

**From:** [Tu, John](#)  
**To:** [Hill, Egan](#); [Do, Ryan](#); [Tom, Vivian](#)  
**Cc:** [Downtown West Project](#)  
**Subject:** Fw: GP Consistency, PD Permit  
**Date:** Tuesday, April 20, 2021 10:45:29 AM  
**Attachments:** [Exhibit B of GPA GP Consistency Findings \(4-19-21\) CLEAN .docx](#)  
[PD Permit Resolution \(4-19-21\) CLEAN.docx](#)  
[GP Consistency Findings \(4-19-21\) REDLINE.pdf](#)  
[PD Permit Resolution \(4-19-21\) REDLINE.pdf](#)

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Best,  
Tong (John) Tu

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**From:** Amanda Wolf <[amandawolf@google.com](mailto:amandawolf@google.com)>  
**Sent:** Tuesday, April 20, 2021 7:12 AM  
**To:** Tu, John <[john.tu@sanjoseca.gov](mailto:john.tu@sanjoseca.gov)>; Han, James <[James.Han@sanjoseca.gov](mailto:James.Han@sanjoseca.gov)>  
**Subject:** GP Consistency, PD Permit

[External Email]

John,

See attached for and clean and redline version of:

1. GP Consistency Findings
2. PD Permit Resolution

Thank you,  
Amanda

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**Amanda Wolf** |  
Development Manager  
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## 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 Comprehensive Land Use Plan 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 the San José Water Company at 374 West Santa Clara Street and the Southern Pacific Depot Historic District) (Resolutions No. \_\_\_ and \_\_\_); amendment to Historic Preservation Permit (HP16-002) (Resolution No. \_\_\_); approval of Major Encroachment Permits (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, certain Subsequent Approvals (as defined

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

The Project, including all Project Approvals and Project Documents, as defined in the Development Agreement, 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/bikeable 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 by providing diverse housing options, walkable and bikeable public streets and trails, and 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). 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, 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 \$9 million in projected net 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 BART and Caltrain, and will 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.

*Consistency Findings. The Project is consistent with Goal MS-1 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. 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; provide on-site solar energy generation; 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.*

### **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).

*Consistency Findings. The Project is consistent with Goal MS-2 and applicable policies identified above. As stated in the Downtown West Environmental Impact Report, the Project will be designed not to result in any et additional GHG emissions; 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; and provide on-site solar energy generation.*

### **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 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 promote the use of green roofs through the Downtown West Development Standards and Guidelines; minimize surface parking; reduce existing impervious surfaces on the Project site; and 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 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.

### **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.

*Consistency Findings. The Project is consistent with Goals MS-5, and MS-6 and MS-7 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, businesses, and institutions in the City.*

### **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 identified 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 Measures 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 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. *The Project is consistent with Goal MS-12 and applicable policies identified above. Google LLC (“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.

MS-13.3 Require subdivision designs and site planning to minimize grading and use landform grading in hillside areas.

*Consistency Findings. The Project is consistent with Goal MS-13 and applicable policies identified above. The Project will comply with Policy MS-13.1 by implementing 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, will prohibit unpaved and unprotected access to public roadways from construction sites, and will 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 effect 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 as an environmental leadership development project 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, 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 will 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 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, as will the Project's reduction in existing impervious surfaces. 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. The Project is consistent with Goal ER-2 and applicable policies identified above. 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 determination of VHP consistency to be made prior to issuance of grading permits for specific phases of development:*

*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-1c, BI-2a-, BI-2c , BI-2d, BI-3 and BI-4, which apply minimum requirements for construction practices and also require monitoring and corrective actions around biological resources, the Project will cause no significant impact to riparian corridors or riparian habitats.*

*DWDSG sections 4.8, 5.5, 5.6, 5.17 and 6.8 prohibit new buildings, active outdoor uses and streets within 50 feet of riparian corridors; require native riparian plantings and increased pervious surfaces in riparian corridors and riparian setbacks, and encourage both in ecological enhancement zones; impose special height limits on the portions of buildings that are permitted within the ecological enhancement zone; and prohibit replacement of existing buildings that are within riparian setbacks in their existing locations. Standard Conditions of Approval require compliance with the Santa Clara Valley Habitat Plan and with the City's tree replacement ordinance. Mitigation measures include fish and wildlife protection measures; a restricted in-water construction schedule; restriction of riparian corridor construction to the smallest possible areas; monitoring of shading and heat island effects during project operation.*

*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 3.2 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, S7.4.1 - S7.4.7, and S7.5.2 of the DWDSG which regulates design features within riparian setback areas, demonstrate that the Project meets these requirements. Regarding light and glare, DWDSG standards prohibit lighting directed into riparian corridors, require dark-sky building lighting, and otherwise regulate building, trail, footbridge and art lighting to minimize impacts to riparian corridors. As described above, DWDSG standards require extensive riparian planting in riparian setbacks and EIR mitigation measures require restoration wherever the project causes impacts to the riparian corridor. Hydrology and Water Quality mitigation measures include construction Best Management Practices as well as revegetation and ongoing monitoring of the riparian corridor following construction; regulatory requirements include preparation and implementation of a*

*stormwater control plan. These requirements ensure soil erosion will be avoided and runoff will be minimized.*

*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 is consistent with Goal ER-5 and applicable policies identified above. 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 is consistent with Goals ER-6, ER-8, ER-9, and applicable policies identified above. 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 identified above. 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 potential 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 remains 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 L<sub>max</sub> in bedrooms and 55 dBA L<sub>max</sub> 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 certain Comprehensive Land Use Plan 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 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 identified above. 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 identified above. 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.*

*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 2/3 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 is consistent with Goal CD-1 and applicable policies identified above. 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 CD-2, CD-3, CD-4, CD-5, and VN-1 and applicable policies identified above. The Project 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 structured 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 certain Comprehensive Land Use Plan 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 tall buildings prior to issuance of building permits for those buildings.*

### **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 identified 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 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 better respond to the character of surrounding neighborhoods. The DWDSG sets forth maximum building heights and encourages variations in building massing and form to create distinctive architecture and building silhouettes in Downtown. The Project's transportation network is designed to be publicly-accessible and to allow easy access and facilitate movement of pedestrians and bicyclists throughout 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 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 is consistent with Goals H-1 and H-2 and applicable policies identified above. The Project provides for the development of up to 5,900*

*residential units. The 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. Pursuant to the Development Agreement, the Project provides for 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, pursuant to which 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 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 consistent with Goal H-4 and applicable policies identified above. The Project is certified as an environmental leadership development project 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, 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 Goals ES-1 and ES-3 and applicable policies identified above. 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.*

### **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 identified above, 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 Goals LU-1, LU-2, LU-3 and applicable policies identified above. 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 31,000 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.*

*The 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, and has considered the policies of the Airport Land Use Commission and Valley Water, as described in the FEIR. 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 is consistent with Goals LU-4 and LU-5 and applicable policies identified above. 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 approximately 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 Goal LU-9 and applicable policies identified above. The Project 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 open spaces that include 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 applicable policies identified 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 applicable policies identified above 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 designated 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 Downtown Design Guidelines and Standards (DDG). 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 to support the off-site relocation of an eligible Structure of Merit (357 North Montgomery Street) and a Structure of Merit listed in the Historic Resources Inventory (102 South Montgomery Street). In addition, the Project will separately provide funding support for the off-site relocation of 91 Barack Obama Boulevard, an eligible 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; in addition, 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 complies 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 Amendment (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; the HLC 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 applicable policies identified above. The Project 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 curbside 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 West Santa Clara Street and West 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 identified above. 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, and 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 identified above. 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 identified above. 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 certain Comprehensive Land Use Plan 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 to 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 environmentals 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 tall buildings prior to issuance of building permits for those buildings.*

### **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 Goals TN-1, TN-2, and TN-3 and applicable policies identified above. The Project 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. 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, and TR-4.1.*





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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW DEVELOPMENT OF THE DOWNTOWN WEST MIXED-USE PLAN WITHIN THE DOWNTOWN WEST DC (PD) PLANNED DEVELOPMENT ZONING DISTRICT**

**FILE NO. PD19-029**

**WHEREAS**, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on October 10, 2019, Google LLC (“Project Sponsor” or “Google”) submitted an application to the City of San José for a Planned Development Permit (File No. \_\_\_\_\_) to allow for the phased development of the Downtown West Mixed-Use Plan (the “Project” or “Downtown West”), including the demolition of certain existing buildings and the removal of approximately 537 existing urban street or landscape trees, on approximately 78 acres, on that certain real property situated in the Downtown West Planned Development Zoning District (“Downtown West PD Zoning District”);

**WHEREAS**, the Project advances a plan that re-envision 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 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 as an environmental leadership development 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) ; 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 and public review for the Project has been ongoing since 2018 and has included over 50 meetings with members of the Diridon Station Area Advisory Group (SAAG), and over 100 community outreach events consisting 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 other large and small events reaching communities within and around the Project site; and

**WHEREAS**, on \_\_\_\_\_, 2021, the City Council adopted Ordinance No. \_\_\_\_, approving the rezoning of the Project site, which consists of approximately 80 acres of real property that 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, to the Downtown West Mixed-Use Plan DC (PD) Planned Development Zoning District; and

**WHEREAS**, 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 General Development Plan (“GDP”), and generally depicted in the GDP; and

**WHEREAS**, the land use regulations and development standards for development within the Downtown West PD Zoning District are reflected in the Downtown West GDP which establishes the permitted uses, development standards, and use regulations applicable to development within the Downtown West PD Zoning District and guides the content of the Downtown West PD Permit; and

**WHEREAS**, the real property subject to the Downtown West PD Permit is more particularly described in Exhibit A and includes an approximately 78-acre area that consists of Sub-Area 1 and Sub-Area 3 as generally depicted in the GDP; and

**WHEREAS**, 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”) (collectively, these documents are referred to as the “Downtown West PD Permit”); and

**WHEREAS**, the DWDSG consists of objective and performance based standards and qualitative and subjective guidelines for the development of the Project; and

**WHEREAS**, the DWDSG standards and guidelines are separate from the Downtown Design Guidelines (“DDG”) adopted April 23, 2019, and the Complete Streets Design

Standards and Guidelines (“CSDSG”), adopted May 2018; development of Downtown West shall be subject to the DDG and CSDSG standards and guidelines unless a DDG or CSDSG standard or guideline is expressly superseded by the DWDSG as identified in Appendix D and E of the DWDSG; and

**WHEREAS**, the DWIS describes the standards and specifications used to evaluate horizontal improvements within the Downtown West PD Zoning District including certain provisions of the Standard Details and Standard Specifications adopted by the City’s Public Works Department (July 1992) (“1992 Standards”) and provides that the DWIS supersedes other provisions of the 1992 Standard; and

**WHEREAS**, the Conceptual Infrastructure Plan Sheets are conceptual plan sheets that describe anticipated site elements such as floodplains, grading design, utility design, stormwater improvements, and utilidor encroachments based on standards provided in the DWIS; and

**WHEREAS**, development of the Project is intended to occur in phases and the GDP 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; and

**WHEREAS**, the Implementation Guide sets forth the Conformance Review process, including but not limited to application submittal requirements and City review timelines for the City’s review and approval of Conformance Review applications for vertical improvements, open space improvements, and horizontal improvements; 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 the Project 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 voted to recommend that the City Council adopt a resolution to approve the Downtown West PD Permit based on the evidence and testimony; and

**WHEREAS**, pursuant to and in accordance with Chapter 20.100 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 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, "Downtown West Planned Development Permit" dated \_\_\_\_\_, which consists of the DWDSG, DWIS, Conceptual Infrastructure Plan Sheets, and Implementation Guide, and said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

**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; and

**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; and

**WHEREAS**, this 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 (“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 , \_\_\_ 2021 prior to making its determination on this Downtown West PD Permit or any other Project approvals; and

**WHEREAS**, this Resolution approving the Downtown West PD Permit is a companion to the following approvals relating to Downtown West: an override of the Santa Clara County Airport Land Use Commission’s Comprehensive Land Use Plan inconsistency determination (Resolution No. \_\_\_); amendments to General Plan (Resolution No. \_\_\_); amendments to the Diridon Station Area Plan (Resolution No. \_\_\_); the Development Agreement for the Downtown West Mixed-Use Plan (Ordinance No. \_\_\_); Planned Development Rezoning, including a General Development Plan (Ordinance No. \_\_\_); amendments to Title 20 of the San José Municipal Code (Ordinance No. \_\_\_); approval of a Vesting Tentative Map (Resolution No. \_\_\_); amendments to the landmark boundaries of 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 (Resolution No. \_\_\_) ;

**NOW, THEREFORE**, BE IT RESOLVED BY THE CITY 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 consists of approximately 78 acres of real property that 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.

