support off-street travel by interconnecting individual trail systems to each other and to regional trail systems.

TN-2.2 Provide direct, safe and convenient bicycle and pedestrian connections between the trail system and adjacent neighborhoods, schools, employment areas and shopping areas.

TN-2.7 Encourage all developers to install and maintain trails when new development occurs adjacent to a designated trail location, in accordance with Policy PR-8.5.

TN-2.8 Coordinate and connect the trail system with the on-street bikeway system, and consider policies from the Circulation and the Parks, Trails, Open Space, and Recreation Amenities/Programs sections of this Plan to create a complete BikeWeb to serve the needs of San José's diverse community.

Goal TN-3 – Accessible, Safe, and Well-Functioning Trails

Design an accessible, safe, and well-functioning trail network that attracts diverse users of varying abilities.

TN-3.4 Design new and retrofit existing public and private developments to provide significant visibility of and access to existing and planned trails to promote safety and trail use.

Consistency Findings. The Project is consistent with and implement Goals TN-1, TN-2, and TN-3 and applicable polices as it includes approximately 15 acres of open space to

be developed, including approximately 0.53 new improved acres (approximately 0.5 miles) of the Los Gatos Creek Multi-Use Trail. The Project site contains a portion of the last remaining incomplete section (Reach 5) of the Los Gatos Creek Trail Master Plan. The Los Gatos Creek Multi-Use Trail is an extension of the Los Gatos Trail that currently ends at the Caltrain crossing of Los Gatos Creek. The project will provide two off-street segments; one from Caltrain to Park Avenue and another from the VTA light rail north to Santa Clara Street. On-street facilities will be provided from Park Avenue to West San Fernando Street on Autumn Street. The design standards for the Los Gatos Creek Multi-Use Trail, which are set forth in the DWDSG and the City's Trail Design Guidelines, are intended to connect people to nature and the trail, extending off-street walking and biking access along Los Gatos Creek. The design of the Los Gatos Creek Multi-Use trail minimizes impacts and enhances the environment within sensitive riparian and other natural areas. The Los Gatos Creek Multi-Use Trail and the Downtown to Diridon Shared Use Path are kept outside of the Los Creek Riparian Setback to the extent possible. A creek footbridge, which can accommodate bicycles for convenience and crossing, and passive boardwalk are contemplated for additional accessibility and creek views to promote use and enhance the user experience.

Environmental Justice Goals and Policies

For the reasons set forth in the consistency findings above, the Project is also consistent with the General Plan's existing goals and policies that address environmental justice for disadvantaged communities and seek to reduce pollution exposure (including improvement of air quality, promotion of public facilities, food access, safe and sanitary homes, and physical activity), increase civic engagement, and prioritize improvements and programs that address the needs of disadvantaged communities. The Project would include a robust community benefits package that prioritizes affordable housing, community stabilization, and opportunity pathways. The community benefits, which are further set forth in the Development Agreement, include but are not limited to: a Community Stabilization and Opportunity Pathways Fund that will support programs such as education and workforce development, small business capacity building and

incubation, affordable housing preservation, homeless prevention, and homeless services; an affordable housing program that furthers the City's goal that development within the DSAP result in 25% of all residential units as affordable housing achieved through a combination of land dedication, on-site affordable units, and off-site land dedication to the City; and a 30% local hire goal for the Project for on-site building construction, and paying state prevailing wages for all on-site construction workers. Applicable goals and policies include, but are not limited to: MS-2.6, MS-5.5, MS-10.13, MS-10.2, MS-10.3, MS-10.6, MS-10.7, EC-1.1, EC-1.2, CD-1.1, CD-1.5, CD-2.3, CD-2.4, CD-3.1, CD-3.2, CD-3.3, CD-5.9, H-4.1, H-4.3, PR-2.4, PR-2.6, PR-3.2, PR, 5.5, PR-6.2, PR-6.5, PR-7.2, LU-1.1, LU-1.3, LU-1.5, LU-3.2, LU-9.1, LU-9.6, TR-3.4, TR-4.1.

DRAFT

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING A VESTING TENTATIVE MAP, SUBJECT TO CONDITIONS, TO SUBDIVIDE [136] LOTS INTO NO MORE THAN [178] LOTS AND ALLOW UP TO 5900 RESIDENTIAL CONDOMINIUMS AND 20 COMMERCIAL CONDOMINIUMS ON AN APPROXIMATELY 84-ACRE SITE, GENERALLY BOUNDED BY LENZEN AVENUE AND THE UNION PACIFIC RAILROAD TRACKS TO THE NORTH, NORTH MONTGOMERY STREET, LOS GATOS CREEK, THE GUADALUPE RIVER, BARACK OBAMA BOULEVARD, AND ROYAL AVENUE TO THE EAST, AUZERAIS AVENUE TO THE SOUTH, AND DIRIDON STATION AND THE CALTRAIN RAIL TRACKS TO THE WEST.

FILE NO. PT20-027

WHEREAS, pursuant to the provisions of Chapter 19.13 of Title 19 of the San José Municipal Code, on _____, a concurrent application (File No. _____) was filed by the applicant, Google LLC (“Applicant” or “Subdivider”), with the City of San José (“City”) for a Vesting Tentative Map to subdivide 136 lots into no more than 178 lots and allow up to 5,900 residential condominiums and 20 commercial condominiums on an approximately 84-acre site, on that certain real property within the DC (PD) Planned Development Zoning District (File No. PDC19-039) and which is generally bounded by Lenzen Avenue and the Union Pacific Railroad (UPRR) tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, Barack Obama Boulevard (formerly South Autumn Street and Bird Avenue), and Royal Avenue to the east; Auzerais Avenue to the south; and Diridon Station and the Caltrain rail tracks to the west, in San José, which real property is sometimes referred to herein as the “subject property”); and

WHEREAS, the subject property is all that real property more particularly described in Exhibit "A", entitled “Legal Description,” which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said concurrent applications on April 28, 2021, notice of which was duly given; and

WHEREAS, at said hearing, the Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, the Planning Commission made a recommendation to the City Council respecting said matter based on the evidence and testimony; and

WHEREAS, pursuant to and in accordance with Chapter 20.100.140 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this City Council received and considered the reports and recommendations of the City's Planning Commission and the City's Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled "Vesting Tentative Map for Condominium Purposes Downtown West," dated _____, said plan (hereafter the "Vesting Tentative Map") is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested, and is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, The application for the Vesting Tentative Map sought approval of, and this Resolution shall confer the right to, file multiple phased final maps pursuant to Government Code Section 66456.1; and

WHEREAS, The City Council of the City of San José has considered, approved, and certified the Final Environmental Impact Report for the Downtown West Mixed Use Plan (Resolution No. ___) (“FEIR”) and adopted related findings, a Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations under separate Resolution No. ___ on May ___, 2021 prior to making its determination on the proposed General Plan Amendment or other Project approvals; and

WHEREAS, this Resolution approving the Vesting Tentative Map is a companion to the following approvals relating to Downtown West, referred to hereafter collectively as the “Project Approvals”. City approval of an override of the Santa Clara County Airport Land Use Commission’s inconsistency determination (Resolution No. ___); amendments to the DSAP (Resolution No. ___); approval of the Development Agreement for the Downtown West Mixed-Use Plan (Ordinance No. ___); approval of a Planned Development Rezoning, including a General Development Plan (Ordinance No. ___); approving a Planned Development Permit (Resolution No. ___); amendments to Title 20 of the San José Municipal Code (Ordinance No. ___); approving a Vesting Tentative Map (Resolution No. ___); amendments to the boundaries for Historic Landmarks (San José Water Company Building at 374 West Santa Clara Street, and Southern Pacific Historic District) (Resolutions No. ___ and ___); approving an amendment to Historic Preservation Permit (HP16-002) (Resolution No. ___); and authorizing Major Encroachment Permits (Resolution No. ___); and approval of a Construction Impact Mitigation Plan (Resolution No. ___); and

WHEREAS, the Development Agreement includes the Project’s Infrastructure Plan as Exhibit I thereto.

WHEREAS, The Planned Development Permit includes the Downtown West Design Standards and Guidelines (“DWDSG”), which establishes certain street and open space design standards, and the Downtown West Improvement Standards (“DWIS”), which

establishes certain horizontal improvement design and engineering standards, both as applicable to the subject property;

WHEREAS, Pursuant to Ordinance No. _____ the City Council approved modifications to, provisions of the City of San José Municipal Code including provisions of Titles 11, 13, 15, 19, and 20 thereof, and modifications pertain to the development contemplated by the Vesting Tentative Map and related improvements;

WHEREAS, said public hearing before the City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council.

WHEREAS, this City Council has heard and considered the testimony presented to it at the public hearing, and has further considered written materials submitted on behalf of the project applicant, City staff, and other interested parties;

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

After considering all of the evidence presented at the public hearing, the City Council finds that the following are the relevant facts regarding this proposed project:

1. **Site Description and Surrounding Uses.** The subject site, comprised of 136 lots, is generally bounded by Lenzen Avenue and the Union Pacific Railroad (UPRR) tracks to the north; North Montgomery Street, Lost Gatos Creek, the Guadalupe River, Barack Obama Boulevard (formerly South Autumn Street and Bird Avenue), and Royal Avenue to the east; Auzerais Avenue to the south; and Diridon Station and the Caltrain rail tracks to the west, in San José. The approximately 85-acre site is comprised of manufacturing, light industrial, and business services uses with limited residential and commercial uses. The subject property is within the Diridon Station Area Plan.

2. **Project Description.** The Project consists of up to 7.3 million gross square feet (gsf) of commercial office space; up to 5,900 residential units; up to 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community spaces, institutional, childcare and education, maker spaces, non-profit, and small-format office space); up to 300 hotel rooms; up to 800 rooms of limited-term corporate accommodations; up to 100,000 gsf of event and conference space; up to 4,800 publicly accessible commercial parking spaces and up to 2,360 unbundled parking spaces for residential use; a "District Systems" approach to delivery of on-site utilities, including designated infrastructure zones with up to two (2) on-site centralized utility plants totaling up to 130,000 gsf; one or more on-site logistics centers to serve the commercial on-site uses that would occupy a total of about 100,000 gsf; a total of approximately 15 acres of parks, plazas and open space, including areas for outdoor seating and commercial activity (such as retail, cafes, and restaurants), green spaces, landscaping, mid-block passages, riparian setbacks, and trails; and various other improvements to the public realm to improve transit access and pedestrian and bicycle circulation and facilitate connectivity, both within the site and to and from surrounding neighborhoods.

This Vesting Tentative Map facilitates this development through the subdivision of 136 existing lots into as many as 178 lots, including air space lots, and allows up to 5,900 residential condominiums and 20 commercial condominiums.

3. **General Plan Conformance.** The subject site consists of the Downtown and Commercial Downtown land use designations on the General Plan Land Use/Transportation Diagram (as amended by Ordinance No. ____). The Downtown land use designation allows office, retail, service, residential and entertainment uses at very high intensities, unless incompatible with other major policies within the General Plan. The Downtown land use designation allows a density of up to 800 dwelling units per acre and FAR up to 30.0. The Commercial Downtown land use designation allows office, hotel, retail, service, and entertainment uses.

Residential uses are not allowed in the Commercial Downtown designation. The Commercial Downtown land use designation allows FAR up to 15.0.

The project, including the proposed subdivision as shown on the Vesting Tentative Map, conforms to the General Plan goals and policies for the reason set forth in Exhibit [B] of Resolution No. ____, which findings are incorporated herein by reference.

4. **Diridon Station Area Plan Conformance.** The subject site is within the boundaries of the Diridon Station Area Plan ("DSAP") as amended by Resolution No. __:

The project is consistent with the following key DSAP goals:

- a) Create an urban district in the Station Area that maximizes height potential. The Station Area should accommodate a mix of uses including commercial and office, residential and active uses.

The Project consists of a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood and destination. The development program optimizes development density, which consists of up to 7.3 million gsf of commercial office space; up to 5,900 residential units; up to 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community spaces, institutional, childcare and education, maker spaces, non-profit, and small-format office space); up to 300 hotel rooms; up to 800 limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 gsf; a "District Systems" approach to delivery of on-site utilities, including designated infrastructure zones with up to two (2) on-site centralized utility plants totaling up to 130,000 gsf; one or more on-site logistics centers to serve the commercial on-site uses that would occupy a total of about 100,000 gsf; a total of approximately 15 acres of parks and open spaces. The

DWDSG includes standards and guidelines that distribute land uses throughout the Project site in a manner that is compatible with adjacent uses, surrounding neighborhoods, and adjacent open spaces (DWDSG Chapter 3). Residential uses are generally located near existing residential neighborhoods and office uses are generally located along the existing rail track. DWDSG (Chapter 3) requires certain land uses on certain development blocks, while allowing for flexibility on other blocks to promote the development of Downtown West into a mixed-use, transit-oriented site. The DWDSG also includes standards and guidelines that distribute active uses throughout Downtown West to create a vibrant public realm. Active use shall be required, at a minimum, along 30 percent of the ground floor frontage of certain blocks to activate streets and open spaces within Downtown West.

The Project also maximizes height potential within the Project Site. The City Council approved a policy to allow for greater height limits in Downtown, including within the DSAP in March 2019. The Project proposes allowable building heights that range from 160 feet to 290 feet above ground level (AGL), contingent on required Federal Aviation Administration (FAA) review clearance. The DWDSG (Section 5.6) establishes standards and guidelines that establish maximum building heights throughout the Project site. The Project maximizes allowable building heights, while in certain blocks setting heights lower than the maximum height only as needed to establish variation in the skyline and to better respond to contextual adjacencies, including historic resources, existing single-family residential neighborhoods, and Los Gatos Creek and the open space program. For instance, the DWDSG establishes standards that limit building heights at Creekside Walk and on certain blocks to respond to contextual adjacencies.