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. The SAP Center and Diridon Station are located adjacent to the subject site. The Project site is located within the Diridon Station Area Plan and the General Plan Downtown Growth Area boundary.

- 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 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.

The Downtown West PD Permit includes real property in Sub-Area 1 and Sub-Area 3 of the Downtown West PD Zoning District as generally depicted in the GDP. The GDP identifies the maximum allowable development in each Sub-Area, subject to the allowable transfers and conversion established in the GDP. Up to 5,900 residential units are permitted within the real property subject to the Downtown West PD Permit pursuant to the allowable transfers and conversions under the GDP.

- 3. 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. [\_\_\_\_] (General Plan Amendment), which findings are incorporated herein by reference.

- 4. 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 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 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 standards (Chapter 3) require 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 Complete Streets Design Standards and Guidelines ("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 enhances 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, which assumes development of 4,000 residential units, supports the production of 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 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 Project will enhance and expand access to open space as the Project's 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 enhance 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 is 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, and 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 by and authorized in the GDP. Such relief mechanisms include, but are not limited to 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, and provides that the DWIS supersedes other provisions of the 1992 Standards. As authorized in the GDP, the project sponsor may request a 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, comment, 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 the Downtown West PD Permit conforms with the Downtown West PD Zoning District, a DC(PD) Planned Development Zoning District (Ordinance No. \_\_\_\_).

- 6. Downtown Design Guidelines (DDG) Consistency.** The DDG sets forth standards and guidelines that govern the planning and design of Downtown's public realm, building massing, architecture, ground floor treatment, transit access, parking, view corridors, pedestrian and bicycle connectivity, material and color, lighting, signage, façade treatment, bird-safe design, and transitions to existing lower intensity and historic buildings. The DDG provides that in connection with future development within the DSAP, new design solutions could be adopted that take alternate approaches to achieve common goals for the DSAP. The DWDSG establishes standards and guidelines that are separate from and expand on the DDG standards and guidelines. Development of Downtown West shall be subject

to the DDG standards and guidelines unless superseded by the DWDSG. DDG standards and guidelines superseded by the DWDSG are identified in Appendix D (DDG Standards and Guidelines That Do Not Apply to Downtown West) to the DWDSG. As such, the City approves exceptions to DDG standards identified in Appendix D of the DWDSG, for the reasons set forth in Appendix D of the DWDSG, which are here incorporated by reference. DDG standards and guidelines that are applicable to Downtown West are identified on the Vertical Improvement and Open Space Conformance Review Checklists and the Project Sponsor shall demonstrate consistency with applicable DDG standards and guidelines during the Conformance Review process.

- 7. 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 find 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 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.

**8. Riparian Setback Policy Findings / Santa Clara Valley Habitat Plan.** 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 determination of VHP consistency to be made prior to issuance of grading permits for specific phases of development:

- a) 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-1c, BI-2a-, BI-2c , BI-2d, BI-3 and BI-4, which apply minimum requirements for construction practices and also require monitoring and corrective actions around biological resources, the Project will cause no significant impact to riparian corridors or riparian habitats

DWDSG sections 4.8, 5.5, 5.6, 5.17 and 6.8 prohibit new buildings, active outdoor uses and streets within 50 feet of riparian corridors; require native riparian plantings and increased pervious surfaces in riparian corridors and riparian setbacks, and encourage both in ecological enhancement zones; impose special height limits on the portions of buildings that are permitted within the ecological enhancement zone; and prohibit replacement of existing buildings that are within riparian setbacks in their existing locations. Standard Conditions of Approval require compliance with the Santa Clara Valley Habitat

Plan and with the City's tree replacement ordinance. Mitigation measures include fish and wildlife protection measures; a restricted in-water construction schedule; restriction of riparian corridor construction to the smallest possible areas; monitoring of shading and heat island effects during project operation.

- b) 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 3.2 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, S7.4.1 - S7.4.7, and S7.5.2 of the DWDSG which regulates design features within riparian setback areas, demonstrate that the Project meets these requirements. Regarding light and glare, DWDSG standards prohibit lighting directed into riparian corridors, require dark-sky building lighting, and otherwise regulate building, trail, footbridge and art lighting to minimize impacts to riparian corridors. As described above, DWDSG standards require extensive riparian planting in riparian setbacks and EIR mitigation measures require restoration wherever the project causes impacts to the riparian corridor. Hydrology and Water Quality mitigation measures include construction Best Management Practices as well as revegetation and ongoing monitoring of the riparian corridor following construction; regulatory requirements include preparation and implementation of a stormwater control plan. These requirements ensure soil erosion will be avoided and runoff will be minimized.
- c) 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.

**9. Transportation Demand Management and Neighborhood Traffic and Parking Intrusion Monitoring Plan.**

- a. Consistent with Mitigation Measure AQ-2h: Enhanced Transportation Demand Management Program, the Project Sponsor prepared and submitted a Transportation Demand Management (“TDM”) Plan, dated \_\_\_\_\_, which was reviewed and approved by the Directors of PBCE and Public Works. The TDM Plan is incorporated herein by reference and is on file with the Department of PBCE.
- b. The Project Sponsor prepared a Neighborhood Traffic and Parking Intrusion Monitoring Plan (“Neighborhood Plan”), dated \_\_\_\_\_, which was reviewed and approved by the Directors of PBCE and Public Works. The Neighborhood Plan is incorporated herein by reference and is on file with the Department of PBCE.

**10. Planned Development Permit Findings.** Chapter 20.100 of the San José Municipal Code establishes evaluation criteria for the issuance of a Planned Development Permit. These criteria are applied to the Project based on the above-stated findings related to General Plan, Zoning, and CEQA conformance and for

the reasons stated below, and subject to the conditions set forth in the proposed Downtown West PD Permit. The Council makes the following findings pursuant to Section 20.100.940 of the San José Municipal Code in support of issuance of the Downtown West PD Permit:

- a) *The planned development permit, as issued, is consistent with and furthers the policies of the General Plan.*

As described in Section 3 above, the Downtown West PD Permit is consistent with and will further the policies of the General Plan as set forth in Exhibit B of Resolution No. \_\_\_\_ (General Plan Amendment).

- b) *The planned development permit, as issued, conforms in all respects to the planned development zoning of the property.*

As described in Section 5 above, the Downtown West PD Permit conforms in all respects to the Downtown West PD Zoning District, including in relation to land uses, design, setbacks, height, and parking.

- c) *The planned development permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.*

Riparian Corridor Protection and Bird-Safe Design Policy 6-34 (Section A). As described in Section 8 above, the Downtown West PD Permit is consistent with Section A of City Policy 6-34 of the Riparian Corridor Protection and Bird-Safe Design Policy, including the reduction in the setback from 100 feet to 50 feet .

City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals. Under City Council Policy 6-30, the project is considered a large development proposal. Following City Council Policy 6-30,

the applicant has posted 15 on-site signs throughout the project site to inform the neighborhood of the proposed project. The project held several formally noticed community meetings as well as several informal small community meetings hosted by the City or the applicants. Additionally, the project has been presented at various Station Area Advisory Group meetings. The City has presented before several commission bodies (Historic Landmarks, Planning, and Parks and Recreation Commissions) and City Council for study sessions or referrals of the application. Staff has received many comments in many forms, including verbally at community meetings, in online surveys, and in email correspondence and comments on the Project's EIR. The public hearing notices were mailed to a 1,000-foot radius. The staff report is also posted on the City's website. Additionally, current and previous version of the applicant's project materials have been updated on the project website. Staff has been available to respond to questions from the public.

LTA Council Policy 5-1: Local Transportation Analysis. Consistent with the City of San Jose Transportation Analysis Policy 5-1, the Local Transportation Analysis (LTA) demonstrates conformance with multimodal transportation strategies, goals, and policies in the General Plan. The LTA analyzes the effects of the Project on transportation, access, circulation, and related safety elements, providing additional information that supplements the VMT analysis. The LTA identified adverse effects and proposed transportation improvement projects in accordance with the City of San Jose's Transportation Analysis Handbook in coordination with the Santa Clara Valley Transportation Authority (VTA) which serves as the congestion management agency for Santa Clara County. The City will also require Focused LTAs as the project progresses in accordance with the Implementation Guide.

- d) *The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious.*




The interrelationship between the orientation, location, mass and scale of the building's volumes and elevations has been planned through the DWDSG to be appropriate, compatible, and aesthetically harmonious. The Project provides a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood and destination. The DWDSG focuses on distributing land uses throughout the Project site in a manner that is compatible with adjacent uses, surrounding neighborhoods, the open space program, and the street network. Residential uses are generally located next to existing residential communities, office uses are generally located along the existing rail, and active uses are distributed throughout the Project site to create a more vibrant public realm. The DWDSG promotes varied building form, height, and rooflines to create a compelling skyline. To respond to contextual adjacencies - historic resources, existing single-family residential neighborhoods, Los Gatos Creek and proposed open spaces - building heights on certain blocks are set lower than the maximum allowable height. The DWDSG further aims to integrate existing buildings, historic resources and new development within Downtown West to complement the surrounding neighborhood. The Project's ground floor design, including transparency, articulation, and high-quality materials, support activity along streets. Podium level and massing and architectural design of skyline level facades further create an aesthetically harmonious and positive visual impact on the public realm.

- e) *The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.*

As discussed in Section 7 above, an Environmental Impact Report was prepared for the Downtown West Mixed-Use Plan in compliance with CEQA

and the CEQA Guidelines. The Project's impacts are discussed in Section 7 above and Resolution No. \_\_\_\_, where City Council certified the FEIR and adopted related findings, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations. Based on the findings of the EIR, 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 Hellwig Ironworks Building at 150 South Montgomery Street; project-specific and cumulative land use effects associated with a conflict with a policy on airport noise 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 traffic noise; project-specific and cumulative effects associated with exposure of persons to airport noise; and a cumulative impact associated with the jobs/housing imbalance identified in the 2040 General Plan EIR.



The City adopted Statement of Overriding Considerations (Resolution No. \_\_), finding that the Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant, unavoidable impacts of the project are acceptable in light of the economic, legal, environmental, social, technological or other considerations, because the benefits of the Project outweigh its significant adverse environmental impacts. The Project will not have an unacceptable negative effect on adjacent property as the Project will result in certain substantial public benefits as set forth in the Statement of Overriding Considerations adopted by Resolution No. \_\_\_\_.

**11. Tree Removal Findings.** Pursuant to Sections 13.28.330 and 13.32.080 of the San José Municipal Code, a Planned Development Permit may serve as a tree removal permit. Chapter 13.32 of the San José Municipal Code establishes required findings for tree removals which findings are made for the Project based on the above-stated findings related to General Plan, Zoning, and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit. Pursuant to Section 13.32.100 of the San José Municipal Code, the City Council makes the finding in subsection (a) for the reasons described below:

- a) That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purpose of Chapter 13.32 as set forth in Section 13.32.010; or
- b) The condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal; or
- c) That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question.

*The Project proposes the removal of all existing trees within the public right-of-way and on private property, which includes up to 254 ordinance size trees and up to 283 non-ordinance size trees. Approximately 2,280 new trees will be planted throughout Downtown West. The locations of trees within the existing public right-of-way have been verified by a surveyor and are generally depicted in the GDP. The project sponsor commissioned an Arborist Report (dated March 25, 2020), which included 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 Section 13.32.020 of the San Jose Municipal Code. The removed trees would be*

*replaced according to tree replacement ratios required by the City. The tree replacement ratios under the City's requirements would require a total number of 1,507 replacement trees. The Project proposes to provide 2,280 new trees, which exceeds the number of replacement trees required under the City's requirements. The removal of the street trees would not frustrate the purpose of Chapter 13.32 which is to promote the health, safety, and welfare of the City by controlling the removal of trees since trees enhance the scenic beauty of the City, significantly reduce the erosion of topsoil, contributed to increased storm water quality, reduce flood hazards and risks of landslides, increase property values, reduce the cost of construction and maintenance of drainage systems through the reduction of flow and the need to divert surface waters, contribute to energy efficiency and the reduction of urban temperatures, serve as windbreaks and are prime oxygen producers and air purification systems. The Project will not frustrate the purpose of Chapter 13.32 as the project sponsor intends to provide approximately 2,280 new trees within Downtown West, which along with the approximately 15 acres of parks and open spaces, would improve pedestrian spaces and the public realm. The approximately 2,280 new trees will support biodiversity and complement the riparian corridor while contributing to energy efficiency and the reduction of urban temperatures. The DWDSG includes standards and guidelines related to streets trees and plantings within the public-right-of way that aims to avoid the use of non-native species and plants of low ecological value. Rather, the DWDSG encourages the use of native species that are appropriate for the site conditions to improve local and regional native biodiversity, facilitate wildlife movement, and reduce the need for irrigation after the plan establishment period.*

**12. Demolition Findings.** Pursuant to Section 20.80.460 of the San José Municipal Code, the following criteria have been considered by the Director of PBCE to determine whether the benefits of permitting the demolition of the existing buildings on the Project site outweigh the impacts of demolition:

- a) The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;

*Figure 3.6 of the DWDSG generally depicts the locations of the existing buildings to be demolished on the site, which would include up to 7 residential units and approximately 755,000 gross square feet of non-residential uses. Demolition would occur in phases as each portion of the project is developed. Many of the existing buildings on the site are vacant. As generally shown on Figure 3.6 of the DWDSG, certain existing historic buildings will be retained, and other existing buildings may be relocated within the Project site. Certain existing buildings may be used for interim uses, special events and limited-term uses (as defined in the GDP) during the project's phased development, pursuant to the standards set forth in the GDP. The existing buildings proposed to be demolished would result in the creation or continued existence of a nuisance, blight or dangerous condition.*

- b) The failure to approve the permit would jeopardize public health, safety or welfare;

*As discussed above, the continued creation or existence of the existing buildings (as generally depicted in Figure 3.6 of the DWDSG) that the project sponsor intends to demolish would jeopardize public health, safety, or welfare. A number of the existing buildings on site were built more than 50 years ago and are in poor condition, creating public safety and health hazards. Removal of the existing buildings, many of which are vacant, is necessary to deter potential attractive nuisances, loitering, trespassing, and break-ins. Demolition of the existing buildings will mitigate potential blighting influences, including high vacancies, abandoned, deteriorated and dilapidated buildings, incompatible land uses, and inadequate or deteriorated public improvements, facilities and utilities. Removing the existing buildings will eliminate impediments to development of the Project, which will be a critical step in*

*facilitating the development of a modern, integrated mixed-use transit oriented neighborhood with improved pedestrian and vehicular circulation within Downtown West and its vicinity and which will provide affordable housing and public benefits to the City, including approximately 15 acres of parks and open spaces.*

- c) The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;

*Demolition of the existing buildings would allow for the implementation of the Project. The existing condition of the site includes one and two-story buildings that cover portions of the existing lots, with the remaining portion consisting of unbuilt area and/or surface parking. The total floor area of the existing buildings currently on the site is approximately 755,000 square feet. Many of the existing buildings on the site are vacant. Demolition of the existing buildings on the site would facilitate the development of the Project, which would implement the General Plan policies and DSAP goals of establishing Downtown San José as a vibrant, transit-oriented urban neighborhood and destination.*

- d) The approval of the permit should maintain the supply of existing housing stock in the City of San José;

*The project site currently contains 7 residential units, however, only one unit is occupied. The occupant has made arrangements to relocate prior to commencement of construction. The Downtown West PD Permit would increase the City's housing stock. The demolition of the existing buildings would facilitate the construction of higher- density residential uses, as the Project proposes to build up to 5,900 residential units. The Downtown West PD Permit includes real property within Sub-Area 1 and Sub-Area 3 as generally depicted in the GDP. The GDP identifies the maximum allowable development in each Sub-Area, subject to the allowable transfers and conversion established in the*

*GDP. Up to 5,900 residential units are permitted within the real property subject to the Downtown West PD Permit pursuant to the allowable transfers and conversions under the GDP. The Project's affordable housing program, which assumes development of 4,000 residential units, supports the production of up to 1,000 affordable housing units, 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.*

- e) Both inventoried and non-inventoried Buildings, Sites and districts of historical significance should be preserved to the maximum extent feasible;

*Existing buildings identified as CEQA historic resources, including 374 West Santa Clara Street, 40 South Montgomery Street, and 150 South Montgomery Street, and 559, 563, and 567 West Julian Street, as well as the historic Stephen's Meat Product Sign, shall be retained. Some of these resources will be relocated on-site to facilitate their retention. In addition, 35 Barack Obama Boulevard, a Structure of Merit, shall be relocated along Barack Obama Boulevard south of the VTA tracks. In addition, the Project will fund off-site relocation of the eligible Structure of Merit at 91 Barack Obama Boulevard to a receiver site within the River Street City Landmark District. Pursuant to the conditions of approval to this Downtown West PD Permit, certain eligible Structures of Merit must be advertised for relocation prior to the issuance of a demolition permit. In the event that a property owner responds to the relocation advertisement of eligible Structures of Merit, the project sponsor will pay the equivalent in demolition cost in support of relocating the resource.*

- f) Rehabilitation or reuse of the existing Building would not be feasible;

*Certain existing buildings will be retained and integrated with new development within Downtown West. During the project's phased development, certain existing buildings on the site will be used for interim uses pursuant to the*

*standards set forth in the GDP. The Project also provides for the expansion and adaptive reuse of certain existing buildings where feasible and appropriate as generally depicted on Figure 3.6 of the DWDSG. For instance, 150 South Montgomery Street will be expanded and reused to accommodate new arts and cultural use. The San José Water Company building (374 West Santa Clara Street) has previously been approved for adaptive reuse and is anticipated to be renovated for commercial use. Existing buildings along Creekside Walk shall also be rehabilitated or altered pursuant to standards set forth in the DWDSG. Existing buildings located at 559, 563, and 567 West Julian Street shall also be relocated within Creekside Walk pursuant to the applicable standards in the DWDSG. 35 South Autumn Street shall also be relocated along Autumn Street, south of the VTA tracks. Portions of the Sunlite Bakery building facade (145 South Montgomery Street) will be salvaged and re-incorporated into the Project onsite.*

*The rehabilitation or reuse of the existing buildings proposed for demolition is not feasible given the location and nature of the existing buildings. Rehabilitation or reuse of the existing buildings proposed for demolition would also be incompatible with the proposed Project, which proposes a high-density, mixed-use neighborhood consistent with the General Plan's strategy of focusing new growth capacity in the Downtown Growth Area.*

- g) The demolition, removal or relocation of the Building without an approved replacement Building should not have an adverse impact on the surrounding neighborhood.

*The demolition of the existing buildings would not have an adverse impact on the surrounding neighborhood. The proposed project would be compatible with the surrounding neighborhood and would implement the General Plan policies and DSAP goals of establishing Downtown San José as a vibrant, transit-oriented urban neighborhood and destination as further described above.*



- h) The permit applicant has provided evidence that either the existing Building or Structure is not a Multiple Dwelling or Mobilehome Park or that the permit applicant has complied with all relocation obligations under state and local law, including but not limited to the obligations in Chapters 17.20, 17.23 and 20.200 of the Municipal Code.

*The site does not contain multiple dwellings or mobilehome parks and the Project Sponsor has complied with any applicable relocation obligations under state and local law, including the obligations in Chapters 17.20, 17.23, and 20.200 of the Municipal Code.*

**13. Non-residential Condominium Findings.** Pursuant to Chapter 20.175 of the San José Municipal Code establishes required findings for Commercial and Industrial Common Interest Development Act. In order to make the non-residential condominium findings pursuant to Section 20.175.050 of the San José Municipal Code and recommend approval to the City Council must determine that:

- a. Minimum unit size for nonresidential condominium units shall be seven hundred fifty square feet; and
- b. The proposed common interest development will not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity of the development, or in the city as a whole; and
- c. The proposed common interest development includes sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to insure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development; and

- d. The proposed common interest development includes sufficient provisions for the retention of such common areas for the use of all owners of separate interests therein.


*The Vesting Tentative Map, approved by Resolution No. \_\_\_, authorizes up to twenty commercial condominiums to be identified on future phased final maps and created through condominium plans. The Vesting Tentative Map includes a condition of approval that requires nonresidential condominium units to be a minimum of seven hundred fifty square feet. The Vesting Tentative Map (Resolution No. \_\_\_\_ ) also includes a condition of approval that, if the subdivider of a future phased final map elects to create commercial condominiums subject to the Commercial and Industrial Common Interest Development Act, the Subdivider will submit the governing common interest development documents for review by the City to confirm that provisions for governance, funding, capitalization, and enforcement are properly addressed, as well as any required deeds for reciprocal easement rights, all as contemplated by Chapter 20.175 of the Municipal Code. As the project is proposing a significant amount of non-residential development on an approximately 80-acre site, 20 non-residential condominiums would not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity of the development, or in the city as a whole.*

#### **14. PG&E Property and Subsequent Actions**

- a) The Downtown West PD Zoning District, as further described in Exhibit “A”, of Ordinance No. \_\_\_, 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 (see Ordinance No. \_\_\_\_). If Ordinance No. \_\_\_\_, approving the Downtown West PD Zoning District, becomes effective as to the PG&E Property, this Resolution shall become effective as to the PG&E Property which shall automatically become subject to the Downtown West PD Permit.

If Ordinance No. \_\_\_\_, does not become effective as to the PG&E Property, the PG&E Property shall not be subject to the Downtown West PD Permit and the City shall not grant any Subsequent Approvals (as defined in the Development Agreement) over the PG&E Property. Google shall update the Downtown West PD Permit to exclude the PG&E Property which may be administratively approved by the Director of PBCE.

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- b) The City Council authorizes the Director of Planning, Building, and Code Enforcement in consultation with the City Attorney’s Office to make minor changes to this Resolution and its attachments, 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 Resolution and to effectuate the City’s performance thereunder.

**15. Effective Date.** The effective date of the Downtown West PD Permit (Resolution No. \_\_\_\_\_) shall be the effective date of the Downtown West Planned Development Zoning Ordinance (Ordinance No. \_\_\_\_\_).