- b) Establish and strengthen connections to surrounding districts and within the planning area for pedestrians, bicyclists, and motorists, with emphasis on east-west connectivity across SR-87 and the rail corridor.

The Project, located adjacent to Diridon Station, enhances connections to nature, surrounding neighborhoods, and the greater Bay Area region, by strengthening links to Downtown and surrounding neighborhoods. The Project includes improvements to the public realm, including maximizing space for active streetscape - which includes sidewalk, bike lanes and planting areas - to optimize connections to nearby regional transit services. Streets designed in Downtown West prioritize pedestrians and bicyclists with generous sidewalks, protected bike lanes, and traffic calming measures in alignment with the City's CSDSG. The Project's proposed street network extends the existing street network to enhance connections to the surrounding neighborhood and proposes mid-block passages to optimize walkability. The Project also proposes improvements to east-west connectors, including West Santa Clara Street, West San Fernando Street, Park Avenue, West San Carlos Street, West Julian Street, West St. John Street (new street), West Post Street (new street), and Auzerais Avenue, to provide pedestrian and bicycle priority streets to link neighborhoods east and west of the rail corridor.

The DWDSG (Chapter 6) includes standards and guidelines for the design and development of Downtown West streets that prioritize pedestrians and cyclists and support walking, biking, and public access and ridership. The DWDSG standards include requirements to extend the street network, including Cahill Street north of West Santa Clara Street to North. Montgomery Street; Cahill Street south of West. San Fernando Street to Park Avenue; West St. John Street to the Cahill Street extension; West Post Street between Cahill Street and Barack Obama Boulevard; North Montgomery Street north of Cinnabar Street to North Autumn Street; and North Autumn Street from the Union Pacific Railroad to Lenzen Avenue. The DWDSG also establishes standards and guidelines for the sidewalk, including minimum overall active streetscape widths and other requirements related to the various sidewalk zones (e.g. frontage zone, through zone, furnishing zones), that enhance pedestrian safety and

support safe crossing. The DWDSG establishes standards and guidelines for east-west connectors that link Downtown West to adjacent neighborhoods. East-west connectors within Downtown West include West Santa Clara Street, West San Fernando Street, Park Avenue, West San Carlos Street, West Julian Street, Auzerais Avenue and new street extensions such as West St. John Street and West Post Street.

c) Prioritize pedestrian circulation and transit.

The Project prioritizes pedestrian space within streets to promote walkability. The street network supports walking, biking, and public transit access and ridership to and from Downtown West. The pedestrian network is enhanced with active street elements, protected bike lanes, and dynamic lanes. The DWDSG includes standards and guidelines for the various sidewalk zones to improve pedestrian experience and increase safety for people walking and biking within Downtown West and to adjacent neighborhoods. The DWDSG further enhance transit access and ridership by leveraging the Project's proximity to Diridon Station, a regional transit hub. The DWDSG includes standards for anticipated transit access streets, shuttle routes, and shuttle stops to provide safe and convenient connections to and from the Project site.

d) Provide a range of commercial and residential uses.

The Project provides a balanced mix of commercial and residential uses that create a vibrant, mixed-use transit-oriented neighborhood. Commercial uses include up to 7.3 million gsf of commercial office space; up to 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community spaces, institutional, childcare and education, maker spaces, non-profit, and small-format office space); up to 300 hotel rooms; and up to 100,000 gsf of event and conference space. Other commercial land uses are distributed

throughout the Project to be compatible with adjacent uses and the surrounding neighborhood.

The Project proposes up to 5,900 residential units. Residential uses are generally located near existing residential neighborhoods within areas with the Downtown land use designation as further set forth in the DWDSG. The Project also provides for a robust affordable housing program, as further set forth in the Development Agreement for the Downtown West Mixed-Use Plan. The Project's affordable housing program assumes development of 4,000 residential units, could include up to 1,000 affordable housing units, and furthers Google's and the City's shared goal that development within the DSAP results in twenty-five percent (25%) of all residential units as affordable housing. The DWDSG (Chapter 3 Land Use) includes standards that intentionally distribute a mix of land uses throughout the site to relate to context and to create an active public realm. The DWDSG requires certain land uses on certain development blocks, while allowing for flexibility on other blocks to promote the development of Downtown West into a mixed-use, transit-oriented site. The DWDSG also includes standards and guidelines that distribute active uses - which include commercial, retail/restaurant, arts, cultural, live entertainment, community space. The DWDSG (Chapter 3 Land Use) includes standards that intentionally distribute a mix of land uses throughout the site to relate to context and to create an active public realm. The DWDSG requires certain land uses on certain development blocks, while allowing for flexibility on other blocks to promote the development of Downtown West into a mixed-use, transit-oriented site. The DWDSG also includes standards and guidelines that distribute active uses - which include commercial, retail/restaurant, arts, cultural, live entertainment, community center, institutional, childcare and education, maker spaces, non-profit, and small-format office spaces - throughout Downtown West to create a vibrant public realm. Active uses are required, at a minimum, along 30 percent of the ground floor frontage of certain blocks to activate streets and open spaces within Downtown West.

- e) Enhance and expand access to open space and recreational opportunities in the Station area and establish an open space system integrated with Los Gatos Creek and Guadalupe River Park.


The Project will provide a total of approximately 15 acres of parks and open space, consisting of both City-Dedicated Open Space (Los Gatos Creek Multi-Use Trail and City-Dedicated Park) and Project Sponsor-Owned Open Space (Privately-Owned Public Park, Semi-public open space, Los Gatos Creek Riparian Setback, Los Gatos Creek Riparian Corridor, Mid-Block Passages).


The open space program includes a park or plaza at nearly every major intersection, near each neighborhood, and no more than one block away from any location in the Project. The open space program integrates with the surrounding communities and provides areas for outdoor seating and commercial activity (such as retail, cafes, and restaurants), green spaces, landscaping, mid-block passages, riparian setbacks, and trails. The open space network also improves access and connectivity along the riparian corridors and supports biodiversity within a high-density urban context through ecologically beneficial landscape design. As set forth in the DWDSG, the design character of open spaces ranges from natural to more urban, with each open space relating to its adjacent surroundings.

- f) Activate the streets, parks, and Station with art that engages visitors and residents alike. Integrate art into infrastructure to humanize and enliven standard features.

Art is encouraged throughout Downtown West to engage visitors and residents, help share gathering places, and to be used as a tool for learning about culture and history and the regional nature and creek ecology. The DWDSG includes standards, guidelines, and contextual considerations that promote the use of art

as appropriate within the Project site. For instance, the Project includes mid-block passages to provide more pedestrian connectivity and optimize walking between neighborhoods. The DWDSG includes guidelines that encourage art in mid-block passages and contextual considerations to incorporate different forms of art into certain mid-block passages to further activate the space. The DWDSG also includes guidelines that encourage the use of art to add a sense of destination, inspire thought and dialogue, commemorate important individuals and events, and connect to the natural environment. Within Downtown West, art is intended to be used as a tool not only for activating streets, parks, and the Diridon Station area, but to engage visitors and residents by conveying information about the culture and history of the City. While art within Downtown West is encouraged, the DWDSG includes standards regarding art within the riparian setback to protect against environmental disruption within the riparian setback along Los Gatos Creek and Guadalupe River.

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- g) Disperse parking in different locations in the planning area and beyond to ensure easy walking access to destinations.



The Project provides safe, convenient, and strategically located parking throughout Downtown West. Off-street parking is intended to support a walkable environment and Downtown West includes public, district-serving garages near entries to the site that service office, active use, and SAP Center events. Additional parking is located within individual residential buildings or clustered buildings. The Project allows up to 4,800 publicly accessible commercial parking spaces and up to 2,360 unbundled parking spaces for residential use. The GDP establishes residential parking standards and a Required Parking Ratio for commercial/public parking as further described in Exhibit K of the Development Agreement. The DWDSG includes standards and guidelines for parking facilities within Downtown West to provide for vehicular access from adjacent streets, and to design parking garages as an integrated component of a building's overall design. The DWDSG also includes off-street parking standards that

promote shared district parking that are accessible to the various mixed uses within Downtown West, nearby transit and the SAP Center.

5. **Downtown West Planned Development Zoning Conformance.** The project site is located within the Downtown West PD Zoning District, a DC(PD) Planned Development Zoning District (Ordinance No. ____). The land use regulations and development standards for development within the Downtown West PD Zoning District are reflected in the Downtown West General Development Plan (“GDP”). The GDP establishes the permitted uses, development standards, and use regulations applicable to the Downtown West PD Zoning District and authorizes transfers of square footage and conversion of land uses between Sub-Areas subject to the conditions and criteria established in the GDP, including but not limited to compliance with CEQA.

The Downtown West PD Zoning District consists of three (3) sub-areas, identified as Sub-Area 1, Sub-Area 2, and Sub-Area 3 in the GDP, which are generally depicted in the GDP. Sub-Area 2 is included within the boundaries of the Downtown West PD Zoning District but is not included within the Downtown West PD Permit and represents land owned by the Santa Clara County Transit District. Development within Sub-Area 2 shall be subject to the requirements of the base zoning district and entitled with issuance of a subsequent Planned Development Permit for Sub-Area 2.

The Downtown West PD Permit is consistent with and implements the GDP. The DWDSG and DWIS establish design standards, guidelines, and specifications that apply to the design and development of vertical, open space, and horizontal improvements within Downtown West. The Implementation Guide establishes the process, submittal requirements, City review timeframes for the Conformance Review process applicable to vertical improvements, open space, and horizontal improvements established and authorized through the GDP.

DWDSG standards are requirements, and compliance is mandatory, subject to the relief mechanisms established and authorized in the GDP. Such relief mechanisms include minor modifications (deviation of less than 10% from a numerical standard or minor deviation from a qualitative standard), exceptions (waiver of a DWDSG standard), deferrals (deferring compliance of a DWDSG standard), and amendments to the Downtown West PD Permit. DWDSG guidelines must be considered by the project sponsor, however, Conformance Review shall be approved notwithstanding that guidelines have not been implemented where the project sponsor provides information showing the subject application achieves the applicable design intent set forth in the chapter of the applicable guideline. The project sponsor's decision not to implement a guideline shall not be grounds for disapproving a Conformance Review application if the project sponsor demonstrates that the application achieves the design intent set forth in the chapter of the applicable guideline. The project sponsor shall provide a narrative of how the subject application achieves the design intent in the chapter of the applicable guideline without implementation of the applicable guideline.

As described in the DWDSG, the DDG and CSDSG also apply to Downtown West unless a DDG or CSDSG standard or guideline is expressly superseded by the DWDSG.

The DWIS describes the standards and specifications used to evaluate horizontal improvements within the Downtown West PD Zoning District, including certain provisions of the 1992 Standards that are superseded by the DWIS. As authorized in the GDP, the project sponsor may request modification from DWIS specifications. The DWIS shall also apply to street improvements, utility infrastructure, and utilidors that are located outside the Downtown West PD Zoning District but are necessary to serve property within the Downtown West PD Zoning District.

Downtown West shall be designed and developed in phases. The Conformance Review process, which is further detailed in the GDP and the Implementation Guide, ensures that the subsequent design and development of vertical improvements, open space, and horizontal improvements are consistent with the GDP, Downtown West PD Permit, and other applicable Project approvals and documents. As described in the GDP and the Implementation Guide, the Conformance Review process provides the Director of PBCE (vertical and open space improvements) and the Director of Public Works (horizontal improvements), each in consultation with applicable City departments, the authority to review, comments, and approve vertical, open space, and horizontal improvements as design progresses for the Project to ensure conformity with the GDP, Downtown West PD Permit, and other applicable project approvals and documents.

Based on the foregoing, the Council finds that Downtown West PD Permit conforms with the Downtown West PD Zoning District, a DC(PD) Planned Development Zoning District (Ordinance No. ____).

6. **Environmental Review.** The City of San José, as the lead agency for the proposed Project, prepared a Final Environmental Impact Report for the Project pursuant to and in accordance with CEQA. The Final Environmental Impact Report is comprised of the Draft Environmental Impact Report for the Project and all appendices thereto (the “Draft EIR”), the comments and responses to comments, and the revisions to the Draft EIR (collectively, all of said documents are referred to herein as the “FEIR”). On April 28, 2021, the Planning Commission of the City of San José reviewed the FEIR prepared for the Downtown West Mixed-Use Plan and recommended to the City Council that it found the environmental review for the proposed Project was completed in accordance with the requirements of CEQA. By Resolution No. ____, the City Council considered, approved, and certified the FEIR and adopted related findings, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations prior to taking any approval actions

on the Project. The following outlines the environmental impacts discussed in the Draft EIR.

Identified Significant Unavoidable Impacts. As part of the certification of the FEIR, the City Council adopted a Statement of Overriding Considerations for the Project in Resolution No. ___ and the City determined that the Project would result in significant unmitigated or unavoidable impacts, associated with project-specific and cumulative emissions of criteria air pollutants; project-specific and cumulative effects related to health risks from toxic air contaminants and fine particulate matter; project-specific and cumulative effects on cultural (historic architectural) resources associated with demolition of historic buildings; a project-specific impact due to incompatible alterations to the historic Hellwig Ironworks Building at 150 South Montgomery Street; project-specific and cumulative land use effects associated with a conflict with airport noise policies in the Comprehensive Land Use Plan for Mineta San José International Airport; project-specific and cumulative construction noise impacts; project-specific and cumulative impacts resulting from increases in operational traffic noise; project-specific and cumulative effects associated with exposure of persons to airport noise; and a cumulative impact associated with a contribution to the jobs/housing imbalance identified in the 2040 General Plan EIR. The City Council has considered the public record of proceedings on the proposed project 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 substantial public benefits as described in the Statement of Overriding Considerations adopted in Resolution No. _____:

Environmental Impacts and Mitigation Measures. As part of the certification of the FEIR, the City Council adopted a MMRP for the Project in Resolution No. ____, which is incorporated herein by reference.