In accordance with the findings set forth above, a Planned Development Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth below is hereby **GRANTED**.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per San Jose Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
  - a. Acceptance of the Permit by the Permittee; and
  - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire pursuant to the terms of [Section 11.3] the Development Agreement after the date of issuance hereof by the Director/Planning Commission/City Council. The date of issuance is the date this Permit is approved by the Director of Planning/Planning Commission/City Council. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved plans entitled, "Downtown West Planned Development Permit \_\_\_\_\_" dated \_\_\_\_\_, last revised on \_\_\_\_\_ on file with the Department of Planning, Building, and Code Enforcement ("Approved Plans"), and to the San Jose Building Code (San Jose Municipal Code, Title 24), with the exception of any subsequently approved changes. The Approved Plans include the Downtown West Design Standards and Guidelines (DWDSG), Downtown West Improvement Standards (DWIS), Conceptual Infrastructure Plan Sheets, and Conformance Review Implementation Guide (Implementation Guide).
4. **Planned Development District Effectuated.** This Planned Development Permit effectuates the portion of the Downtown West Planned Development Zoning as reflected in the Permit's Approved Plan Set and the corresponding legal description.

5. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, state, and federal laws.
6. **Construction Hours.** Construction outside of the City's standard construction hours of 7 a.m. to 7 p.m. Monday through Friday is permitted and shall be approved based on a site- specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of adjacent uses. Because it is anticipated that certain construction activities (such as continuous pours of concrete foundations) may require work outside normally permitted construction hours (e.g., overnight), the project's Planned Development Permit would allow for such construction activities, subject to conditions of approval, including performance standards, imposed by the City to limit noise impacts.
7. **Vibration Reduction Plan.** All residential development with vibration exposure exceeding 72 VdB from operations on the Caltrain or Union Pacific tracks shall be designed to reduce vibration exposure from Caltrain and other rail operations to 72 VdB or less for residential uses. Before any building permit is issued for structures intended for residential occupancy within 100 feet of the mainline track, a qualified engineer shall complete a detailed vibration design study. The study shall confirm the ground vibration levels and frequency along the Caltrain or Union Pacific tracks and determine the appropriate design to limit interior vibration levels to 72 VdB for residences, if necessary. As part of the plan-check process, the San José Department of Planning, Building, and Code Enforcement shall verify that the recommended measures in the acoustical study have been incorporated into the project's design elements.
8. **Airport Conditions.** As required by City policies, the California Building Code, Project mitigation measures and City Resolution No. \_\_\_\_\_ ("ALUC Override Resolution"), Project Sponsors shall:
  - a. Obtain an FAA Determination of No Hazard to Air Navigation from the FAA prior to issuance of building permits for any building or structure that would exceed 200 feet in height above ground level
  - b. Implement FEIR Mitigation Measure NO-3 to ensure that interior noise levels in residences and hotel rooms do not exceed 45 dBA CNEL, prior to approval of construction-related permits. Within the Airport Influence Area of the Mineta San Jose International Airport, dedicate avigation easements to protect airport operations, as required by General Plan Transportation Policy TR-14.4, prior to approval of construction-related permits
  - c. Within the Airport Influence Area, and where noise associated with the Mineta San Jose International Airport exceeds 65 dBA CNEL, include in

all residential rental/lease agreements with tenants a statement advising that the tenants are living within an exterior noise exposure area designed by the ALUC as greater than the 65 dBA CNEL, in a manner that is consistent with current state law including AB2776 (2002), to be submitted to and confirmed by the Director or delegee prior to issuance of certificates of occupancy

9. **Santa Clara Valley Habitat Plan.** The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit, for each phase, the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit.
10. **Structures of Merit.**
  - a. The project sponsor shall comply with this condition prior to the issuance of a permit that would allow for the demolition of the following buildings:
    - i. 357 N. Montgomery Street
    - ii. 102 S. Montgomery Street
  - b. The project sponsor shall advertise the availability for relocation of each building proposed for demolition, as follows:
    - i. A dollar amount equal to the estimated cost of demolition of the building proposed for demolition, as certified by a licensed contractor, including any associated Planning Permit fees for relocation, shall be offered to the recipient of the building who is willing to undertake relocation and rehabilitation after relocation. All other costs and liability of the relocation and rehabilitation of the building shall not be the responsibility of the project sponsor.
    - ii. Advertisement and outreach to identify an interested third party shall continue for no less than 60 days. Advertisements shall include notification in at least one newspaper of general circulation and on online platforms as appropriate, including at a minimum the San José Mercury News (print and online), and the City of San José Department of Planning, Building and Code Enforcement's Environmental Review website.
    - iii. Noticing shall be compliant with City Council Policy 6-30: Public Outreach Policy and shall include posting of a notice, on each building proposed for demolition, that is no smaller than 48 x 72 inches and is visible from the public right-of-way.
    - iv. Satisfaction of the notification provisions shall be subject to review by the Director of PBCE or their designee following completion of

the minimum 60-day public outreach period, before the issuance of demolition permits.

- c. If, before the end of the outreach period, an interested third party (or parties) expresses interest in relocating one or more of the resources to a suitable site under their ownership or control, they shall be allowed a period of up to [60] additional days to complete removal of the resource(s) from the project site. Following relocation, any rehabilitation of the buildings subject to this condition of approval shall not be required to comply with the Secretary of the Interior's Standards for the Treatment of Historic Buildings.

11. **Demolition Permits.** The project sponsor may request that the Director issue a demolition permit for the demolition of existing building(s) located within Downtown West identified in S3.4.1 and Figure 3.6 of the Downtown West Design Standards and Guidelines (DWDSG) as set forth below:
  - a. The project sponsor may request that the Director issue a demolition permit for an existing building within Downtown West concurrent with the submittal of an application for a "Downtown West Permit" for property that is the subject of a demolition permit. A "Downtown West Permit" means a full structural building permit; a partial permit, such as a foundation-only permit or grading permit; site development permit; excavation permit; private street improvement permit; public street improvement permit; special use permit; [administrative permit]; historic preservation permit; Downtown West Use Certificate; Downtown West Use Permit; or any other ministerial or discretionary permit or approval authorizing a ground-disturbing activity or authorizing the use of property in connection with the Downtown West project.
  - b. Notwithstanding section (1) above, the project sponsor may request a demolition permit prior to the issuance of a Downtown West Permit provided that any one of the following conditions is applicable:
    - i. Demolition of a building or structure or portion thereof is required to comply with the project sponsor's affordable housing or land dedication obligations under the Development Agreement. The project sponsor shall identify the existing building(s) it seeks to demolish under the development agreement and the affordable housing or land dedication requirement necessitating the demolition activity;
    - ii. A building or structure or portion thereof creates an endangerment to the life, limb, health, property, safety or welfare of the occupants of the building or members of the public necessitating demolition;
  - c. A building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated by any cause or is in any stage that it becomes an attractive nuisance, a harbor for vagrants,

criminals or other persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful acts; or

- d. Demolition of a building or structure is required for construction staging, temporary parking, or to otherwise facilitate the phased development of Downtown West.
  - e. If the project sponsor requests that the Director issue a demolition permit for the demolition of a historic building identified in Figure 3.6 of the Downtown West Design Standards and Guidelines (DWDSG), the project sponsor shall comply with all applicable mitigation measures for the demolition of historic buildings in the Mitigation Monitoring Reporting Program (MMRP).
  - f. Notwithstanding section (a) - (c) above, if the project sponsor seeks to perform work, which includes demolition activity, on a city landmark that has not been contemplated through an existing Historic Preservation (HP) Permit Amendment, the project sponsor must obtain a separate Historic Preservation (HP) Permit or Amendment prior to the commencement of any work on the building or structure, as set forth in Muni Code Section 13.48.210.
12. **Tree Removal.** As authorized under the Municipal Code, the Downtown West Planned Development Permit serves as the Downtown West Tree Removal Permit. (Muni Code, §13.32.080.) During the Conformance Review process (as further set forth in the Implementation Guide), the project sponsor shall:
- a. Identify the street trees proposed to be removed as part of the Conformance Review application submittal and note if there are any proposed deviations from the Downtown West Tree Removal Permit; and
  - b. If the project sponsor proposes removing a dead tree as defined in Muni Code Section 13.32.020, provide an arborist report, if requested, by the Director.
  - c. The project sponsor shall not proceed with the removal of any street trees within Downtown West until the Director has approved the Conformance Review application that includes the subject trees. Prior to the removal of any street tree under the Downtown West Tree Removal Permit, the project sponsor shall post copies of the Downtown West Tree Removal Permit on the subject parcel as required under Title 13 of the Municipal Code.
13. **Jobs and Economic Improvement through Environmental Leadership Act of 2011 (AB 900) Compliance: Prevailing Wage.** Provided that AB 900 certification for the Project is extended by SB 7 or other legislation, consistent with the Governor's December 30, 2019 certification of the Project under AB 900, the Project Sponsor shall, prior to the City issuance of construction permits, submit to the Director of PBCE or the Director's designee copies of all



construction contracts for the work to be authorized by those permits. Each such contract shall include terms requiring that all construction workers employed in the execution of the project be paid prevailing wages as described in Public Resources Code section 21183(b).

14. **Air Quality.** The following design features have been included in the modeling for the proposed project and are discussed in greater detail below. These features would be included as conditions of approval so that they will be enforceable by the City:
  - a. Construction:
    - i. Certification of all diesel-powered construction equipment to Tier 4 Final emission standards; and
    - ii. Use of electric equipment for concrete/industrial saws, sweepers/scrubbers, aerial lifts, welders, and air compressors.
  - b. Operations:
    - i. LEED for Neighborhood Development (ND) Gold Certification (which requires that at least one building in each phase be certified LEED Gold), construction of all office buildings to meet LEED Gold standards, and compliance with the City's New Construction Green Building Requirements;
    - ii. Electrification (no natural gas use) of all buildings at the site, including all office space, all residential space, and all retail space;
    - iii. Constrained parking (less parking than required by the City code, based both on the base parking requirement and the Code-permitted reductions in parking for transit accessible and Downtown projects available in Municipal Code Section 20.90.220 and 20.70.330, respectively), with no more than 4,800 spaces for commercial uses (including potential access to a portion of the residential spaces that could be shared with office uses);
    - iv. On-site solar photovoltaic system achieving at least 7.8 megawatts of electricity production;
    - v. Installation of electric vehicle supply equipment for a minimum of 10 percent of parking spaces;
    - vi. Installation of Minimum Efficiency Reporting Value (MERV) 13 filtration for all new on-site buildings;
    - vii. Use of recycled water for all non-potable water demands for the project including toilet flushing, irrigation, and cooling; and
    - viii. A potential district water reuse facility that would treat wastewater to California Code of Regulations Title 22 disinfected tertiary (unrestricted reuse) recycled-water standards.
  
15. **Biological Resources.** SCA BI-2: Tree Replacement. The removed trees would be replaced according to the following tree replacement ratios:

Table 4.4-2: Tree Replacement Ratios				
Circumference of Tree to be Removed <sup>1</sup>	Type of Tree to be Removed <sup>2</sup>			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
12 inches or more <sup>3</sup>	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

<sup>1</sup> As measured 4.5 feet above ground level  
<sup>2</sup> X:X = tree replacement to tree loss ratio  
<sup>3</sup> 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

16. **Cultural Resources and Tribal Cultural Resources**

- a. SCA CR-1: Subsurface Cultural Resources. If 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 Director of Planning, Building and Code Enforcement of the Director’s designee shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall:
  - i. Evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and
  - ii. 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 shall be submitted to Director of Planning, Building and Code Enforcement, or the Director’s designee, and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

- b. SCA CR-2: Human Remains. 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 PRC Sections 5097.9 through 5097.99, as amended per AB 2641, shall be followed. If human remains are discovered during construction, there shall

be no further excavation or disturbance of the site or any nearby area reasonable suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement, or the Director's designee, and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (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. 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:

- i. 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;
- ii. The MLD identified fails to make a recommendation; or
- iii. The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

c. SCA CR-3: Vibration Impacts to Adjacent and Nearby Historic Buildings. The project applicant shall implement the following measures prior to and during construction:

- i. Prohibit impact, sonic, or vibratory pile driving methods. Drilled piles cause lower vibration levels where geological conditions permit their use.
- ii. Limit other vibration-inducing equipment to the extent feasible.
- iii. Submit a list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams) to the Director of Planning, Building and Code Enforcement or the Director's designee. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring.

17. **Geology, Soils, and Paleontological Resources.** SCA GE-1: Paleontological Resources. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee shall be notified, and a qualified

professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, 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 applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or the Director's designee.

**18. Hazards and Hazardous Materials**

- a. Asbestos and Lead-based Paint. If asbestos-containing materials (ACM) or lead-based paint (LBP) are present and need to be removed during the demolition of structures, the project applicant shall implement the following conditions:
  - i. Conduct a visual inspection/pre-demolition survey, and possible sampling in conformance with state and local laws, to determine the presence of ACMs and/or LBP prior to the demolition of on-site building(s).
  - ii. Remove all building materials containing LBP during demolition activities, in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations (CCR) Section 1532.1, including employee training, employee air monitoring, and dust control. Dispose any debris or soil containing LBP or coatings at landfills that meet acceptance criteria for the type of lead being disposed.
  - iii. Remove all potentially friable ACMs in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines before demolition or renovation activities that may disturb ACMs. Undertake all demolition activities in accordance with Cal/OSHA standards contained in Title 8, CCR Section 1529, to protect workers from asbestos exposure.
  - iv. Retain a registered asbestos abatement contractor 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 1 percent asbestos are also subject to BAAQMD regulations. Remove materials containing more than 1 percent asbestos in accordance with BAAQMD requirements and notifications.
  - vi. Implement the following conditions in accordance with Cal/OSHA rules and regulations, to limit impacts to construction workers.
    1. Before commencement of demolition activities, complete a building survey, including sampling and testing, to identify and quantify building materials containing LBP.

2. During demolition activities, remove all building materials containing LBP in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR Section 1532.1, including employee training, employee air monitoring, and dust control.
3. Dispose of any debris or soil containing LBP or coatings at landfills that meet acceptance criteria for the type of waste being disposed.

19. **Noise and Vibration**

- a. SCA NO-1: Construction-Related Noise. The project applicant shall implement noise minimization measures that include, but are not limited to, the following:
  - i. Limit construction hours to between 7 a.m. and 7 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
  - ii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
  - iii. Equip all internal combustion-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
  - iv. Prohibit unnecessary idling of internal combustion engines.
  - v. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining noise-sensitive land uses.
  - vi. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
  - vii. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
  - viii. Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule in writing and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
  - ix. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.

- x. Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
  - xi. Limit construction hours to 7 a.m. to 7 p.m., Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. Because it is anticipated that certain construction activities (such as continuous pours of concrete foundations) may require work outside normally permitted construction hours (e.g., overnight), the project’s Planned Development Permit would allow for such construction activities, subject to conditions of approval, including performance standards, imposed by the City to limit noise impacts.
- b. SCA NO-2: Interior Noise Standard for Residential Development. The project applicant shall prepare final design plans and incorporate building design and acoustical treatments to ensure compliance with state building codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential units. The project applicant shall conform with any special building construction techniques requested by the City’s Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

20. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of a phased Final Map (if applicable) by the Director of Public Works, or the issuance of Grading or Building permits, as applicable, the applicant will be required to have satisfied all of the following Public Works conditions. All improvements of the public streets shall be to the satisfaction of the Director of Public Works. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

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 Construction Agreement(s) 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. **Grading/Geology:**
  - i. A grading permit is required prior to the issuance of a Public Works Clearance.
  - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot 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 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.
  - iii. A haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
  - iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
  - v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake

Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

- c. **Sewage Fees:** The project sponsor shall pay a Sewer Connection Fee in accordance with the Development Agreement for the Project.
- d. **Stormwater:** At the Grading/Drainage Permit stage, provide detailed Stormwater Control Plan for each development parcel to include the following:
  - i. Design stormwater treatment facilities using Low Impact Development (LID) treatment measures pursuant to the City's GSI Plan.
  - ii. Design stormwater conveyance by gravity flow. To the extent feasible, the use of pumps and mechanical devices shall be avoided.
  - iii. Private treatment facilities must be located on private properties. The project may not use public areas for private stormwater treatment.
  - iv. Provide numeric sizing calculations for each drainage management area.
  - v. Provide maintenance and inspection information for private facilities on treatment control measures.
- e. **Flood Zones D, X and AO and A:**
  - i. For new structures in Zone D and X: There are no City floodplain requirements.
  - ii. For structures located within the Valley Water 100-year floodplain model, the Developer shall:
    - 1. Submit a topographic survey, based on NAVD88, identifying the elevation of the existing highest adjacent grade to the existing structure or base flood elevation and the elevation of the existing finished floor.
    - 2. New structures in Zone A requires additional flood study to determine the base flood elevation.
    - 3. Elevate the lowest floor 1 foot above the base flood elevation (or depth of flooding plus one foot). Non-residential structures may be floodproofed to the same elevation.
    - 4. Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation (depth of flooding plus one foot) or protected from flood damage.



5. Construction materials used below the base flood elevation (depth of flooding plus one foot) must be resistant to flood damage.
  6. An Elevation Certificate (FEMA Form 086-0-33) for each proposed structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate for each built structure, based on finished construction is required prior to issuance of an occupancy permit.
  7. If the structure is to be floodproofed, a Floodproofing Certificate (FEMA Form 086-0-34) for each structure, floodproofing details, and if applicable, a Flood Emergency Operation Plan and an Inspection & Maintenance Plan are required prior to the issuance of a Public Works Clearance.
- f. **Private Improvement Encroachments within Public Property:** All encroachments shall be consistent with City of San Jose Municipal Code Title 13 and California Building Code (CBC) Chapter 32 Section 3202 entitled Encroachments into the Public Right-of-Way. All proposed private improvements within public right-of-way, including, without limitation, utility infrastructure, will require an Encroachment Permit issued by the City pursuant to Chapter 13.37 of the Municipal Code.
- g. **Assessments:** Some of the parcels within the project boundary are located within the Basic Zone of the Downtown San Jose Property-Based Business Improvement District, which provides enhanced cleaning, information and safety services, beautification activities, and business retention and growth programs within the boundaries of the district. Benefiting properties within the district pay for services through annual assessments placed on the County property tax bills, which may be increased by up to 5% each year. The assessment is calculated based on the land use and its building and lot square footages. For 2020-2021, commercial properties pay \$0.077775814 and residential properties pay \$0.052498379 per building and lot square footages. Future year assessments will be adjusted accordingly and will continue to be collected through the County property tax bills listed under Tax Code 0916 "DOWNTOWN PBID". Any questions may be directed to Thomas Borden at (408) 535-6831. The APN's within the project boundary that are located within the Basic Zone of the Downtown San Jose Property-Based Business Improvement District consist of: 259-38-128, 259-38-142, 259-38-148, 259-38-042, 259-38-041, 259-38-147, 259-38-146, 259-38-145, 259-38-040, 259-38-039, 259-38-110, 259-38-036, 259-38-132, 259-38-121, 259-38-030, 259-38-043.

- h. **Right-of-Way Work Permit (Street/Sidewalk Closures):** At the Implementation stage, Developer shall apply for a Revocable Encroachment Permit for any proposed sidewalk and lane closures to support the onsite construction activities.
  - i. The following should be included with the Right-of-Way Work Permit application, but are not limited to:
    - 1. **Letter of Intent:** This document should provide a detailed description of the reasons for the sidewalk/lane closures and why they are absolutely necessary (man lifts, baker tanks, staging area, concrete pumping activities, etc.) and reasons why covered pedestrian walkways will not be provided (ex. swinging loads over sidewalk not safe for pedestrians).
    - 2. **Multi-Phased Site Specific Sketches:** These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work to be accomplished within the right-of-way. The exhibit should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.
  - ii. Developer shall minimize the potential impact to vehicular and pedestrian traffic by:
    - 1. Implementing the closures at the time the onsite activities dictate the need for the closure.
    - 2. Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlines in **condition 9.a.ii** above.
  - iii. If proposed lane and parking closures are a part of the Right-of-Way Work Permit Application, Developer shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at:  
<http://www.sanjoseca.gov/index.aspx?NID=3713>. Developer shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.
- i. **Electrical:** Existing electroliers within project boundary will be evaluated at the public improvement stage and street lighting requirements will be included on the public improvement plans.

- j. **Private Streets:** Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
  - k. **Street Trees:**
    - i. Provide street trees at back of curb (where feasible) along project frontages.
    - ii. Incorporate street trees in accordance with the Downtown West Design Standards and Guidelines, and as approved by the City Arborist.
21. **Environmental Services Department Project Conditions:** The following items shall be included as Project Conditions:
- a. **Connection Fees and Use Charges:** Prior to issuance of Building Permits, remit all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits for existing connections. All fees and charges shall be calculated and charged in the same manner as fees charged to other property owners consistent with the San Jose Municipal Code and state law.
  - b. **Rate Control:** The project shall comply with rate protections in the Resolution for the Project's Vesting Tentative Map pertaining to "Rate Control" for District Systems.
  - c. **Submeters:** Each building shall have potable water and recycled water submeters. Wastewater meters must be installed prior to connections to the City's sanitary sewer collection and treatment system.
  - d. **Wastewater Discharge:** Before approval of the issuance of Building Permits for any development for the parcel, the developer shall demonstrate:
    - i. Discharge from the proposed development and use will be within the allocated capacity in compliance with the San Jose Municipal Code. Capacity may not be transferred between parcels
    - ii. compliance with a wastewater pretreatment program; and
    - iii. compliance with all permits for the onsite wastewater collection and treatment facility under federal, state and local laws and regulatory agencies.
  - e. **Wastewater/Recycled Water Design Review:** Developer shall obtain approvals from the State Water Board DDW through the SF Bay Regional Quality Control Board permit process, for review of the engineering report,

and satisfy technical comments on tertiary filtration and disinfection unit processes. The Santa Clara County Department of Public Health (DPH) may act in an advisory or regulatory role.

f. **Odor Controls:**

i. Developer shall:

1. Comply with Odor Mitigation Measures for Wastewater (AQ-5), including a Hydrogen Sulfide and Odor Management program (HSOM Program) at each water reuse facility (WRF).
2. Include measures to mitigate and control odor in the site plans and drawings.
3. Comply with Odor Mitigation Measures for Waste at Collection Terminals under SJMC §9.10.430(A), SJMC §9.10.430(D), SJMC §9.10.430(F), SJMC §9.10.450(C), SJMC §9.10.1395, and SJMC §9.10.840.
4. Comply with CalRecycle requirements for an Odor Impact Minimization Plan (as applicable).
5. Comply with BAAQMD regulations for an onsite wastewater treatment facility and any additional requirements if the project is within 1,000 feet of a school.
6. Provide the Environmental Services Department Director the information necessary as part of the Central Utility Plant Downtown West Conformance Review to coordinate review and approval of the requirements listed in subsections 1 through 5 above.