The City evaluated the Alternatives as described in the FEIR and Resolution No. ___ and based upon the consideration of substantial evidence in the record, including evidence of economic, legal, social, technological, and other considerations described in Resolution No. ___ the City determined that these alternatives are infeasible, and the City rejected the alternatives as set forth in the FEIR.

7. **Government Code Section 66412.3.** In approving this Vesting Tentative Map, the City has considered the housing needs of the region. Approval of the Vesting Tentative Map will facilitate as the ability to develop up to 5,900 residential units, which will significantly enhance the City's supply of housing. The FEIR documents that the proposed residential development will be sufficiently serviced by infrastructure, including new infrastructure to be installed by Subdivider, and that public services are also sufficiently available. The proposed development will not adversely impact the City's fiscal resources, as documented by the Fiscal Impact Memorandum prepared for the Project and on file with the City. Finally, environmental resources will be protected through application of required mitigation measures described in the FEIR's Mitigation Monitoring and Reporting Program, approved by the City Council in Resolution No. ____, and which are applicable to the Vesting Tentative Map as a condition of approval.

8. **Government Code Section 66473.1.** The design of the subdivision reflected on the Vesting Tentative Map provides, to the extent feasible, for passive and natural heating and cooling opportunities. The majority of the subdivision includes lots that are of a size and configuration to permit substantial southern exposure. As for passive or natural cooling opportunities, the Project's buildings will be designed in phases with open spaces and parks in order to account for optimized shading, taking into account both open space / park and building design requirements and complementary design elements.

9. **Vesting Tentative Map Findings.** The City Council concludes and finds, based on the analysis of the above facts, that:

Conformance with the Subdivision Ordinance and the Subdivision Map Act. In accordance with San José Municipal Code (SJMC) Section 19.12.130, the City Council may approve the Vesting Tentative Map if the City Council determines that the proposed Vesting Tentative Map is consistent with the General Plan and any applicable Specific Plans; if the City Council cannot make any of the findings for denial in Government Code Section 66474; and if the City Council determines that the environmental review for the project has been completed in accordance with CEQA. Additionally, the City Council may approve the project if the City Council finds the Vesting Tentative Map complies with the Zoning Ordinance, pursuant to SJMC Section 19.40.040, and does not make any of the findings for denial in SJMC Section 19.12.220. For the following reasons, the City Council finds that the proposed Vesting Tentative Map conforms with the City's Subdivision Ordinance and the Subdivision Map Act.

- i. The City Council finds that the proposed subdivision shown on the Vesting Tentative Map, subject to the conditions listed below and the requirements for project design and improvements, is consistent with applicable General and Specific Plans of the City of San José, in that:

Analysis: As detailed above, the Vesting Tentative Map is consistent with the General Plan and the applicable specific plan, the DSAP, as amended.

- ii. The City Council has considered the proposed subdivision shown on the Vesting Tentative Map, with the imposed conditions, to determine whether to make any of the findings set forth in the subsections of Section 66474 of the Government Code which states "A legislative body of a city or county shall deny approval of a vesting tentative map, or a parcel map for which a

vesting tentative map was not required, if it makes any of the following findings.”

1. Government Code Section 66474(a) - That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.

Analysis: As detailed above, the Vesting Tentative Map is consistent with the General Plan and the applicable specific plan, the DSAP, as amended.

2. Government Code Section 66474(b) - That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.


Analysis: As detailed above, the design and improvement of the subdivision is consistent with the General Plan and the applicable specific plan (both as amended), and conformance of design will be further assured through satisfaction of the Conformance Review Procedures mandated by the PD Permit.

3. Government Code Section 66474(c) - That the site is not physically suitable for the type of development.

Analysis: The site is physically suited for the type of development. The FEIR evaluated potential environmental impacts associated with the development. All required mitigation measures in the FEIR’s Mitigation Monitoring and Reporting Program apply to the Vesting Tentative Map as a condition of approval. The FEIR and corresponding mitigation measures address, among other issues, geotechnical and soils considerations, flooding, hazards, and hazardous materials. The site is

in an area of Downtown San José that accommodates manufacturing, light industrial, and business service land uses mixed with limited residential and commercial uses. Locate adjacent to Diridon Station, development of the Project will enhance connections to nature, surrounding neighborhoods, and the greater Bay Area region, strengthening links to Downtown and surrounding neighborhoods. Development of the site, which is primarily vacant, will revitalize the site with a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood.

4. Government Code Section 66474(d) - That the site is not physically suitable for the proposed density of development.




Analysis: The site is physically suited for the density of development, including up to 5,900 residential condominium units and the anticipated commercial development. Potential impacts associated with density and development intensity were evaluated in the FEIR, and as described above, compliance with all applicable mitigation measures is a condition of approval of the Vesting Tentative Map. The site is in an area of Downtown San José that accommodates manufacturing, light industrial, and business service land uses mixed with limited residential and commercial uses. Locate adjacent to Diridon Station, development of the Project will enhance connections to nature, surrounding neighborhoods, and the greater Bay Area region, strengthening links to Downtown and surrounding neighborhoods. Development of the site, which is primarily vacant, will revitalize the site with a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood.

5. Government Code Section 66474(e) - That the design of the subdivision or the proposed improvements is likely to cause substantial

environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Analysis: Neither the design of the subdivision nor of the proposed improvements are likely to cause substantial environmental damage or to substantially and avoidably injure fish or wildlife or their habitat subject to the incorporation of mitigation as otherwise required in the conditions of approval. The FEIR incorporates a comprehensive evaluation of biological resources, including fish and wildlife and their habitat. The required mitigation measures identified in the Mitigation Monitoring and Reporting Program would reduce any of the biological impacts to less than significant and is include in the to the Vesting Tentative Map as a condition of approval.

6. Government Code Section 66474(f) - That the design of the subdivision or type of improvements is likely to cause serious public health problems.




Analysis: Neither the design of the subdivision nor of the type of improvements are likely to cause serious public health problems. Issues of public health, including, e.g., geotechnical and soils stability, hazardous and hazardous materials, and air quality impacts were evaluated in the FEIR. All required mitigation measures identified in the Mitigation Monitoring and Reporting Program apply to the Vesting Tentative Map as a condition of approval.

7. Government Code Section 66474(g) - That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones

previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

Analysis: Neither the design of the subdivision nor of the types of improvements will conflict with easements acquired by the public at large for access through, or use of, property within the subdivision. The abandonment of any easements necessary to effectuate the development contemplated by the subdivision is addressed in City Council Resolution No. _____, pursuant to which the City Council adopted findings relating to the vacation of such easements under the Streets and Highways Code, and subject to conditions of approval. Further, as shown on the Vesting Tentative Map, Subdivider will be required to dedicate new public easements for access through and use of portions of the subject property.



San José Municipal Code (SJMC) Section 19.12.220. The director may disapprove a tentative map because of design, flood hazard, inundation, lack of adequate access, lack of adequate water supply or fire protection, insufficient sewage or drainage facilities, geological hazards, when the only practical use which can be made of the property thereon is a use prohibited by any ordinance, statute, law or other valid regulation, or because of failure to comply with the requirements of the Subdivision Map Act or of this Title 19.

Analysis: As described above, design or improvement of the proposed subdivision is not consistent with the General Plan and the site is physically suitable for the proposed type of development and density of

development. The design and improvement of the proposed site will provide adequate access, water supply, fire protection, and sewage or drainage facilities to serve the subdivision. As set forth above, the Vesting Tentative Map is consistent with the Downtown West PD Zoning Ordinance.

10. Incorporation of Vesting Tentative Map Notes. All of the “General Notes” on Sheet TM-1 of the Vesting Tentative Map are hereby adopted and incorporated by reference into these findings. For ease of reference, an enlarged copy of the General Notes appearing on Sheet TM-1 of the Vesting Tentative Map is attached hereto as Exhibit B.

11. Waiver of Section 19.12.020 of the San José Municipal Code. SJMC Section 19.12.020 provides that when filing a tentative map, the subdivider shall provide a statement to the Director of Public Works stating as follows:

- A. That he is the owner of the property proposed for subdivision; or
- B. That he has an option or contract to purchase the property proposed for subdivision or the portion thereof which he does not own; or
- C. That he is the authorized agent of one who meets the requirements of subsection A. or B. of this section.

The subdivision includes areas (e.g., certain public streets) which, as of the effective date of this Resolution, are subject to fractionalized ownership interests, and for which it is impracticable for Subdivider to provide the statement contemplated by Section 19.12.020. As such, the City Council approves a waiver of Section 19.12.020 as applied to any properties included within the subdivision and for which Subdivider has not provided the statement contemplated by Section

19.12.020, pursuant to its authority under Section 19.04.050, subject to the following:

- a. Based on the reasons described above, it is impracticable for the Subdivider to observe the strict letter of Section 19.12.020.
- b. The modification or waiver does not violate the spirit or purpose of the Subdivision Map Act or of Title 19 of the San José Municipal Code. The Subdivision Map Act requires only that owners of properties authorize final maps (not tentative maps). As for Title 19, the Subdivider has provided the requisite statement as to all properties for which the Subdivider can practicably provide it. Notice of the Vesting Tentative Map approval was duly noticed with sufficient opportunity for review and public comment. Filing of phased final maps will require the authorization of the owners of subdivided properties.
- c. This waiver is reasonably necessary and expedient for the preservation and enjoyment of a substantial property right, that being the Subdivider's ability to subdivide the property and develop the Project in a manner consistent with the Project approvals. This waiver will not be detrimental to the public welfare based on the considerations otherwise described in this finding.

12. Waiver of Section 19.16.110(G) of the San José Municipal Code. SJMC Section 19.16.110(G) generally requires the subdivider to show the location, name, width, and purpose proposed "pedestrian ways" on the face of a final map. The Project Approvals, including the Development Agreement, PD Permit (including the DWDSG) and the Parkland Agreement include detailed procedures for the identification and final design of pedestrian ways, including such pedestrian ways that may be located within private streets or privately-owned publicly accessible open space areas. The precise location of pedestrian ways may not be practicably capable of being fixed at the time of approval of a phased final map. As such, the

City Council approves a waiver of Chapter 19.16.110(G) for privately-owned pedestrian ways, pursuant to its authority under Chapter 19.04.050, subject to the following:

- a. Based on the reasons described above, it is impracticable for the Subdivider to observe the strict letter of Chapter 19.16.110(G).
- b. The waiver does not violate the spirit or purpose of the Subdivision Map Act or of Title 19 of the San José Municipal Code. Any publicly-dedicated easements will be shown on phased final maps and concurrently offered to the City for dedication. This waiver applies only to private pedestrian ways that may be subject to a right of public access. To the extent that the Project Approvals contemplate privately-owned pedestrian ways with rights of public access within any phased final map area, the Director shall require terms reasonably necessary to ensure that the public's right of access is established after recordation of the final map and prior to building permit issuance for the phased final map area.
- c. This waiver is reasonably necessary and expedient for the preservation and enjoyment of a substantial property right, that being the Subdivider's ability to develop the Project in a manner consistent with the Project approvals, and this waiver will not be detrimental to the public welfare, based on the considerations otherwise described in this finding.

13. Waiver of Section 19.36.030 of the San José Municipal Code. Section 19.36.030 generally requires that streets must be consistent with the Complete Streets requirements as described in Chapter 13.05. However, the City Council has determined, pursuant to the Project Approvals, that certain modifications to the Complete Streets requirements shall apply as to street designs within the Downtown West PD Zone, including as are described in the DWDSG and the

DWIS. As such, the City Council approves a waiver of Section 19.36.030, pursuant to its authority under Chapter 19.04.050, subject to the following:

- a. Based on the reasons described above, it is impracticable for the Subdivider to observe the strict letter of Chapter 19.36.030.
- b. The waiver does not violate the spirit or purpose of the Subdivision Map Act or of Title 19 of the San José Municipal Code. The waiver does not diminish Subdivider's obligation to improve public and private streets, and instead simply confirms that the Project Approvals, to the extent that they diverge from the Complete Streets requirements, shall govern street design.
- c. The waiver is reasonably necessary and expedient for the preservation and enjoyment of a substantial property right, that being the Subdivider's ability to develop the Project in a manner consistent with the Project approvals, and this waiver will not be detrimental to the public welfare, based on the considerations otherwise described in this finding.

14. Modification of Section 19.040.050 of the San José Municipal Code. Section 19.40.025 authorizes the merger of up to four contiguous parcels into one parcel provided that the requirements of the Code provision are satisfied. One such provision, Chapter 19.40.025(C), provides that the merger must be a requirement of a development permit issued under Title 20 San José Municipal Code. Given the scope of the Vesting Tentative Map, the long-term project buildout, and the ongoing design and review processes contemplated by the Project Approvals, it is foreseeable that Subdivider may need to merge certain parcels to facilitate the project buildout even if such merger is not a condition of a development permit. The City Council approves a modification of Chapter 19.04.050, pursuant to its authority under Chapter 19.04.050, to eliminate the application of Section 19.04.050(C) to the Subdivider for purposes of voluntary lot mergers, subject to the following:

- a. Based on the reasons described above, it is impracticable for the Subdivider to observe the strict letter of Chapter 19.040.050(C).
- b. The modification does not violate the spirit or purpose of the Subdivision Map Act or of Title 19 of the San José Municipal Code. Subdivider will otherwise be required to comply with the provisions of Chapter 19.040.050 in seeking any voluntary mergers. These provisions include submission of an application, Public Works Director review, an evaluation of the need to secure land dedications or easements, and public hearing requirements.
- c. The waiver is reasonably necessary and expedient for the preservation and enjoyment of a substantial property right, that being the Subdivider's ability to develop the Project in a manner consistent with the Project approvals, and this waiver will not be detrimental to the public welfare, based on the considerations otherwise described in this finding.

15. **Effect of Rezoning.** As described above, Subdivider's application for approval of this Vesting Tentative Map was filed concurrently with an application to modify the subject property's zoning. Pursuant to Government Code Section 66498.3, this Vesting Tentative Map shall confer a vested right to proceed with the development in substantial compliance with the Downtown West PD Zone as of the Effective Date (described below) of this Resolution.

16. **Abandonment of Public Streets and Easements.** Certain existing public streets and public easements are indicated on the Vesting Tentative Map as being subject to abandonment pursuant to the Subdivision Map Act. At the time of approval of phased finals maps including such streets and easements, and provided that the requirements of the Subdivision Map Act and the conditions of approval in this Resolution are satisfied, these streets and easements shall be unnecessary for the present or prospective public use. The City Council further finds that incorporation

of the underlying properties into the adjacent parcels, as described in the Vesting Tentative Map, free of public street interest and identified public easements, is assumed as part of the Project and is essential for the City and the public to realize the full measure of the Project's public benefits.

17. Conveyance by Exchange. Subdivider proposed to exchange with the City approximately 5.43 acres of real property for use as future public rights-of-way ("Subdivider Property") in exchange for approximately 4.88 acres of real property currently designated as public right-of-way and which will be abandoned as otherwise described in the Resolution ("City Property"). The City Property may include areas not owned in fee by the City as of the effective date of this Resolution. The Subdivider Property is depicted on the Vesting Tentative Map as "Public Street Dedication" and the City Property is depicted on the Vesting Tentative Map as "Public Street to be Abandoned." The City Council has considered the proposed exchange of the Subdivider Property for the City Property, through direct negotiation, pursuant to Section 4.20.050 of the Municipal Code, and finds that the conveyance of the Subdivider Property in fee to the City constitutes full consideration at fair market value in exchange for the conveyance of the City Property in Fee to Subdivider. In making this determination, the City Council has considered the fact that the properties involved in the exchange are similarly situated in terms of their historic use as rights-of-way, their proximate location, and the potential future use of the properties. The City Council takes note of the fact that the Subdivider will deliver over one additional half-acre of land to the City compared to what the City will transfer to the Subdivider, and that the land transferred to the City will include significant new public improvements as contemplated by the Project approvals. The [Director of Economic Development] shall take all actions reasonably necessary to effectuate the exchange as a series of conveyances completed generally concurrent with phased final map approvals. Actions reasonably necessary to complete the exchange may include, but shall not be limited to, ensuring the adequacy of title of exchanged properties prior to the

completion of any conveyance to or from the City, and deeds, escrow materials, and easements.

In accordance with the findings set forth above, a Vesting Tentative Map to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. This City Council expressly declares that it would not have granted this Vesting Tentative Map except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS

1. **Acceptance of Vesting Tentative Map.** Per Chapter 19.12.230, should the Subdivider fail to file a timely and valid appeal of this Vesting Tentative Map within the applicable appeal period, such inaction by the Subdivider shall be deemed to constitute all of the following on behalf of the subdivider:
 - A. Acceptance of the Vesting Tentative Map by the Subdivider; and
 - B. Agreement by the subdivider to be bound by, to comply with, and to do all things required of or by the Subdivider pursuant to all of the terms, provisions, and conditions of this Resolution or other approval and the provisions of the San José Municipal Code applicable to such Vesting Tentative Map.
2. **Expiration of Vesting Tentative Map.** Pursuant to Government Code Section 66452.6(a), the Vesting Tentative Map shall expire upon expiration of the term of the Development Agreement.
3. **Conformance to Plans.** The development of the subject property and all associated development and improvements shall conform to the approved Vesting Tentative Map Plans entitled “Vesting Tentative Map for Condominium Purposes - Downtown West,” dated __ 2021, on file with the Department of Planning, Building and Code Enforcement, as may be amended subject to City’s

approval, and to the San José Building Code (San José Municipal Code, Title 24), as amended.

4. **Compliance with Subdivision Ordinance.** Subject to any modifications or waivers therefrom approved pursuant to the Project Approvals or this Resolution, or as may be subsequently authorized pursuant to Title 19 of the San José Municipal Code, all final maps shall comply with the requirements for final maps in Chapter 19.16.
5. **Conformance with Other Permits.** The subject Vesting Tentative Map shall conform to and comply in all respects with the PD Permit upon which such Vesting Tentative Map is based. Approval of said Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a final map has not yet been recorded if, prior to recordation of a final map thereon, the PD Permit for such lands ceases to be operative for any reason and the Subdivider either fails to timely appeal, or any appeal is not resolved in favor of the Subdivider.
6. **Minimum Square Footage of Nonresidential Condominium.** The minimum size of any nonresidential condominium shall not be at least seven hundred fifty square feet.
7. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Subdivider will be required to have satisfied all of the following Public Works conditions. The Project is intended to be developed in a series of phases and the following Downtown West PD Permit conditions shall apply, as applicable, to the incremental development within each phase of the Project, and such conditions shall not apply if the project phasing does not trigger corresponding improvements as described below. This shall not apply to improvements that have a separately identified phasing and trigger schedule.
 - A. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction

of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.

B. Transportation:

- i. A Transportation Analysis has been performed for this project. We conclude that the subject project will be in conformance with the City of San Jose Transportation Policy (Council Policy 5-1) and a determination for less than significant impacts can be made with respect to transportation impacts.
- ii. As a result of the Local Transportation Analysis prepared by Fehr & Peers, dated July 2020, and included as Appendix J2 to the Draft Environmental Impact Report for the Project, City and Developer have (i) identified certain "LTA Improvements Projects" to which Developer will contribute, through a combination of construction and financial contributions, and (ii) agreed that Developer may undertake additional traffic or intersection analysis for the City and/or County that could identify additional potential improvements; the combined contribution value for (i) and (ii) shall not exceed thirty million dollars (\$30,000,000) (the "Total Contribution Value"), subject to escalation based on the Engineering News Record Construction Cost Index. As detailed in the LTA Construction and Financial Contributions table below, Developer will construct certain LTA Improvement Projects at an estimated total cost of up to seventeen million three hundred ten thousand dollars (\$17,310,000) (the "LTA Construction Contribution"), and Developer also will contribute an estimated total of twelve million six hundred ninety thousand dollars (\$12,690,000) toward the cost to construct other LTA Improvement Projects (the "LTA Financial Contribution").
- iii. In the event Developer's actual cost to construct an LTA Improvement Project is less than the estimated cost for that LTA

Improvement Project reflected in the LTA Improvement Estimated Budget, either (a) Developer may allocate the balance of the estimated cost to its LTA Financial Contribution, or (b) Developer and City may mutually agree to allocate the balance (i) to another LTA Improvement Project identified in the LTA Improvement Estimated Budget, (ii) as a contribution toward transportation projects later identified in the Focused LTA, or (iii) as a contribution toward another transportation improvement(s) within the City. Such other transportation improvement(s) in the City, including any that may be identified under the Focused LTA, have not yet been identified and so are speculative, not reasonably foreseeable, and such improvements would be subject to separate review by that project's applicant pursuant to the California Environmental Quality Act, if required.

- iv. In the event Developer's actual cost to construct an LTA Improvement Project would exceed the estimated cost for that LTA Improvement Project reflected in the LTA Improvement Estimated Budget, Developer may draw from its LTA Financial Contribution, if available, to account for the higher cost, without penalty. If insufficient LTA Financial Contribution funds are available at the time the LTA Improvement Project is to be constructed by Developer, then either (a) the scope of the LTA Improvement Project shall be adjusted so that the actual cost does not exceed the estimated cost to construct the LTA Improvement Project as reflected in the LTA Improvement Estimated Budget, or, if that is not feasible, (b) Developer shall contribute (i) an amount equal to the estimated cost for the subject LTA Improvement Project toward the LTA Financial Contribution, or, if less than that amount remains in Developer's Total Contribution Value, (ii) Developer shall contribute the remainder of the Total Contribution Value toward the LTA Financial Contribution. If Developer proceeds in the manner

described in (b) in this Paragraph, Developer shall not be obligated to construct the LTA Improvement Project. For clarity, in all instances, Developer's Total Contribution Value shall not exceed \$30,000,000, subject to escalation based on the Engineering News Record Construction Cost Index.

- v. Each LTA Construction Contribution and LTA Financial Contribution shall be completed or paid, as applicable, in accordance with the Improvements Phasing set forth in the LTA Construction and Financial Contributions table below, which requires that each LTA Construction Contribution be completed in accordance with the corresponding Public Improvement Agreement (PIA). For LTA Improvement Projects that are constructed by Developer, such Improvements are complete upon acceptance by the City, provided, however, that the City adheres to the following timelines and obligations: City agrees to inspect and prepare a punchlist for the LTA Improvement Projects within ten (10) business days of notification by Developer that the Developer considers the construction of the Improvements to be substantially complete; City further agrees to perform its final inspection within ten (10) business days of notification by Developer that all punchlist work has been completed; City will process acceptance documentation (Notice of Completion and Acceptance) within ten (10) business days of the date of City's final inspection or the date upon which the Developer returns to City the appropriate signed acceptance documentation, whichever is later, provided that (a) City finds that all punchlist work has been satisfactorily completed, which determination shall not be unreasonably withheld, (b) Developer has performed and satisfied any and all terms, conditions, and obligations required by any applicable Improvement Agreement prior to acceptance of the Improvements, and (c) Developer has provided the Director of PW with three (3) sets of the Plans ("record

plans”) corresponding copies of any and all warranties, and the like (such warranties shall be in the name of the City).

- vi. City and Developer acknowledge that Developer’s construction of an LTA Improvement Project may require acquisition of a right-of-way, easements, and/or receipt of encroachments permits from non-City agencies such as VTA, Caltrans, and/or the County of Santa Clara. If Developer’s completion of an LTA Improvement Project is delayed due to such required acquisition(s), easement(s), and/or receipt of non-City permits, or other similar factors outside of Developer’s control, Developer and City agree to work in good faith to modify the Improvements Phasing set forth in the LTA Construction and Financial Contributions table. Such Improvements Phasing modifications could allow for the Project to advance into the next Phase ahead of the delayed Improvement(s). However, all LTA Improvements Projects included in the PD Permits for the Project shall be implemented.
- vii. The LTA Construction and Financial Contribution requirements are summarized below:



LTA Construction and Financial Contributions			
Improvement/Description	LTA Construction Contribution	LTA Financial Contribution	Improvements Phasing
Focused Local Transportation Analysis improvements such as intersection improvements, new signals, at-grade rail crossing modifications and complete street improvements. For Block E, this will include restriping Delmas between San Fernando Street and Park Avenue from one to two lanes.	\$10,000,000		As necessary based on Focused Local Transportation Analysis (FLTA) findings
Studies: <ul style="list-style-type: none"> Connector from the Airport to Stevens Creek Boulevard to Diridon Station Area Santa Clara dedicated public service lane within existing right-of-way from 17th Street to Interstate 880 Transit and light rail improvements within the project area, particularly at San Fernando Street and Delmas Avenue. 		\$1,100,000	Temporary Certificate of Occupancy for the earlier of either 1m gsf Office or 1,400 residential units
Feasibility study and concept design of the Bird Avenue/Interstate-280 bicycle and pedestrian multimodal connection from Diridon Station area to Garner community		\$500,000	Temporary Certificate of Occupancy for the earlier of either 1m gsf Office or 1,400 residential units
Protected bikeway improvement on Bird Avenue between I-280 and West San Carlos Avenue		\$1,860,000	Temporary Certificate of Occupancy for the earlier of either 1m gsf Office or 1,400 residential units
Bird Avenue/Interstate-280 bicycle and pedestrian multimodal connection from Diridon Station area to the Gardener community.		\$4,840,000	Temporary Certificate of Occupancy for 4m gsf Office
Taylor Street and State Route 87 improvements programmed by the City of San Jose and Caltrans.		\$220,000	Temporary Certificate of Occupancy with the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office)
Goodyear Street and First Street and First Street and Alma Street intersection improvements per the Story- Keyes Complete Streets Corridor and Better Bike Plan 2025.		\$490,000	Temporary Certificate of Occupancy with the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office)
Multimodal and neighborhood transportation management improvements and transit studies at the discretion of the City		\$3,680,000	50% will be paid at Temporary Certificate of Occupancy for 4m gsf Office, the remaining 50% at Temporary Certificate of Occupancy for the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office) unless otherwise mutually agreed upon by Developer and City
Footbridge over the Los Gatos Creek north of West San Fernando Street	\$3,000,000		Construction completion in accordance with PIA timing for the improvements serving E1
At-grade signalized-trail crossing at West Santa Clara Street and Diridon Station Area.	\$400,000		Construction completion in accordance with PIA timing for the improvements serving E1
Protected bikeway connection along Auzerais Avenue from Los Gatos Creek Trail to Bird Avenue. Does not include project frontage improvements or rail crossing modifications.	\$800,000		Construction completion in accordance with PIA timing for the improvements serving 4m gsf Office or if later, frontage improvements along H3/H4
Sidewalk extension under Highway 87 at Auzerais Avenue and Delmas Avenue. Improvements include a bulb-out at the north east quadrant.	\$1,110,000		Construction completion in accordance with PIA timing for the improvements coinciding with the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office)
Bicycle connection and removal of the pork-chop island at the southwest corner at Coleman Avenue and Taylors Street.	\$2,000,000		Construction completion in accordance with PIA timing for the improvements coinciding with the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office)
Subtotal	\$17,310,000	\$12,690,000	
Total	\$30,000,000		

viii. Submit subsequent focused LTAs that evaluate internal roadway circulation, site access and operations, street network changes and other metrics consistent with the City's 2019 Transportation Analysis Handbook consistent with Council Policy 5-1 and the Downtown West Design Standards and Guidelines.