- ii. In addition to any other legal remedies, the City may require further measures to mitigate against future complaints of public nuisance based on odor during the Conformance Review process for subsequent phases of the development.

g. **City Wastewater Discharge Permit:** The development connected to the district systems must be covered under a Wastewater Discharge Permit, updated at minimum annually or more frequently as described in the San Jose Municipal Code, and shall meet the following requirements:

- i. Proposed uses and estimated amount and characteristics of wastewater discharges for each phase will be identified during the Conformance Review process;
- ii. Compliance with County permits - if the County exerts jurisdiction over the onsite wastewater/recycled water system - or City permit(s) - if the City adopts a wastewater/recycled permitting process in the future;

- iii. Adopt a pretreatment program for all properties that would ensure compliance with the City's pretreatment program and NPDES requirements;
  - iv. Maintenance of records such as monthly flow, production changes, closures, and wastewater sampling records;
  - v. Notification to the City before a change such as ownership, discharge volumes, operator, use, tenancy; and
  - vi. Compliance with all other regulatory applicable permits as required by federal, state and local law.
- h. **Solid Waste Handling Plans:** Developer must provide a Waste Management Plan, for City review and approval for each building in the development including:
- i. The type of collection containers, service provider at the building and/or terminal collection (if serviced by the district system), commercial and residential premises waste management plan in the event of service reduction or termination, locations of, collection plans, and style of public litter cans that would be placed in the public right of way, and planned handling of special wastes (e.g. biosolids if applicable);
  - ii. Demonstrated compliance with onsite waste collection space and truck collection access in accordance with the applicable sections of the City's Solid Waste Enclosure Area Guidelines (2011 Version) <https://www.sanjoseca.gov/Home/ShowDocument?id=46404>;
  - iii. Demonstrated compliance with City Council Policy 6-29, wherein drainage within a solid waste enclosure or solid waste room should be connected to the sanitary system;
  - iv. Demonstrated compliance with California law and regulations, such as those enacted to implement SB 1383 for organics handling/diversion requirements; and
  - v. Demonstrated compliance with applicable San Jose Municipal Code and franchise agreements.
- i. **External Wastewater, Recycled Water, and Waste Permits:** District systems shall have the following:
- i. Onsite wastewater treatment and recycled water facility permits from applicable State and local agencies including the State Water Resources Control Board for the appropriate Class of wastewater treatment plant and, at a minimum, be subject to the applicable General Order(s) for domestic wastewater treatment plants, general waste discharge requirements for biosolids, and other regulations such as monitoring and reporting.

- ii. Applicable permits as a waste transfer station in accordance with PRC 40200(a). The specific permit required from CalRecycle is based on the tonnage the inbound tonnages/day:  
<https://www.calrecycle.ca.gov/swfacilities/permitting/facilitytype/transfer>.

DRAFT

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 [Comprehensive Land Use Plan](#) 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 (the San José Water Company at 374 West Santa Clara Street)~~ [amendment to the boundaries of a second Historic Landmark \(and the Southern Pacific Depot Historic District\)](#) (Resolutions No. \_\_\_ and \_\_\_); amendment to Historic Preservation Permit (HP16-002) (Resolution No. \_\_\_); approval of ~~a~~ Major Encroachment [Permit/Permits](#) (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, [certain](#) Subsequent Approvals (as defined

in the Development Agreement), and any other Project-related actions [regarding requiring](#) General Plan determinations pursuant to State Law or Applicable Laws.

The Project, including all Project Approvals and Project Documents [referenced in these findings, as defined in the Development Agreement](#), 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](#)[bikeable](#) 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](#).

~~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 by providing diverse housing options, walkable and bikeable public streets and trails, and 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~~ 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 \$249 million in projected net 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 will 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.

*Consistency Findings. The Project is consistent with Goal MS-1 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. 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; provide on-site solar energy generation; 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.*

## **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).

*Consistency Findings. The Project is consistent with Goal MS-2 and applicable policies identified above. As stated in the Downtown West Environmental Impact Report, the Project will be designed not to result in any et additional GHG emissions; 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; and provide on-site solar energy generation.*

### **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*

*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 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 promote the use of green roofs through the Downtown West Development Standards and Guidelines; minimize surface parking; reduce existing impervious surfaces on the Project site; 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.

### **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.**

*Consistency Findings. The Project is consistent with Goals MS-5, and MS-6 and [MS-7](#) 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 ~~composing~~composting from all residents, ~~business~~businesses, 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 identified 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 MeasureMeasures 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~~ The Project is consistent with Goal MS-12.1, the Project and applicable policies identified above. Google LLC (“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.

[MS-13.3 Require subdivision designs and site planning to minimize grading and use landform grading in hillside areas.](#)

*Consistency Findings. The Project is consistent with Goal MS-13 and ~~Policies MS-13.1, and MS-13.2~~ applicable policies identified above. The Project will ~~implement~~ comply with Policy MS-13.1 by implementing 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 will 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 [affecteffect](#) 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 [as an environmental leadership development project](#)*

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~~ 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~~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~~will 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, as will the Project's reduction in existing impervious surfaces. 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, ~~streets~~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. [The Project is consistent with Goal ER-2 and applicable policies identified above.](#) 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 [determination of VHP consistency to be made prior to issuance of grading permits for specific phases of development:](#)*

*- 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-1c, BI-2a, BI-2c, BI-2d, BI-3 and BI-4, which apply minimum requirements for construction practices and also require monitoring and corrective actions around biological resources, the Project will cause no significant impact to riparian corridors or riparian habitats.

DWDSG sections 4.8, 5.5, 5.6, 5.17 and 6.8 prohibit new buildings, active outdoor uses and streets within 50 feet of riparian corridors; require native riparian plantings and increased pervious surfaces in riparian corridors and riparian setbacks, and encourage both in ecological enhancement zones; impose special height limits on the portions of buildings that are permitted within the ecological enhancement zone; and prohibit replacement of existing buildings that are within riparian setbacks in their existing locations. Standard Conditions of Approval require compliance with the Santa Clara Valley Habitat Plan and with the City's tree replacement ordinance. Mitigation measures include fish and wildlife protection measures; a restricted in-water construction schedule; restriction of riparian corridor construction to the smallest possible areas; monitoring of shading and heat island effects during project operation.

- 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~~ 3.2 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.~~ 3, S4.17.5, S4.18.5, S5.5.7 - S5.5.9, S7.4.1 - S7.4.7, and S7.5.2 of the DWDSG which regulates design features within riparian setback areas, demonstrate that the Project meets these requirements. Regarding light and glare, DWDSG standards prohibit lighting directed into riparian corridors, require dark-sky building lighting, and otherwise regulate building,

trail, footbridge and art lighting to minimize impacts to riparian corridors. As described above, DWDSG standards require extensive riparian planting in riparian setbacks and EIR mitigation measures require restoration wherever the project causes impacts to the riparian corridor. Hydrology and Water Quality mitigation measures include construction Best Management Practices as well as revegetation and ongoing monitoring of the riparian corridor following construction; regulatory requirements include preparation and implementation of a stormwater control plan. These requirements ensure soil erosion will be avoided and runoff will be minimized.

- 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~~conditions of ~~Approval~~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 is consistent with Goal ER-5 and applicable policies identified above. 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~~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 is consistent with Goals ER-6, ER-8, ER-9, and applicable policies identified above.](#) *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~~[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- [identified above](#). 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 [potential](#) 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 ~~ra~~[remains](#) 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 L<sub>max</sub> in bedrooms and 55 dBA L<sub>max</sub> 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~~[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~~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~~condition of ~~Approval~~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~~certain Comprehensive Land Use Plan's Plan height and noise policies is required and is proposed. Project ~~Conditions~~conditions of ~~Approval~~approval include avigation 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 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~~condition of ~~Approval~~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., serpentine) 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- [identified above](#). 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- [identified above](#). 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~~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 ~~2/3~~<sup>2/3</sup> 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 is consistent with Goal CD-1 and applicable policies identified above.](#) *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~~ Goals CD-2, CD-3, CD-4, CD-5, and VN-1 as #and applicable policies identified above.*

*The Project 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 structurestructured 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~~certain Comprehensive Land Use ~~Plan's~~Plan height and noise policies is required and is proposed. Project ~~Conditions~~conditions of ~~Approval~~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~~condition of ~~Approval~~approval in the Downtown West PD Permit requires a "Determination of No Hazard" to Air Navigation be issued by the FAA for ~~all~~tall buildings prior to issuance of ~~any~~ building permits for those buildings.

### **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 identified](#) 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~~ heights 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 is consistent with Goals H-1 and H-2 and applicable policies identified above. The Project provides for the development of up to 5,900 residential units. The 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~~Pursuant to the Development Agreement ~~by,~~ the Project provides for 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 pursuant to which the project sponsor~~ 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 consistent with Goal H-4 and applicable policies identified above. The Project is certified as an environmental leadership development project under Public Resources Code Section 21178 et ~~Seqseq.~~, 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 identified above. 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 [identified above](#), 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 identified above. 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~~31,000 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.

The 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~~ Project Sponsor has also collaborated with appropriate external agencies with land use authority or regulations in San Jose, ~~including~~ and has considered the policies of the Airport Land Use Commission- and Valley Water, as described in the FEIR. The ~~project sponsor~~ 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 is consistent with Goals LU-4 and LU-5 and applicable policies identified above.](#) 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~~approximately 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 and~~ applicable policies identified above. The Project 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~~include 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 identified 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~~applicable policies identified above 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 ~~designated~~designated 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 (~~SJDDGSDDG~~). 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 to 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 an eligible 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~~ 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; in addition, 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~~complies 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 Amendment (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~~; the HLC 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~~applicable policies ~~as identified above.~~ The Project 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 curbside 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-West](#) Santa Clara Street and [W-West](#) 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: identified above. 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,~~ and 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- [identified above](#). 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 identified above. 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~~certain Comprehensive Land Use ~~Plan's~~Plan 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~~to nclude 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 environmentals 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~~conditions of ~~Approval~~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~~condition of ~~Approval~~approval in the Downtown West PD Permit requires a "Determination of No Hazard" to Air Navigation be issued by the FAA for ~~all~~tall buildings prior to issuance of ~~any~~-building permits for those buildings.

### **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 ~~policies as~~ policies identified above. The Project 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, and TR-4.1.