- ix. Implement a Neighborhood Traffic Intrusion and Parking Monitoring Plan. If the Project adds traffic and parking demand that exceeds the performance thresholds identified in the final monitoring plans, the project shall contribute a proportional share to the costs of managing cut-through traffic, speeding, and parking intrusion, including the costs of expanding the Residential Parking Permit program.

C. Grading/Geology:

- i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan will be required with the grading application.
- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
- iii. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.
- iv. Project shall conform to the City's Solid Waste Enclosure Guidelines
(<https://www.sanjoseca.gov/home/showdocument?id=15629>).

- v. This includes covering all trash enclosures and connecting all drains within trash enclosures to the sanitary sewer system.

D. Stormwater Runoff Pollution Control Measures:

- i. Refer to project's PD Permit Resolution for all Stormwater conditions and requirements.

E. Sewage Fees: The project sponsor shall pay a Sewer Connection Fee in accordance with the Development Agreement for the project.

F. Parks: The project Sponsor and the City entered into a Parkland Agreement, as part of the Development Agreement, which sets forth the requirements for the Project Sponsor to satisfy the parkland Dedication Obligation under the City's Parkland Dedication Ordinance (Chapter 19.38 of the San Jose Municipal Code)

G. Street Vacation: Street vacation is required in order to accomplish the land use plan as shown. Conditional street vacation process requires discretionary approval by the City Council. The final street vacation requires approved improvement plans and an executed Construction Agreement to relocate existing utilities and improvements and construct any new utilities or improvements, as required.

H. Undergrounding:

- i. Developer shall complete the underground conversion of existing overhead utilities along all project frontages. Developer shall submit copies of executed utility agreements with PG&E to Public Works prior to the issuance of a Public Works Clearance. The details on electrical undergrounding and Rule 20A/B applications will be in accordance with the Development Agreement Section 7.6.1e.
- ii. In case existing overhead utilities are not undergrounded, the In Lieu Undergrounding Fee shall be paid prior to issuance of a Public Works Clearance. Currently, the 2021 base fee is \$532 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year.

I. **Improvements.** Subdivider shall, before approval and recording of any phased final map, improve or agree to improve the land within and appurtenant to the subdivision in accordance with Title 19 of the Municipal Code and to the satisfaction of the Public Works Director. Construct the public improvements as specified in the Downtown West Infrastructure Plan and other Downtown West documents as appropriate, to effectuate the street sections identified in the Vesting Tentative Map. A summary of work to be completed is curb, gutter, sidewalk and pavement along the following streets public improvements as specified in the Downtown West Infrastructure Plan and other Downtown West documents as appropriate, to effectuate the street sections identified in the Vesting Tentative Map. A summary of work to be completed is curb, gutter, sidewalk and pavement along the following streets:

- i. Cahill Street, from Park Avenue to San Fernando Street.
- ii. Cahill Street, from West Santa Clara Street to North Montgomery Street.
- iii. West Post Street, from South Montgomery Street to Autumn Street.
- iv. West St. John Street extension from project boundary to New Cahill Street.
- v. North Autumn Street extension from project boundary to Lenzen Avenue.
- vi. Autumn Street, from West San Carlos Street to West St John Street.
- vii. West Julian Street, from West Montgomery Street to western project boundary
- viii. Park Avenue within project boundary.
- ix. West San Carlos Avenue within project boundary
- x. West Santa Carlos Street within project boundary.
- xi. Additional streets to be determined prior to final map approval.
- xii. Other public street improvements include:

1. Dedicate and construct new public streets pursuant to the applicable standards set forth in the Project's Downtown West Design Standards and Guidelines, the City's Complete Street Design Standards and Guidelines (to the extent a standard or guideline has been superseded by the DWDSG), and as show on the plans. The standard street right-of-way, curb-to-curb, and sidewalk widths will be determined prior to improvement plans approval. The ultimate cross section, including lane configurations, will be finalized at the improvement plan stage.
2. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
3. Proposed driveway width to be maximum 32'. Wider driveways can be permitted where identified under the Focused Local Transportation Analyses in coordination with Department of Transportation.
4. Close unused driveway cut(s).
5. Developer shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
6. The maintenance responsibility for any non-standard public improvements and/or enhanced features within the public right-of-way shall be identified in the Project's Maintenance Matrix, attached as an exhibit to the Infrastructure Plan.
7. Repair, overlay, or reconstruction of asphalt pavement will be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.



8. Install new conduit with innerduct and fiber along project public street frontages and between existing traffic signals as needed to upgrade/complete City's fiber network.
9. Additional street and transportation improvements may be identified as part of the Project's Focused Local Transportation Analyses.

- J. **Improvement Agreement.** In the event Subdivider has not completed the public improvements required for the proposed subdivision at the time the final map is presented for approval, Subdivider shall enter into a subdivision improvement agreement ("Improvement Agreement") with the City of San José in accordance with Section 19.32.130 of the San José Municipal Code and provide associated improvement security and insurance as required therein.
- K. **Publicly-Dedicated Easements.** Subdivider shall dedicate public use easements on the phased final maps for public utilities, emergency access, sanitary sewers, drainage, flood control channels, water systems, and any easements required for publicly-dedicated open space, streets, or pedestrian ways as contemplated by the Project Approvals.
- L. **Multiple Final Maps.** As described above, Subdivider may file multiple phased final maps for the area included within the Vesting Tentative Map, provided that the following conditions are addressed prior to the filing of each final map:
 - i. All fees associated with development and a part of this approval shall be apportioned and paid for each portion of this subdivision for which a Final Map is being filed, including but not limited to, undergrounding of utilities, drainage, area and sewer treatment plan.
 - ii. All property dedications, public improvements and fees required to be paid pursuant to the Development Agreement and/or the Parkland Agreement specifically, as applicable, have been satisfied

or are addressed in the Improvement Agreement associated with the final map.

- iii. All public streets on which each Final Map has frontage shall be improved or bonded to be improved to the satisfaction of the Director of Public Works.
- iv. All grading, drainage, and easements for drainage, adequate to protect each lot for which a Final Map is requested, and surrounding parcels which could be impacted by such design or lack of design, shall be guaranteed.
- v. Any and all off-site improvements necessary for mitigation of impacts brought about by this project shall be apportioned to the degree possible to guarantee adequate mitigation for each area for which a Final Map is being filed, consistent with the FEIR and the Project Approvals.

M. Sewage Treatment Demand. Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Vesting Tentative Map by Subdivider shall constitute acknowledgement of receipt of notice by Subdivider that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Vesting Tentative Map when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Vesting Tentative Map may be suspended, conditioned or denied where the City Manager is necessary to remain within the

aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

- N. **Parkland Dedication Ordinance.** The Project is subject to a Parkland Agreement for purposes of Subdivider's satisfaction of parkland dedication and fee payment obligations under Chapter 19.38 of the Municipal Code. Prior to the approval of any phased final map, Subdivider shall demonstrate that it has complied with any applicable requirements of the Parkland Agreement relating to the development contemplated for the phased final map area, including any required offers of dedication or payment of fees.
- O. **Conformance to Mitigation Monitoring and Reporting Program.** The project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by Resolution No. _____, as such requirements may be applicable to any phased final map.

8. **Standard Environmental Conditions**

- A. The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
- i. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - ii. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - iii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - iv. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).

- v. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- vi. Replant of vegetation in disturbed areas as soon as possible after completion of construction.
- vii. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of the California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- viii. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- ix. Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

B. Biological Resources

- i. Any tree to be removed will be replaced with new trees in accordance with the City's Tree Replacement Ratios, as set forth below.

Circumference of Tree to be Removed ¹	Type of Tree to be Removed ²			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
12 inches or more ³	5:1	4:1	3:1	15-gallon
6.0 to 12 inches	3:1	2:1	None	15-gallon
Less than 6.0 inches	1:1	1:1	None	15-gallon

¹ As measured 4.5 feet above ground level
² X:X = tree replacement to tree loss ratio
³ Ordinance-sized tree

Notes: Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size.
A 38-inch tree equals 12.1 inches in diameter.
A 19-inch tree equals 6.1 inches in diameter.
One 24-inch box tree= two 15-gallon trees

- ii. In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement.
 1. The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage. Replacement tree plantings may be accommodated at an alternative site(s).
 2. Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.
 3. Habitat Plan. The project is subject to applicable Santa Clara Valley Habitat Plan (SCVHP) conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. Prior to issuance of any grading permits, the permittee shall submit a SCVHP Coverage Screening Form to the Supervising Environmental Planner of the Department

of Planning, Building, and Code Enforcement for review and will complete subsequent forms, reports, and/or studies as needed.


C. Cultural Resources

- i. In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement will be notified, and a qualified archaeologist will examine the find. The archaeologist will 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery would be submitted to Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement and the Northwest Information Center (if applicable). Project personnel should not collect or move any cultural materials.
- ii. If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The permittee shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code


Enforcement and the qualified archaeologist, who will then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American.

- iii. If the remains are believed to be Native American, the Coroner will contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.
- iv. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
 1. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
 2. The MLD identified fails to make a recommendation; or
 3. The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.
- v. If vertebrate fossils are discovered during construction, all work on the site will stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project proponent will be responsible for implementing the recommendations of the paleontological monitor.

D. Geology and Soils

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- i. To avoid or minimize potential damage from seismic shaking, the project would be built using standard engineering and seismic safety design techniques. Building design and construction at the site will be completed in conformance with the recommendations of a geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Planning, Building, and Code Enforcement as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes, including the 2016 California Building Code Chapter 16, Section 1613, as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
 - ii. All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized.
 - iii. Stockpiles and excavated soils will be covered with secured tarps or plastic sheeting.
 - iv. Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.
 - v. The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. In addition, the San José Department of Public Works requires a grading permit to be obtained prior to the issuance of a Public Works clearance. These standard practices, including the measure outlined below, will ensure that the future building on the site is designed properly to account for soils-related hazards on the site. The project shall conform to the recommendations of a project-specific geotechnical report, including design considerations for project foundations.

E. Hazard and Hazardous Materials

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- i. In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building to determine the presence of asbestos-containing materials and/or lead-based paint.
 - ii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.
 - iii. All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.
 - iv. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
 - v. Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

F. Hydrology and Water Quality

- i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- ii. Earthmoving or other dust-producing activities would be suspended during periods of high winds.

- iii. All exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.
- iv. Stockpiles of soil or other materials that can be blown by the wind would be watered or covered.
- v. All trucks hauling soil, sand, and other loose materials would be covered and all trucks would be required to maintain at least two feet of freeboard.
- vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).
- vii. Vegetation in disturbed areas would be replanted as quickly as possible.
- viii. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.

G. Noise


- i. The following Conditions of Approval are required to reduce interior noise levels within residences to 45 dBA DNL or less and interior noise levels within commercial uses to 50 dBA Leq or less:
- ii. Provide all residential units with a suitable form of forced-air mechanical ventilation (as determined by the local building official) so that windows can be kept closed at the occupant's discretion to control interior noise levels and achieve the interior noise level standards.

9. **Procedure for Subsequent City Review of District Systems.** The Project's Planned Development Permit, including the infrastructure Plan, the Downtown West Development Standards and Guidelines (DWDSG), the Conceptual Infrastructure Plan Sheets, and the Downtown West Improvement Standards (DWIS) contemplate that the Subdivider may pursue implementation of a privately-owned electric distribution system ("Microgrid"), privately-owned wastewater collection and treatment, recycled water distribution, and thermal

systems, (with the Microgrid and each of the other systems each referred to individually as a “District System” and collectively as the “District Systems”) to provide utility service to the Project. If the Subdivider seeks to implement any District System in lieu of municipal or regional public utility service otherwise available within any proposed phased final map area, the following procedures shall apply.

A. District Systems Criteria. The operation and management of any District System shall reflect the following Criteria to ensure that Project residents (including owners, tenants, and businesses) and the City can rely on any District System to provide reliable, continuous utility service at equitable rates for the life of the Project, with the Criteria described below and referred to hereafter as the “District Systems Criteria.”

- i. Service. The District System will provide consistent and continuous utility service equivalent to that which would be expected for comparable utility service otherwise available to San José residents (“Service Standard”).



Criteria Check Point: The consistent and continuous service will be confirmed through the embedment of a Service Standard equivalent to comparable utility service available in San José. The Service Standard will be included in the District Systems Transactional Documents (as defined below).

- ii. Rate Control. Rates for service charged to residential tenants or owners (i.e., condominium) and retail tenants whether reflected in sales prices, utility charges, rent or other consideration, shall be consistent with any rate schedule, limits or mechanisms established by any governing state or federal agency, or, in the absence of an applicable control, rates shall not exceed rates for comparable service from other utility providers available to San Jose residents (“Rate Control”) or comparable building level thermal service.

Criteria Check Point: Rate Control will be confirmed via a guarantee clause in District Systems Transactional Documents addressing supply arrangements. Rate Control, as with other applicable District Systems Criteria, will be made enforceable by residential tenants and owners through the District Systems Transactional Documents. Buildings shall be sub-metered for District System service.

iii. Customer Service Administration / Resolution of Performance and Operational Procedures.

Criteria Check Point: The District Systems Transactional Documents will include terms to ensure that the operator will implement clear procedures for communication with customers to resolve customer service, billing, performance, and other issues, including with dispute resolution mechanisms and performance standards as appropriate. This may include, for example, a structure included in the District Systems Transactional Documents that requires the operator to respond to any questions or complaints concerning service or billing within an established time period (e.g., fifteen days), and to identify procedures for prompt resolution (and reimbursement where relevant) of customer service or billing issues.

iv. Exclusivity and Tenure. The District Systems operator/owner will have the exclusive right and obligation to service the buildings that will ultimately be constructed within the subdivision boundary shown on the associated phased final map, and building owners and lessees will be required to exclusively contract with the District Systems operator/owner to procure available services. The private arrangement and enforcement between District Systems

operator/owner and building owners and lessees would not limit the City's authority pursuant to its general police powers to address public health and safety, or to secure payment for any unpaid services provided by the City to the properties including a covenant to pay for City services.


Criteria Check Point: The District Systems Transactional Documents will include enforceable covenants that require the owners or lessees, including at both the building and unit or parcel level, as applicable, to contract with the District Systems operator/owner for electric service, sanitary sewer collection, recycled water, and thermal heating and cooling service if and when available from the District Systems operator/owner. The District Systems Transactional Documents will require the District Systems operator/owner to exclusively supply services within the Project boundary and to all owners or lessees within the Project boundary unless otherwise described in the Infrastructure Plan and identified prior to approval of the subject phased final map. Public Improvement Plans, as evaluated pursuant to the Preliminary Review Process, will confirm that the District Systems are routed to each applicable building and sized to provide the necessary service.

- v. Continuity of Utility Supply. The District System will be continuously operated notwithstanding the failure of any for-profit operator of the District System, including if the District System operates at a loss.

Criteria Check Point: The District Systems Transactional Documents will include an obligation for the owners of all commercial office buildings which are connected to District Systems ("Office Building Owners") to assume the obligations of

the District Systems operator / owner and to provide continuous service on equivalent terms (including with respect to Rate Control and the Service Standard) to residential owners and tenants and retail tenants and retail tenants in the event of a failure of the District Systems operator or as applied to a given District System. A standard for “failure” giving rise to an obligation for the Office Building Owners to assume the obligations of the District Systems operator / owner will be described in the Draft District Systems Contractual Terms.

- vi. Safety. The District System will be operated safely and in accordance with applicable law and industry standards including, but not limited to, compliance with and maintenance of valid permits.



Criteria Check Point: Inclusion of a safety statement and accompanying safety plan to address applicable City, state and federal standards and guidelines relative to safe operation of the District Systems. The statement and plan will be included within the Transaction Documents.

- vii. Qualified Operator. Each District System will be operated by a professional operator with at least five (5) years technical experience and qualifications in safely operating the same utility in urban communities and in accordance with applicable law and industry standards (“Qualified Operator”). This Criteria shall apply to Subdivider and to any successor operator or Subdivider assigns.

Criteria Check Point: Inclusion of clause confirming minimum experience and the confirmation that all applicable certifications

and qualifications will be required prior to contracting the operator within the District Systems Transaction Documents.

- viii. **Capital Replacement.** The District Systems owner/operator will be obligated to ensure that the systems are replaced pursuant to appropriate capital replacement schedules to maintain the equipment for continuous operation.

Criteria Check Point - Inclusion of a clause within the Transactional Documents confirming the obligation of the District Systems operator to fund and replace the capital plant in a timely manner to ensure continuous operation of the systems.

- ix. Capital improvements. The right of the Office Building Owners to call on capital improvements to improve efficiency and performance of the District Systems from the District Systems owner/operator, subject to review on constraints and negotiations on funding and charges.




Criteria Check Point: Inclusion of a clause within the District Systems Transactional Documents confirming the right of the Office Building Owners to call on improvements to improve the efficiency and performance of the system.

- x. Obligations of Office Building Owners. As otherwise described in these conditions, the Office Building Owners will bear ultimate responsibility for assuring certain performance obligations of the District Systems relative to owners and tenants within the Project, including the Service Standard, Rate Control, continuity of supply, and the timely completion of capital replacement and

improvements, these obligations will apply notwithstanding any Assignment of the District Systems.

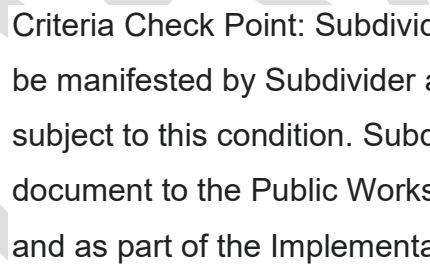
Criteria Check Point: The District Systems Transactional Documents will obligate all the Office Building Owners (which may include one or more commercial owners' associations) to ensure that the District Systems owner / operator operates the subject District System(s) consistent with the Service Standard and Rate Control requirements, and that the owner / operator provides continuous service. The District Systems Transactional Documents will require the Office Building Owners to implement capital replacement and improvement obligations. Further, the District Systems Transactional Documents will include dispute resolution procedures and remedies for owners and tenants receiving service from District Systems to ensure that such residents and tenants have a means of addressing any noncompliance by the Office Building Owners. The District Systems Transactional Documents will document the extent to which the Office Building Owners will control major encroachment permits for District Systems. To the extent Subdivider proposes to assign major encroachment permits to an Office Building Owner or a commercial owners' association, Subdivider will document to the Director of Public Works' reasonable satisfaction that the proposed assignee is capable of implementing the terms of the major encroachment permit and has the organizational capability and access to sufficient capital to perform the obligations of the permittee.

- xi. Limitations on Assignment. Subdivider's right to assign the District Systems infrastructure and associated rights and obligations ("each an "Assignment") will be consistent with the following, and which will be reflected in enforceable covenants that extend in perpetuity.

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1. Assignment and Assumption Agreement: Any Assignment will require execution of an "Assignment and Assumption Agreement" which evidences that the assignee has assumed all rights and obligations of the assignor pertaining to the subject District Systems as required by these conditions of approval and the operative District Systems Transactional Documents. No Assignment shall be effective until the assignor or assignee provides an executed copy of the Assignment and Assumption Agreement to the Public Works Director.
 2. Evidence of Qualified Operator: Concurrent with the submittal of the executed Assignment Assumption Agreement, the assignor or assignee shall provide documentation to the Public Works Director confirming that the assigned District System will continue to be operated by a Qualified Operator subsequent to the Assignment. No Assignment shall be effective until the assignor or assignee provides the documentation required pursuant to this condition.
 3. Permitted Assignments: Google may assign to (i) Alphabet, Lendlease or any Google/Alphabet/Lendlease affiliates/related entities) or (ii) any third-party assignees if the third-party is an owner/investor in the infrastructure sector, with appropriate operational and asset management capabilities, directly or via operating partner. Any such assignments would not require City's consent but would require prior sixty (60) days written notice to City except assignment of permits or other regulatory obligations under

federal, state or local laws must be in compliance with these laws.

- xii. Private Systems – No City Obligations / Notice to Owners. By seeking permits for the construction of the District Systems and buildings that rely on District Systems, Subdivider is voluntarily electing to proceed with these systems to meet the objectives of the Project. Subdivider acknowledges that the District Systems are private, and that the City has no role in funding, constructing, operating, maintaining, or replacing the District Systems except as may be expressly agreed to by the City (i.e., with respect to a possible role in owning or operating the Microgrid as otherwise described in these conditions of approval and the Development Agreement). Subdivider shall be solely responsible for funding, construction, operating, maintaining, replacing, and assuring continuity of service via District Systems and for resolving disputes among the owner / operator and any entities receiving service from the owner / operator.



Criteria Check Point: Subdivider's agreement with these terms shall be manifested by Subdivider accepting the Vesting Tentative Map subject to this condition. Subdivider shall also be required to document to the Public Works Director's reasonable satisfaction, and as part of the Implementation Plan (as described below), that notice will be provided to future owners that includes the following: (1) a description of any service that is provided to the subject building by a District System; (2) a statement that the District System is privately owned and operated, and that the City of San Jose has no responsibility for providing the service or to address disputes relating to the service; and (3) the identity of the District


Systems owner / operator, the qualified Operator and all necessary information regarding terms for service and dispute resolution.

B. Implementation Plan Confirmation. Subdivider shall submit an “Implementation Plan” to the Public Works Director, including the components described below, concurrently with the Subdivider’s submittal of a Vertical Improvement Conformance Review Application for a development phase. The Public Works Director will review the Implementation Plan for purposes of confirming that the Implementation Plan satisfies the Check Point Criteria and that it includes all components described below. The Public Works Director will notify the Subdivider in writing within thirty (30) days as to whether the Implementation Plan incorporates the Check Point Criteria and includes the components listed in this condition. Subdivider will not submit its first Preliminary Improvement Plans (35% plans) to the Public Works Director until the Public Works Director provides confirmation that the Implementation Plan satisfies the requirements of this condition.

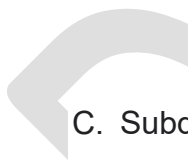


- i. Identification of Proposed District Systems. The Implementation Plan will identify any District System that the Subdivider proposes to implement as part of the development phase. For phases subsequent to the initial phase, the Implementation Plan will describe in concept form how the District System will interconnect with the same system as approved and/or constructed within prior phases.
- ii. Summary of Regulatory Requirements, Status and Schedule. District Systems will be subject to all applicable federal, state and regional requirements applicable to the District Systems at the time of implementation. The Implementation Plan will include a summary of any required regulatory authorizations necessary to construct or

operate any District System, along with the status of any regulatory authorizations. To the extent that any authorizations have not been obtained at the time of the Implementation Plan submittal, the summary will provide a schedule and any necessary supporting information to describe the timing of anticipated regulatory authorizations relative to Subdivider's schedule for completing improvement plans, filing a phased final map, and obtaining building permits.

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- iii. Index of "District Systems Transactional Documents". An index describing the draft documents that will govern the operation of the District System and its relationship to the commercial and residential properties comprising the development phase. This may include, for example, residential covenants, conditions and restrictions ("CC&Rs"), commercial CC&Rs, ground leases, licenses, supply contracts, and various deeds relating to real or personal property (collectively, the "District Systems Transactional Documents"). It is anticipated that parties to the District Systems Transactional Documents will include, but may not be limited to, Google, residential and commercial building owners, ground lessees, and the District Systems operator. The index will identify the specific documents that will implement the respective Check Point Criteria.
- iv. "Draft District Systems Contractual Terms". A summary that includes a series of draft contractual terms to be reflected in the District Systems Transactional Documents ("Draft District Systems Contractual Terms"). The Draft District Systems Contractual Terms will be evaluated for purposes of documenting satisfaction of the Check Point Criteria.

- v. Confirmation of District Systems Criteria through Horizontal Preliminary Review. Subdivider will provide the following to the Public Works Director prior to, or concurrent with, the submittal of 95% plans pursuant to the Horizontal Preliminary Review Process.
- vi. Proposed Final District Systems Transactional Documents. Subdivider will submit proposed forms of the District Systems Transactional Documents to the Community Energy Director for the purpose of confirming that the proposed forms do not result in inconsistency with the District Systems Criteria. The forms may include redactions where necessary to avoid disclosure of nonpublic proprietary information.
- vii. Confirmation of Regulatory Authorizations. Subdivider will submit copies of any regional, state or federal authorizations, approvals or acknowledgements identified in the Implementation Plan, or to the extent not obtained by the time of the 95% plan submittal, documentation to establish that said authorizations, approvals or acknowledgments will be obtained before Subdivider provides service to any end users to the Public Works Director's reasonable satisfaction.



C. Subdivision Improvement Agreement. The Subdivision Improvement Agreement for any phased final map will include an obligation for Subdivider to provide a copy of the final form of any District Systems Transactional Document that is required to be recorded to the Public Works Director for final confirmation that the relevant terms are included prior to recordation of the subject District Systems Transactional Document. The forms may include specific redactions where necessary to avoid disclosure of nonpublic proprietary information. Each Subdivision Improvement Agreement for a phased final map also shall be conditional on the Subdivider having obtained an Encroachment Permit for the District

Systems concurrently with the City's approval of the Improvement Agreement.

10. Obligations Specific to Microgrid. Subject to all other conditions of approval in this Resolution, Subdivider may pursue the following three alternatives for the Microgrid, as further described below. If Subdivider elects to proceed with the Microgrid, Subdivider will identify which of the following alternatives it seeks to implement as part of its Implementation Plan.

- A. Municipally-Owned Microgrid. A local publicly-owned electric utility would operate the Microgrid pursuant to the operative provisions of State and local law ("Municipal Ownership"). If Subdivider wishes to pursue Municipal Ownership, the City will engage with Subdivider in good faith to evaluate the viability of this approach; provided however, that nothing in this Resolution shall be interpreted to commit the City to own or operate the Microgrid (or any component thereof) without future City and Subdivider review and approval. City acknowledges that as part of Municipal Ownership for the Microgrid, Subdivider would not be required to seek encroachment authorization or obtain franchise rights for Microgrid infrastructure to occupy public rights-of-way. Subdivider, however, will be required to seek encroachment authorization or obtain a franchise, as applicable, for any other private District System within the public rights-of-way.
- B. Pacific Gas & Electric Company ("PG&E") Integration. PG&E may own or operate components of the Microgrid, including particularly the distribution component, consistent with PG&E's status as a regulated public utility.
- C. Privately-Owned Microgrid. Subdivider may pursue a privately-owned Microgrid, meaning that Subdivider would not transfer the Microgrid infrastructure to either PG&E or the City. Under this option, Subdivider will own and operate the Microgrid. Prior to approval of a phased final map, Subdivider shall demonstrate to the Public Works Director's reasonable satisfaction that Subdivider's proposal for ownership and operation of the

Microgrid is consistent with all applicable State, federal and City requirements. If, as a result of Subdivider's engagement with California Public Utilities Commission ("CPUC"), CPUC determines that Subdivider may own and operate the Microgrid without and CPUC regulation or oversight provisions, then Subdivider will be required to seek City Council approval prior to proceeding with construction of the privately-owned Microgrid to address applicable regulations concerning the safe operation of the Microgrid and the distribution of electricity to owners and tenants.