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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW DEVELOPMENT OF THE DOWNTOWN WEST MIXED-USE PLAN WITHIN THE DOWNTOWN WEST DC (PD) PLANNED DEVELOPMENT ZONING DISTRICT**

**FILE NO. PD19-029**

**WHEREAS**, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on {October 10, 2019}, Google LLC (“Project Sponsor” or “Google”) submitted an application to the City of San José for a Planned Development Permit (File No. \_\_\_\_\_) to allow for the phased development of the Downtown West Mixed-Use Plan (the “Project” or “Downtown West”), including the demolition of certain existing buildings and the removal of approximately 537 existing urban street or landscape trees, on approximately 78 acres, on that certain real property situated in the Downtown West Planned Development Zoning District (“Downtown West PD Zoning District”);

**WHEREAS**, the Project advances a plan that re-envision 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 space; up to 4,800 publicly accessible commercial parking spaces and up to 2,360 unbundled parking spaces for residential use; a ~~potential~~ "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 [as an environmental leadership development 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 and public review for the Project has been ongoing since 2018 and [has](#) included over 50 meetings with members of the Diridon Station Area Advisory Group (SAAG), and over 100 community outreach events consisting 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**, on \_\_\_\_\_, 2021, the City Council adopted Ordinance No. \_\_\_\_, approving the rezoning of the Project site, which consists of approximately 80 acres of real property that 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, to the Downtown West Mixed-Use Plan DC (PD) Planned Development Zoning District; [and](#)

**WHEREAS**, 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, General Development Plan \(“GDP”\)](#), and generally depicted in the [General Development Plan \(“GDP”\); GDP;](#) [and](#)

**WHEREAS**, the land use regulations and development standards for development within the Downtown West PD Zoning District are reflected in the Downtown West GDP which establishes the permitted uses, development standards, and use regulations applicable to development within the Downtown West PD Zoning District and guides the content of the Downtown West PD Permit; [and](#)

**WHEREAS**, the real property subject to the Downtown West PD Permit is more particularly described in [Exhibit A](#) and includes an approximately 78-acre area that consists of Sub-Area 1 and Sub-Area 3 as generally depicted in the GDP; [and](#)

**WHEREAS**, 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”) (collectively, these documents are referred to as the “Downtown West PD Permit”); [and](#)

**WHEREAS**, the DWDSG consists of objective and performance based standards and qualitative and subjective guidelines for the development of the Project; [and](#)

**WHEREAS**, the DWDSG standards and guidelines are separate from the Downtown Design Guidelines (“DDG”) adopted April 23, 2019, and the Complete Streets Design Standards and Guidelines (“CSDSG”), adopted May 2018; development of Downtown West shall be subject to the DDG and CSDSG standards and guidelines unless a DDG or CSDSG standard or guideline is expressly superseded by the DWDSG as identified in Appendix D and E of the DWDSG; [and](#)

**WHEREAS**, the DWIS describes the standards and specifications used to evaluate horizontal improvements within the Downtown West PD Zoning District including certain provisions of the Standard Details and Standard Specifications adopted by the City’s Public Works Department (July 1992) (“1992 Standards”) and [otherwise provides that the DWIS](#) supersedes [other provisions of](#) the 1992 [Standards; Standard; and](#)

**WHEREAS**, the Conceptual Infrastructure Plan Sheets are conceptual plan sheets that describe anticipated site elements such as floodplains, grading design, utility design, stormwater improvements, and utilidor encroachments based on standards provided in the DWIS; [and](#)

**WHEREAS**, development of the Project is intended to occur in phases and the GDP 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; [and](#)

**WHEREAS**, the Implementation Guide sets forth the Conformance Review process, including but not limited to application submittal requirements and City review timelines for the City’s review and approval of Conformance Review applications for vertical improvements, open space improvements, and horizontal improvements; [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 the Project 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 voted to recommend that the City Council adopt a resolution to approve the Downtown West PD Permit based on the evidence and testimony; and

**WHEREAS**, pursuant to and in accordance with Chapter 20.100 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 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, "Downtown West Planned Development Permit" dated \_\_\_\_\_, which consists of the DWDSG, DWIS, Conceptual Infrastructure Plan Sheets, and Implementation Guide, and said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and

said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

**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; and

**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; and

**WHEREAS**, this City Council of the City of San José has considered, approved, and certified said the Final Environmental Impact Report for the Downtown West Mixed Use Plan (“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 \_\_\_, \_\_\_ 2021 prior to making its determination on this Downtown West PD Permit or any other Project approvals; and

**WHEREAS**, this Resolution approving the Downtown West PD Permit is a companion to the following approvals relating to Downtown West: certification of the Downtown West Final Environmental Impact Report and adoption of CEQA Findings, a Mitigation Monitoring and Reporting Program, and Statement of Overriding Considerations (Resolution No. \_\_\_); an override of the Santa Clara County Airport Land Use Commission’s Comprehensive Land Use Plan inconsistency determination (Resolution No. \_\_\_); amendments to General Plan (Resolution No. \_\_\_); amendments to the Diridon Station Area Plan (Resolution No. \_\_\_); the Development Agreement for the Downtown West Mixed-Use Plan (Ordinance No. \_\_\_); Planned Development Rezoning, including a General Development Plan (Ordinance No. \_\_\_); ÷ \_\_\_ amendments to Title 20 of the San José Municipal Code (Ordinance No. \_\_\_); approval of a Vesting Tentative Map (Resolution No. \_\_\_); amendment amendments to the landmark boundaries of one Historic Landmark (the San José Water Company at 374 West Santa Clara Street); amendment

~~to the boundaries of a second Historic Landmark (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. \_\_\_);

**NOW, THEREFORE,** BE IT RESOLVED BY THE CITY 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 consists of approximately 78-\_\_\_ acres of real property that 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.

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. The SAP Center and Diridon Station are located adjacent to the subject site. The Project site is located within the Diridon Station Area Plan and the General Plan Downtown Growth Area boundary.

**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 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.

The Downtown West PD Permit includes real property in Sub-Area 1 and Sub-Area 3 of the Downtown West PD Zoning District as generally depicted in the GDP. The GDP identifies the maximum allowable development in each Sub-Area, subject to the allowable transfers and conversion established in the GDP. Up to 5,900 residential units are permitted within the real property subject to the Downtown West [Planned Development PD](#) Permit pursuant to the allowable transfers and conversions under the GDP.

- 3. 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 ~~E~~ "B", to Resolution No. ~~E~~; [ ] ([General Plan Amendment](#)), which findings are incorporated herein by reference.

**4. 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~~ [100,000 gsf of](#) 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 [standards](#) (Chapter 3) ~~requires~~ [require](#) 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: Complete Streets Design Standards and Guidelines \("CSDSG"\)](#). 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 enhances 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, which assumes development of 4,000 residential units, supports the production of ~~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~~ 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~~The Project will enhance and expand access to open space as the Project's 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~~enhance 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.

- 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, and 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 by and authorized in the GDP. Such relief mechanisms include, but are not limited to 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, and provides that ~~are superseded by~~ the DWIS- supersedes other provisions of the 1992 Standards. As authorized in the GDP, the project sponsor may request a 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, commentscomment, 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 [the](#) Downtown West PD Permit conforms with the Downtown West PD Zoning District, a DC(PD) Planned Development Zoning District (Ordinance No. \_\_\_\_).

**6. Downtown Design Guidelines (DDG) Consistency.** The DDG sets forth standards and guidelines that govern the planning and design of Downtown's public realm, building massing, architecture, ground floor treatment, transit access, parking, view corridors, pedestrian and bicycle connectivity, material and color, lighting, signage, façade treatment, bird-safe design, and transitions to existing lower intensity and historic buildings. The DDG provides that in connection with future development within the DSAP, new design solutions could be adopted that take alternate approaches to achieve common goals for the DSAP. The DWDSG establishes standards and guidelines that are separate from and expand on the DDG standards and guidelines. Development of Downtown West shall be subject to the DDG standards and guidelines unless superseded by the DWDSG. <sup>7.2</sup> DDG standards and guidelines superseded by the DWDSG are identified in Appendix D (DDG Standards and Guidelines That Do Not Apply to Downtown West) to the DWDSG. As such, the City approves exceptions to DDG standards identified in Appendix D of the DWDSG, for the reasons set [forth](#) in Appendix D of the DWDSG, which are here-in incorporated by reference. DDG standards and guidelines that are applicable to Downtown West are identified on the Vertical Improvement and Open Space Conformance Review Checklists and the Project Sponsor shall demonstrate consistency with applicable DDG standards and guidelines during the Conformance Review process.

**7. 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.

**8. Riparian Setback Policy Findings / Santa ~~Calra~~Clara Valley Habitat Plan.**

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 determination of VHP consistency to be made prior to issuance of grading ~~permit applications~~permits for specific phases of development:

- a) 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-1c, BI-2a-, BI-2c , BI-2d, BI-3 and BI-4, which apply minimum requirements for construction practices and also require monitoring and corrective actions around biological resources, the Project will cause no significant impact to riparian corridors or riparian habitats

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DWDSG sections 4.8, 5.5, 5.6, 5.17 and 6.8 prohibit new buildings, active outdoor uses and streets within 50 feet of riparian corridors; require native riparian plantings and increased pervious surfaces in riparian corridors and riparian setbacks, and encourage both in ecological enhancement zones; impose special height limits on the portions of buildings that are permitted within the ecological enhancement zone; and prohibit replacement of existing buildings that are within riparian setbacks in their existing locations. Standard Conditions of Approval require compliance with the Santa Clara Valley Habitat Plan and with the City's tree replacement ordinance. Mitigation measures include fish and wildlife protection measures; a restricted in-water construction schedule; restriction of riparian corridor construction to the smallest possible areas; monitoring of shading and heat island effects during project operation-.

- b) 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 3.2 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, S7.4.1 - S7.4.7, and S7.5.2 of the DWDSG which regulates design features within riparian setback areas, demonstrate that

the Project meets these requirements.—\_Regarding light and glare, DWDSG standards prohibit lighting directed into riparian corridors, require dark-sky building lighting, and otherwise regulate building, trail, footbridge and art lighting to minimize impacts to riparian corridors. As described above, DWDSG standards require extensive riparian planting in riparian setbacks and EIR mitigation measures require restoration wherever the project causes impacts to the riparian corridor. Hydrology and Water Quality mitigation measures include construction Best Management Practices as well as revegetation and ongoing monitoring of the riparian corridor following construction; regulatory requirements include preparation and implementation of a stormwater control plan. These requirements ensure soil erosion will be avoided and runoff will be minimized.

~~e) DWDSG sections 4.8, 5.5, 5.6, 5.17 and 6.8 prohibit new buildings, active outdoor uses and streets within 50 feet of riparian corridors; require native riparian plantings and increased pervious surfaces in riparian corridors and riparian setbacks, and encourage both in ecological enhancement zones; impose special height limits on the portions of buildings that are permitted within the ecological enhancement zone; and prohibit replacement of existing buildings that are within riparian setbacks in their existing locations. Standard Conditions of Approval require compliance with the Santa Clara Valley Habitat Plan and with the City's tree replacement ordinance. Mitigation measures include fish and wildlife protection measures; a restricted in-water construction schedule; restriction of riparian corridor construction to the smallest possible areas; monitoring of shading and heat island effects during project operation.~~

d)c) 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.

**9. Transportation Demand Management and Neighborhood Traffic and Parking Intrusion Monitoring Plan.**

- a. Consistent with Mitigation Measure AQ-2h: Enhanced Transportation Demand Management Program, the Project Sponsor prepared and submitted a Transportation Demand Management (“TDM”) Plan, dated \_\_\_\_\_, which was reviewed and approved by the Directors of PBCE and Public Works. The TDM Plan is incorporated herein by reference and is on file with the Department of PBCE.
- b. The Project Sponsor prepared a Neighborhood Traffic and Parking Intrusion Monitoring Plan (“Neighborhood Plan”), dated \_\_\_\_\_, which was reviewed and approved by the Directors of PBCE and Public Works. The Neighborhood Plan is incorporated herein by reference and is on file with the Department of PBCE.

**10. Planned Development Permit Findings.** Chapter 20.100 of the San José Municipal Code establishes evaluation criteria for the issuance of a Planned Development Permit. These criteria are applied to the Project based on the above-stated findings related to General Plan, Zoning, and CEQA conformance and for

the reasons stated below, and subject to the conditions set forth in the proposed Downtown West PD Permit. The Council makes the following findings pursuant to Section 20.100.940 of the San José Municipal Code in support of issuance of the Downtown West PD Permit:

- a) *The planned development permit, as issued, is consistent with and furthers the policies of the General Plan.*

As described in Section 3 above, the Downtown West PD Permit is consistent with and will further the policies of the General Plan ~~and as set forth in~~ Exhibit B of Resolution No. \_\_\_\_\_ (General Plan Amendment ~~(Resolution No. \_\_\_\_\_)~~).

- b) *The planned development permit, as issued, conforms in all respects to the planned development zoning of the property.*

As described in Section 5 above, the Downtown West PD Permit conforms in all respects to the Downtown West PD Zoning District, including in relation to land uses, design, setbacks, height, and parking.