11. Automatic Waste Collection System. Use of the Proposed Automatic Waste Collection System ("AWCS"), as described in the Project's Infrastructure Plan and evaluated in the Final Environmental Impact Report, is not authorized as of the Effective Date of this Resolution. Should Subdivider wish to use the AWCS to provide solid waste collection and disposal services within the proposed subdivision, Subdivider shall be required to separately obtain any required State approvals as well as authorizations required for the operation of that system pursuant to the Municipal Code.

12. PG&E Property. The subdivision depicted on this Vesting Tentative Map includes an approximately 0.18 acre-parcel, described as "Parcel #1" in the deed recorded November 25, 1926, in Book 797, page 336 of Santa Clara County Records, generally located at the intersection of Cahill Street and West San Fernando Street ("PG&E Property"), which is owned by Pacific Gas & Electric Company ("PG&E") and which is subject to the jurisdiction of the California Public Utilities Commission ("CPUC") under California Public Utilities Code Section 851. PG&E authorized the inclusion of the PG&E Property within the boundary of the Vesting Tentative Map provided that CPUC subsequently confirms that the PG&E Property may be included within the proposed subdivision. As such, Subdivider shall be required to provide documentation demonstrating that CPUC has provided the requested authorization to the Public Works Director. If Subdivider fails to provide this documentation within twenty-four months of the

effective date of this Resolution, the PG&E Property shall be automatically deemed to be excluded from the boundary of the subdivision shown on this Vesting Tentative Map, and Subdivider shall not be permitted to file a phased final map that reflects the parcelization shown on Sheets _____. Upon a request of the Subdivider, and subject to the written consent of PG&E, the Public Works Director may extend the twenty-four month period described in the preceding sentence for an additional period not to exceed twelve months.

13. Commercial and Industrial Common Interest Development Act / Municipal Code Chapters 20.100 and 20.175. The Vesting Tentative Map authorizes up to twenty commercial condominiums to be identified on future phased final maps and created through condominium plans. As of the Effective Date of this Resolution, Subdivider has neither determined whether it will seek approval of any of these commercial condominiums on future phased final maps nor whether such condominiums will be subject to the Commercial and Industrial Common Interest Development Act or the Davis-Sterling Act regulated units in a mixed-use building (hereafter "CCID Units"). If the Subdivider elects to create CCID Units subject to the Commercial and Industrial Common Interest Development Act, the CCID Units shall be approved in accordance with Chapters 20.100 and 20.175 of the Municipal Code. Any CCID Units shall be consistent with the Project Approvals.

In accordance with the findings set forth above, a Vesting Tentative Map to use the subject property for said purpose specified above, subject to conditions, is hereby approved.

EFFECTIVE DATE

The effective date of this Vesting Tentative Map shall be the effective date of the Downtown West Planned Development Zoning Ordinance (Ordinance No. _____).

Exhibit B

(General Notes from Vesting Tentative Map Sheet TM-1)

GENERAL NOTES

1. WATER POLLUTION CONTROL PLAN- PURSUANT TO CHAPTER 15.12 OF THE SAN JOSE MUNICIPAL CODE, NO VESTED RIGHT TO A BUILDING PERMIT SHALL ACCRUE AS A RESULT OF THE GRANTING OF ANY LAND DEVELOPMENT APPROVALS AND APPLICATIONS WHEN AND IF THE CITY MANAGER MAKES A DETERMINATION THAT THE CUMULATIVE SEWAGE TREATMENT DEMAND ON THE SAN JOSE-SANTA CLARA WATER POLLUTION CONTROL PLANT REPRESENTED BY APPROVED LAND USES IN THE AREA SERVED BY SAID PLANT WILL CAUSE THE TOTAL SEWAGE TREATMENT DEMAND TO MEET OR EXCEED THE CAPACITY OF THE SAN JOSE-SANTA CLARA WATER POLLUTION CONTROL PLANT TO TREAT SUCH SEWAGE ADEQUATELY AND WITHIN THE DISCHARGE STANDARDS IMPOSED ON THE CITY BY THE STATE OF CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD FOR THE SAN FRANCISCO BAY REGION. SUBSTANTIVE CONDITIONS DESIGNED TO DECREASE SANITARY SEWAGE ASSOCIATED WITH ANY LAND USE APPROVAL MAY BE IMPOSED BY THE APPROVING AUTHORITY.
2. THIS SUBDIVISION IS SUBJECT TO THE REQUIREMENTS OF THE PARKLAND DEDICATION ORDINANCE (CHAPTER 19.38 OF TITLE 19 OF THE SAN JOSE MUNICIPAL CODE), FOR THE DEDICATION OF LAND FOR PARKS PURPOSES, UNDER THE FORMULAE CONTAINED WITHIN THAT CHAPTER AND AS MORE PARTICULARLY DESCRIBED IN THE PARKLAND AGREEMENT INCLUDED AS EXHIBIT E TO THE DEVELOPMENT AGREEMENT FOR THE PROJECT.
3. THIS SUBDIVISION WILL CONFORM TO THE STREET TREE PLAN OF SECTION 6.12 OF THE DOWNTOWN WEST DESIGN STANDARDS AND GUIDELINES.

4. DEMOLITION PERMITS MAY BE ISSUED PRIOR TO ISSUANCE OF FINAL BUILDING PERMITS AND RECORDATION OF PHASED FINAL MAPS.
5. ALL DIMENSIONS DEPICTED HEREON ARE APPROXIMATE AND ARE SUBJECT TO REVISION AT FINAL MAP(S) STAGE.
6. NO WELLS EXIST ON THIS SITE.
7. NO NEW STREET NAMES HAVE BEEN APPROVED AT THIS TIME.
8. ALL EXISTING BUILDINGS WILL BE REMOVED, PRIOR TO SUBDIVISION OF PROPERTY, UNLESS OTHERWISE NOTED.
9. EXISTING INTERIOR LOT LINES TO BE REMOVED UNLESS OTHERWISE NOTED.
10. THE LOCATIONS OF PUBLICLY-DEDICATED EASEMENTS SHOWN HEREON ARE APPROXIMATE AND WILL BE FINALIZED ON PHASED FINAL MAPS.
11. PROPOSED PRIVATE ACCESS WAYS MAY ALSO INCLUDE PUBLIC ACCESS EASEMENTS (PAE), PUBLIC UTILITY EASEMENTS (PUE), EMERGENCY VEHICLE ACCESS EASEMENTS (EVAE), AND ANY PRIVATE UTILITIES AND IMPROVEMENTS THAT DO NOT CONFLICT WITH ANY PUBLIC EASEMENTS.

MISCELLANEOUS NOTES

1. THIS VESTING TENTATIVE MAP ("VESTING MAP") IS FILED IN ACCORDANCE WITH GOVERNMENT CODE SECTION 66452.
2. SUBDIVIDER RESERVES THE RIGHT TO FILE MULTIPLE FINAL MAPS (EACH A "PHASED" FINAL MAP") PURSUANT TO GOVERNMENT CODE SECTION 66456.1.
3. PURSUANT TO GOVERNMENT CODE SECTION 66498.3, THIS VESTING TENTATIVE MAP IS FILED CONCURRENT WITH AN APPLICATION TO CHANGE

THE ZONING OF THE PROPERTY INCLUDED WITHIN THE PROPOSED SUBDIVISION TO A PLANNED DEVELOPMENT ZONING DISTRICT TOGETHER WITH A GENERAL DEVELOPMENT PLAN AND PLANNED DEVELOPMENT ("PD") PERMIT (COLLECTIVELY, THE "ZONING APPLICATION"). THE PD PERMIT INCLUDES THE DOWNTOWN WEST STREET STANDARDS AND GUIDELINES ("DWDSEG"), THE DOWNTOWN WEST IMPROVEMENT STANDARDS ("DWIS"), CONCEPTUAL INFRASTRUCTURE PLAN SHEETS AND CONFORMANCE REVIEW IMPLEMENTATION GUIDE. APPROVAL OF THIS VESTING MAP SHALL CONFER A VESTED RIGHT TO PROCEED WITH DEVELOPMENT PURSUANT TO THE ZONING APPLICATION (PURSUANT TO TITLE 20 OF THE CITY OF SAN JOSE ["CITY"] MUNICIPAL CODE AS CONTEMPLATED BY GOVERNMENT CODE SECTION 66498.3(A) PROVIDED THAT THE ZONING APPLICATION IS APPROVED.

NOTES RELATING TO CONDOMINIUMS

1. THE PROPERTY COVERED BY THIS VESTING MAP HAS BEEN APPROVED BY THE CITY FOR CREATION OF CONDOMINIUMS CONSISTING OF UP TO 5,900 RESIDENTIAL UNITS ("TOTAL APPROVED RESIDENTIAL CONDOMINIUM UNITS") AND 20 COMMERCIAL UNITS ("TOTAL APPROVED COMMERCIAL CONDOMINIUM UNITS"). THE ESTABLISHMENT OF CONDOMINIUMS AND SEPARATION OF THREE-DIMENSIONAL PORTIONS OF THE PROPERTY FROM THE REMAINDER THEREOF SHALL NOT CONSTITUTE A FURTHER SUBDIVISION AS DEFINED IN GOVERNMENT CODE SECTION 66424 AND, PURSUANT TO THE AUTHORITY OF GOVERNMENT CODE SECTION 66427(E), MAY OCCUR BY ONE OR MORE CONDOMINIUM PLANS WITHOUT FURTHER APPROVAL BY THE CITY COUNCIL.
2. SUBDIVIDER SHALL BE PERMITTED TO ASSIGN UNITS FROM THE TOTAL APPROVED RESIDENTIAL CONDOMINIUM UNITS AND THE TOTAL APPROVED COMMERCIAL CONDOMINIUM UNITS TO SPECIFIC LOTS AS SHOWN ON

PHASED FINAL MAPS. UPON SUCH ASSIGNMENT AND RECORDATION OF THE ASSOCIATED PHASED FINAL MAP, ANY ASSIGNED UNITS SHALL BE DEBITED FROM THE TOTAL APPROVED RESIDENTIAL CONDOMINIUM UNITS AND TOTAL APPROVED COMMERCIAL CONDOMINIUM UNITS AS APPLICABLE. NO FURTHER CITY APPROVAL SHALL BE REQUIRED FOR SUBDIVIDER TO CONSTRUCT RESIDENTIAL OR COMMERCIAL UNITS THROUGH SUBSEQUENT CONDOMINIUM PLANS FOR THE SUBJECT LOTS PROVIDED THAT THE NUMBER OF RESIDENTIAL OR COMMERCIAL UNITS ASSIGNED TO ANY GIVEN LOT DOES NOT EXCEED THE NUMBER OF UNITS DEPICTED ON THE ASSOCIATED PHASED FINAL MAP. THE CUMULATIVE NUMBER OF RESIDENTIAL CONDOMINIUM UNITS AND COMMERCIAL CONDOMINIUM UNITS ASSIGNED TO LOTS ON PHASED FINAL MAPS MAY NOT AT ANY TIME EXCEED THE TOTAL APPROVED RESIDENTIAL UNITS AND TO TOTAL APPROVED COMMERCIAL UNITS.

3. PURSUANT TO THE _____ , APPROVED ON _____ 2021 ("DA"), SUBDIVIDER IS AUTHORIZED TO CONSTRUCT UP TO _____ SQUARE FEET OF COMMERCIAL USES WITHIN THE SUBDIVISION. THERE IS NO UNIT-BASED LIMITATION ON COMMERCIAL DEVELOPMENT. AS SUCH, "TOTAL APPROVED COMMERCIAL CONDOMINIUM UNITS," WHICH INCLUDE RETAIL, OFFICE AND RENTAL APARTMENT AND OTHER COMMERCIAL USES, ARE DESCRIBED HEREIN SOLELY FOR THE PURPOSE OF DESCRIBING APPROVED COMMERCIAL CONDOMINIUM UNITS.
4. IN THE EVENT THAT SUBDIVIDER ALLOCATES RESIDENTIAL OR COMMERCIAL CONDOMINIUM UNITS TO A LOT ON A PHASED FINAL MAP AND THOSE UNITS ARE NOT CONSTRUCTED, SUBDIVIDER MAY REQUEST A CERTIFICATE OF CORRECTION PURSUANT TO GOVERNMENT CODE SECTION 66469 TO RECONCILE THE NUMBER OF RESIDENTIAL OR COMMERCIAL CONDOMINIUM UNITS ASSIGNED TO THE LOT ON THE PHASED FINAL MAP WITH THE AS-BUILT CONSTRUCTION. ANY SUCH REDUCTION IN UNITS SHALL BE CREDITED

TO THE TOTAL APPROVED RESIDENTIAL UNITS OR TOTAL APPROVED COMMERCIAL UNITS AS APPLICABLE.

NOTES RELATING TO ALTERNATIVE SHEETS AND OPEN SPACE DEDICATIONS

1. SHEETS 10A, 10B, 11A, 11B (EACH AN “ALTERNATIVE SHEET” AND COLLECTIVELY THE “ALTERNATIVE SHEETS”) DEPICT ALTERNATIVE LOT CONFIGURATIONS PROPOSED FOR APPROVAL PURSUANT TO THIS VESTING MAP. THE ALTERNATIVE LOT SIZES AND CONFIGURATIONS DEPICTED ON THE ALTERNATIVE SHEETS ADDRESS FLEXIBILITY FOR OPEN SPACE AREAS (BOTH PRIVATELY-OWNED AND DEDICATED OPEN SPACE) CONTEMPLATED BY THE DWDSG. FOR EACH ASSOCIATED PHASED FINAL MAP, SUBDIVIDER SHALL DEMONSTRATE THAT LOTS DEPICTED ON THE PHASED FINAL MAP SUBSTANTIALLY CONFORM WITH A CORRESPONDING ALTERNATIVE SHEET.
2. LOTS A, B, E, F, H, I, P, Q, R AND A PORTION OF LOT 19 (A FUTURE AIRSPACE PARCEL), AS SHOWN ON THE ALTERNATIVE SHEETS, ARE PROPOSED FOR DEDICATION TO THE CITY PURSUANT TO CHAPTER 19.38 OF THE CITY CODE. THESE LOTS ARE APPROXIMATE AND WILL BE DIMENSIONED ON PHASED FINAL MAPS. SAID LOTS MAY BE ADJUSTED TO EXPAND OR CONTRACT TO ACCOUNT FOR FINAL OPEN SPACE PROGRAMMING, STREET OR UTILITY ENGINEERING, AND VERTICAL DESIGN, PROVIDED (1) THAT THE SUM TOTAL OF THE OPEN SPACE LOTS DEDICATED TO THE CITY CONCURRENT WITH PHASED FINAL MAPS (AND SUBJECT TO ANY DELAYED DEDICATIONS AS PERMITTED IN AN AGREEMENT PURSUANT TO GOVERNMENT CODE SECTION 66462) SHALL NOT BE LESS THAN 4.8 ACRES AND (2) ANY RECONFIGURATION IS CONSISTENT WITH APPLICABLE STANDARDS IN THE DWDSG.
3. ALL PUBLIC OPEN SPACE DEDICATIONS PURSUANT TO THIS VESTING MAP ARE SUBJECT TO TERMS OF THE PARKLAND AGREEMENT FOR TENTATIVE

MAP NO. PT20-027 BETWEEN THE CITY OF SAN JOSE AND GOOGLE LLC AND RESTRICTIONS AND COVENANTS RELATING TO PRIVATE RECREATIONAL IMPROVEMENTS ("PARKLAND AGREEMENT"). MODIFICATIONS TO LOTS SHOWN HEREON MAY BE REQUIRED TO IMPLEMENT THE PARKLAND AGREEMENT, OR, TO FACILITATE MODIFICATION OF OPEN SPACE LOTS AS REQUIRED OR PERMITTED BY THE DWDSG AND/OR THE DEVELOPMENT AGREEMENT. ANY SUCH MODIFICATIONS SHALL BE REFLECTED ON PHASED FINAL MAPS WHICH SHALL BE DEEMED TO SUBSTANTIALLY CONFORM WITH THIS VESTING MAP NOTWITHSTANDING ANY MODIFICATION TO LOTS FOR THE PURPOSES DESCRIBED IN THIS NOTE.

NOTES RELATING TO MID-BLOCK PASSAGES, PRIVATE STREETS AND ANY NON-DEDICATED OPEN SPACE AREAS

1. PRIVATELY-OWNED OPEN SPACES: OPEN SPACE AREAS OTHER THAN THOSE IDENTIFIED AS PUBLICLY-DEDICATED OPEN SPACES (I.E. LOTS A, B, E, F, H, I, P, Q, R AND A PORTION OF LOT 19) SHALL BE PRIVATELY OWNED UNLESS THE CITY COUNCIL, THROUGH A SUBSEQUENT PROCESS, AGREES TO ACCEPT THE DEDICATION OF THESE AREAS PURSUANT TO TITLE 19 OF THE MUNICIPAL CODE. ALL PRIVATELY-OWNED OPEN SPACES SHOWN HEREON AND SUBJECT TO SECTION 4.5 OF THE DWDSG ARE SUBJECT TO ADJUSTMENT PURSUANT TO DWDSG STANDARD S4.5.3 AND OTHER AUTHORIZED RELIEF UNDER THE GENERAL DEVELOPMENT PLAN WITHOUT THE NEED TO AMEND THIS VESTING MAP OR TO FILE A NEW VESTING TENTATIVE MAP OR TENTATIVE MAP. FINAL LOCATIONS OF PRIVATELY-OWNED OPEN SPACE AREAS DEPICTED HEREON AND ANY RIGHTS OF PUBLIC ACCESS AS REQUIRED BY THE DWDSG OR THE CITY CODE SHALL BE ESTABLISHED PURSUANT TO COVENANTS, EASEMENTS OR RESTRICTIONS TO BE RECORDED PRIOR TO ISSUANCE OF BUILDING PERMITS FOR BUILDINGS ON LOTS THAT INCLUDE PRIVATELY-OWNED OPEN SPACES.

2. STANDARDS 4.9.2, S5.5.5 , and S6.3.4 PROVIDES FOR THE RECONFIGURATION OF CERTAIN LOTS AND OPEN SPACE AREAS PURSUANT TO THE REQUIREMENTS OF SAID STANDARD. ANY LOTS, EASEMENTS OR PRIVATELY-OWNED OPEN SPACE AREAS SHOWN ON THIS VESTING MAP MAY BE ADJUSTED AS A RESULT OF THE IMPLEMENTATION OF DWDSG STANDARD S5.5.2 WITHOUT THE NEED TO AMEND THIS VESTING MAP OR TO FILE A NEW VESTING TENTATIVE MAP OR TENTATIVE MAP.
3. MID-BLOCK PASSAGES (“MBP”): MID-BLOCK PASSAGES ARE PRIVATELY-OWNED AREAS SUBJECT TO PUBLIC ACCESS AS DESCRIBED IN THE DWDSG. MID-BLOCK PASSAGES ARE SHOWN ON THIS VESTING MAP IN CONCEPTUAL LOCATIONS. FINAL LOCATIONS AND ACCESS CONTROLS WILL BE DESCRIBED IN COVENANTS, EASEMENTS OR RESTRICTIONS TO BE RECORDED PRIOR TO ISSUANCE OF BUILDING PERMITS FOR BUILDINGS ON LOTS SUBJECT TO MID-BLOCK PASSAGES.
4. PRIVATE STREETS: PRIVATE STREETS ARE PRIVATELY-OWNED AREAS INTENDED FOR VEHICULAR AND PEDESTRIAN TRAVEL, AND WHICH ARE INTENDED TO BE KEPT CLOSED FROM PUBLIC ACCESS (WITH THE EXCEPTION OF ANY PUBLICLY-DEDICATED EASEMENTS SHOWN HEREON), EITHER THROUGH PHYSICAL CLOSURE, SIGN POSTING, OR BOTH. DEPICTIONS OF PRIVATE STREETS ON THIS VESTING MAP ARE SHOWN IN APPROXIMATE LOCATIONS. FINAL LOCATIONS WILL BE DEPICTED ON COVENANTS, EASEMENTS OR RESTRICTIONS RECORDED CONCURRENT WITH OR SUBSEQUENT TO PHASED FINAL MAPS.
5. ANY LOT SHOWN HEREON THAT INCLUDES A MID-BLOCK PASSAGE, PRIVATELY-OWNED SPACE OR PRIVATE STREET SHALL BE SUBJECT TO A CONDITION OF APPROVAL STATING THAT ANY VERTICAL CONSTRUCTION ON SUCH LOT SHALL BE LIMITED TO “BUILDABLE ZONES” AS DEFINED IN STANDARD S5.5.1 OF THE DWDSG.

NOTES RELATING TO AIR SPACE LOTS

1. THIS VESTING MAP AUTHORIZES PHASED FINAL MAPS THAT VERTICALLY SUBDIVIDE AIR SPACE INTO SEPARATE AIR SPACE LOTS FOR PURPOSES OF ACCOMMODATING SEPARATE OWNERSHIP OR USES. ANY SUCH AIR SPACE LOTS SHALL BE DIMENSIONED ON THE ASSOCIATED PHASED FINAL MAP.
2. THIS VESTING MAP AUTHORIZES SUBDIVIDER TO VERTICALLY SUBDIVIDE LOT 19 INTO AIR SPACE LOTS TO SEPARATE THE PROPOSED SURFACE-LEVEL PARK FROM THE SUBSURFACE, SUCH THAT SUBDIVIDER MAY OFFER THE RESULTING PARK AIR SPACE LOT TO THE CITY FOR DEDICATION WHILE RETAINING THE SUB-SURFACE AIR SPACE LOT. IN THE EVENT SUBDIVIDER ELECTS THIS OPTION, SUBDIVIDER SHALL EXECUTE AN AGREEMENT WITH THE CITY PURSUANT TO GOVERNMENT CODE SECTION 66462 TO ADDRESS (1) THE TIMING OF THE DELIVERY OF THE DEED FOR THE PARK AIR SPACE LOT; (2) RESERVATION OF EASEMENTS NECESSARY TO ENSURE COMPATIBILITY OF USES; AND (3) COMPLETION OF ANY REQUIRED IMPROVEMENTS TO SERVICE THE PARK AIR SPACE LOT.

NOTES RELATING TO STREETS

1. ALL STREETS DESCRIBED ON THIS MAP AND REPRESENTED BY A TYPICAL CROSS SECTION ON SHEETS TM-14 THROUGH TM-20 SHALL CONFORM TO THE CORRESPONDING CROSS SECTION SHOWN IN EXHIBIT A TO THIS VESTING MAP. TO THE EXTENT ANY STREET OR ANY STREET ELEMENT IS NOT SHOWN HEREON, SAID STREET OR ELEMENT SHALL COMPLY WITH THE MOBILITY CHAPTER OF THE DWDSG.
2. MINOR STREET ALIGNMENT ADJUSTMENTS MAY BE SHOWN ON PHASED FINAL MAPS.

3. ANY IMPROVEMENTS REQUIRED TO SERVICE THE SUBDIVISION DEPICTED HEREON SHALL CONFORM TO THE DWIS AND ANY RELATED ORDINANCES APPLICABLE TO IMPROVEMENTS WITHIN THE DOWNTOWN WEST PD ZONE.
4. SUBDIVIDER MAY BE REQUIRED TO COMPLETE FOCUSED LOCAL TRANSPORTATION ANALYSES (EACH AN "FLTA") PRIOR TO THE APPROVAL OF ANY PHASED FINAL MAP AND ASSOCIATED IMPROVEMENT PLANS. ANY MODIFICATION TO LOTS, PUBLIC EASEMENTS, OR IMPROVEMENTS SHOWN HEREON AS A RESULT OF ANY FOCUSED FLTA SHALL BE PERMITTED WITHOUT THE NEED TO AMEND THIS VESTING MAP OR APPROVAL OF A SEPARATE TENTATIVE MAP OR VESTING TENTATIVE MAP.
5. SUBDIVIDER SHALL IDENTIFY THE PROPERTY LINE CORNER RADIUS AT THE INTERSECTION OF ANY TWO STREETS ON PHASED FINAL MAPS. TO THE EXTENT THAT ANY CORNER RADIUS IS LESS THAN TWENTY-FOUR FEET, THE PUBLIC WORKS DIRECTOR, WILL, PURSUANT TO TITLE 19.36.070 OF THE MUNICIPAL CODE, AUTHORIZE THE PROPOSED RADIUS, BOTH AS APPLIED TO THE PHASED FINAL MAP AND TO ANY ASSOCIATED IMPROVEMENT PLANS, IF SUBDIVIDER DEMONSTRATES THE SAFE AND EFFICIENT MOVEMENT OF TRAFFIC THROUGH THE INTERSECTION, THROUGH AN FLTA OR SIMILAR ANALYSIS.

NOTE RELATING TO DISC PROCESS AND POTENTIAL CONDEMNATION

1. ANY MODIFICATION TO LOTS, PUBLIC EASEMENTS OR IMPROVEMENTS SHOWN HEREON AS A RESULT OF THE PROCEDURE DESCRIBED IN DWDSG STANDARDS S4.5.9, S4.9.2, S5.5.4, S5.5.5, S6.3.3 and S6.3.4 AND/OR SECTION 4.2.2 OF THE DEVELOPMENT AGREEMENT RELATING TO CONDEMNATIONS SHALL BE PERMITTED WITHOUT THE NEED TO AMEND THIS VESTING MAP OR APPROVAL OF A SEPARATE TENTATIVE MAP OR VESTING TENTATIVE MAP.

2. LOTS A & B SHALL BE OFFERED FOR DEDICATION TO THE CITY AS OPEN SPACE PURSUANT TO THE ASSOCIATED PHASED FINAL MAP. AS OF THE APPROVAL OF THE VESTING MAP, IT IS ANTICIPATED THAT THE ACREAGE OF LOTS A & B WILL BE 0.91 ACRES (TM4), AND THAT SUBDIVIDER WILL PROVIDE AN EXECUTED GRANT DEED TO THE CITY CONCURRENT WITH THE ASSOCIATED PHASED FINAL MAP AT THE TIME OF APPROVAL OF SAID MAP, AND SUCH GRANT DEED AND OFFER OF DEDICATION WILL BE RECORDED TO TRANSFER LOTS A & B TO CITY UPON ACCEPTANCE BY THE CITY IN ACCORDANCE WITH THE [PARKLAND AGREEMENT BETWEEN THE CITY AND SUBDIVIDER DATED _____, 2021].

a. IN THE EVENT THAT ANY PORTION OF LOTS A & B ARE CONDEMNED PRIOR TO THE CITY'S ACCEPTANCE OF LOTS A & B, SUBDIVIDER SHALL DEDICATE THE NON-CONDEMNED PORTION OF THE AREA SHOWN HEREON AS LOTS A & B TO THE CITY, AND SHALL COOPERATE AS NECESSARY WITH THE CITY TO EFFECTUATE THE DEDICATION.

NOTE RELATING TO PUBLICLY-DEDICATED EASEMENTS

1. PROPOSED PUBLIC SERVICE EASEMENTS ("PSE") AND EMERGENCY VEHICLE ACCESS EASEMENTS ("EVAE") DEPICTED HEREON ARE APPROXIMATE AND WILL BE DIMENSIONED IN PROPOSED FINAL LOCATIONS ON ASSOCIATED PHASED FINAL MAPS. ADDITIONAL PSE, PUBLIC ACCESS EASEMENTS (PAES) AND EVAES MAY BE REFLECTED ON PHASED FINAL MAPS TO ACCOUNT FOR INFRASTRUCTURE DESCRIBED IN FINAL IMPROVEMENT PLANS.