- c) *The planned development permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.*

~~As described~~ Riparian Corridor Protection and Bird-Safe Design Policy 6-34 (Section A). As described in Section 8 above, the Downtown West PD Permit is consistent with Section A of City Policy 6-34 of the Riparian Corridor Protection and Bird-Safe Design Policy, including the reduction in the setback from 100 feet to 50 feet ~~as set forth in Section 8 above~~.

City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals. Under City Council Policy 6-30, the project is considered a large development proposal. Following City Council Policy 6-30,

the applicant has posted 15 on-site signs throughout the project site to inform the neighborhood of the proposed project. The project held several formally noticed community meetings as well as several informal small community meetings hosted by the City or the applicants. Additionally, the project has been presented at various Station Area Advisory Group meetings. The City has presented before several commission bodies (Historic Landmarks, Planning, and Parks and Recreation Commissions) and City Council for study sessions or referrals of the application. Staff ~~have~~has received many comments in many forms, including verbally at community meetings, in online surveys, and in email correspondence and comments on the ~~project's EIR; written comments are included as Attachment XX.~~Project's EIR. The public hearing notices were mailed to a 1,000-foot radius. The staff report is also posted on the City's website. Additionally, current and previous version of the applicant's project materials have been updated on the project website. Staff has been available to respond to questions from the public.

LTA Council Policy 5-1: Local Transportation Analysis. Consistent with the City of San Jose Transportation Analysis Policy 5-1, the Local Transportation Analysis (LTA) demonstrates conformance with multimodal transportation strategies, goals, and policies in the General Plan. The LTA analyzes the effects of the Project on transportation, access, circulation, and related safety elements, providing additional information that supplements the VMT analysis. The LTA identified adverse ~~effect~~effects and proposed transportation improvement projects in accordance with the City of San Jose's Transportation Analysis Handbook in coordination with the Santa Clara Valley Transportation Authority (VTA) which serves as the congestion management agency for Santa Clara County. The City will also require Focused LTAs as the project progresses in accordance with the Implementation Guide.

- d) *The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious.*

The interrelationship between the orientation, location, mass and scale of the building's volumes and elevations has been planned through the DWDSG to be appropriate, compatible, and aesthetically harmonious. The Project provides a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood and destination. The DWDSG focuses on distributing land uses throughout the Project site in a manner that is compatible with adjacent uses, surrounding neighborhoods, the open space program, and the street network. Residential uses are generally located next to existing residential communities, office uses are generally located along the existing rail, and active uses are distributed throughout the Project site to create a more vibrant public realm. The DWDSG promotes varied building form, height, and rooflines to create a compelling skyline. To respond to contextual adjacencies - historic resources, existing single-family residential neighborhoods, Los Gatos Creek and proposed open spaces - building heights on certain blocks are set lower than the maximum allowable height. The DWDSG further aims to integrate existing buildings, historic resources and new development within Downtown West to complement the surrounding neighborhood. The Project's ground floor design, including transparency, articulation, and high-quality materials, support activity along streets. Podium level and massing and architectural design of skyline level facades further create an aesthetically harmonious and positive visual impact on the public realm.

- e) *The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.*



As discussed in Section 7 above, an Environmental Impact Report was prepared for the Downtown West Mixed-Use Plan in compliance with CEQA and the CEQA Guidelines. The Project's impacts are discussed in Section 7 above and Resolution No. \_\_\_\_, where City Council certified the FEIR and adopted related findings, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations. Based on the findings of the EIR, 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 Hellwig Ironworks Building at 150 South Montgomery Street; project-specific and cumulative land use effects associated with a conflict with a policy on airport noise 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 traffic noise; project-specific and cumulative effects associated with exposure of persons to airport noise; and a cumulative impact associated with the jobs/housing imbalance identified in the 2040 General Plan EIR.

The City adopted Statement of Overriding Considerations (Resolution No. \_\_), finding that the Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant, unavoidable impacts of the project are acceptable in light of the economic, legal, environmental, social, technological or other considerations, because the benefits of the Project outweigh its significant adverse environmental impacts. The Project will not have an unacceptable negative effect on adjacent property as the Project will result in certain substantial public

benefits as set forth in the Statement of Overriding Considerations adopted by Resolution No. \_\_\_\_\_.

**9-11. Tree Removal Findings.** Pursuant to Sections 13.28.330 and 13.32.080 of the San José Municipal Code, a Planned Development Permit may serve as a tree removal permit. Chapter 13.32 of the San José Municipal Code establishes required findings for tree removals which findings are made for the Project based on the above-stated findings related to General Plan, Zoning, and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit. Pursuant to Section 13.32.100 of the San José Municipal Code, the City Council makes the finding in subsection (a) for the reasons described below:

- a) That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purpose of Chapter 13.32 as set forth in Section 13.32.010; or
- b) The condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal; or
- c) That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question.

*The Project proposes the removal of all existing trees within the public right-of-way and on private property, which includes up to 254 ordinance size trees and up to 283 non-ordinance size trees. Approximately 2,280 new trees will be planted throughout Downtown West. The locations of trees within the existing public right-of-way have been verified by a surveyor and are generally depicted*

in the GDP. The project sponsor ~~prepared~~commissioned an Arborist Report (dated March 25, 2020), which ~~conducted~~included 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 Section 13.32.020 of the San Jose Municipal Code. The removed trees would be replaced according to tree replacement ratios required by the City. The tree replacement ratios under the City's requirements would require a total number of 1,507 replacement trees. The Project proposes to provide 2,280 new trees, which exceeds the number of replacement trees required under the City's requirements. The removal of the street trees would not frustrate the purpose of Chapter 13.32 which is to promote the health, safety, and welfare of the City by controlling the removal of trees since trees enhance the scenic beauty of the City, significantly reduce the erosion of topsoil, contributed to increased storm water quality, reduce flood hazards and risks of landslides, increase property values, reduce the cost of construction and maintenance of drainage systems through the reduction of flow and the need to divert surface waters, contribute to energy efficiency and the reduction of urban temperatures, serve as windbreaks and are prime oxygen producers and air purification systems. The Project will not frustrate the purpose of Chapter 13.32 as the project sponsor intends to provide approximately 2,280 new trees within Downtown West, which along with the approximately 15 acres of parks and open spaces, would improve pedestrian spaces and the public realm. The approximately 2,280 new trees will support biodiversity and complement the riparian corridor while contributing to energy efficiency and the reduction of urban temperatures. The DWDSG includes standards and guidelines related to streets trees and plantings within the public-right-of way that aims to avoid the use of non-native species and plants of low ecological value. Rather, the DWDSG encourages the use of native species that are appropriate for the site conditions to improve local and regional native biodiversity, facilitate wildlife movement, and reduce the need for irrigation after the plan establishment period.

**10-12. Demolition Findings.** Pursuant to Section 20.80.460 of the San José Municipal Code, the following criteria have been considered by the Director of PBCE to determine whether the benefits of permitting the demolition of the existing buildings on the Project site outweigh the impacts of demolition:

- a) The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;

*Figure 3.6 ~~within~~of the DWDSG generally depicts the locations of the existing buildings to be demolished on the site, which would include up to 7 residential units and approximately 755,000 gross square feet of non-residential uses. Demolition would occur in phases as each portion of the project is developed. ~~The total floor area of the existing buildings is approximately 755,000 square feet.~~ Many of the existing buildings on the site are vacant. As generally shown on Figure 3.6 of the DWDSG, certain existing historic buildings ~~may~~will be retained, and other existing buildings may be relocated within the Project ~~Site~~site. Certain existing buildings may be used for interim uses, special events and limited-term uses (as defined in the GDP) during the project's phased development, pursuant to the standards set forth in the GDP. The existing buildings proposed to be demolished would result in the creation or continued existence of a nuisance, blight or dangerous condition.*

- b) The failure to approve the permit would jeopardize public health, safety or welfare;

*As discussed above, the continued creation or existence of the existing buildings (as generally depicted in Figure 3.6 of the DWDSG) that the project sponsor intends to demolish would jeopardize public health, safety, or welfare. A number of the existing buildings on site were built more than 50 years ago and are in poor condition, creating public safety and health hazards. Removal of the existing buildings, many of which are vacant, is necessary to deter*

*potential attractive nuisances, loitering, trespassing, and break-ins. Demolition of the existing buildings will mitigate potential blighting influences, including high vacancies, abandoned, deteriorated and dilapidated buildings, incomputableincompatible land uses, and inadequate or deteriorated public improvements, facilities and utilities. Removing the existing buildings will eliminate impediments to development of the Project, which will be a critical step in facilitating the development of a modern, integrated mixed-use transit oriented neighborhood with improved pedestrian and vehicular circulation within Downtown West and its vicinity and which will provide affordable housing and public benefits to the City, including approximately 15 acres of parks and open spaces.*

- c) The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;

*Demolition of the existing buildings would allow for the implementation of the Project. The existing condition of the site includes one and two-story buildings that cover portions of the existing lots, with the remaining portion consisting of unbuilt area and/or surface parking. The total floor area of the existing buildings currently on the site is approximately 755,000 square feet. Many of the existing buildings on the site are vacant. Demolition of the existing buildings on the site would facilitate the development of the Project, which would implement the General Plan policies and DSAP goals of establishing Downtown San José as a vibrant, transit-oriented urban neighborhood and destination.*

- d) The approval of the permit should maintain the supply of existing housing stock in the City of San José;

*-The project site currently contains 7 residential units, however, only one unit is occupied. The occupant has made arrangements to relocate prior to commencement of construction. The Downtown West PD Permit would*

increase the City's housing stock. The demolition of the existing buildings would facilitate the construction of higher-density residential uses, as the Project proposes to build up to 5,900 residential units. The Downtown West PD Permit includes real property within Sub-Area 1 and Sub-Area 3 as generally depicted in the GDP. The GDP identifies the maximum allowable development in each Sub-Area, subject to the allowable transfers and conversion established in the GDP. Up to 5,900 residential units are permitted within the real property subject to the ~~Planned Development~~Downtown West PD Permit pursuant to the allowable transfers and conversions under the GDP. The Project's affordable housing program, which ~~could include~~assumes development of 4,000 residential units, supports the production of up to 1,000 affordable housing units, 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.

- e) Both inventoried and non-inventoried Buildings, Sites and districts of historical significance should be preserved to the maximum extent feasible;

Existing buildings identified as CEQA historic resources, including 374 West Santa Clara Street, 40 South Montgomery Street, and 150 South Montgomery Street, and 559, 563, and 567 West Julian Street, as well as the historic Stephen's Meat Product Sign, shall be retained. Some of these resources will be relocated on-site to facilitate their retention. In addition, 35 ~~South Autumn~~Barack Obama Boulevard, a Structure of Merit, shall be relocated along ~~Autumn Street~~Barack Obama Boulevard south of the VTA tracks. In addition, the Project will fund off-site relocation of the eligible Structure of Merit at 91 Barack Obama Boulevard to a receiver site within the River Street City Landmark District. Pursuant to the conditions of approval to this Downtown West PD Permit, certain eligible Structures of Merit must be advertised for relocation prior to the issuance of a demolition permit. In the ~~scenario~~event that a property owner responds to the relocation advertisement of eligible Structures

*of Merit, the project sponsor will pay the equivalent in demolition cost in support of relocating the resource.*

*f) Rehabilitation or reuse of the existing Building would not be feasible;*

*Certain existing buildings will be retained and integrated with new development within Downtown West. During the project's phased development, certain existing buildings on the site will be used for interim uses pursuant to the standards set forth in the GDP. The Project also provides for the expansion and adaptive reuse of certain existing buildings where feasible and appropriate as generally depicted on Figure 3.6 of the DWDSG. For instance, 150 South Montgomery Street will be expanded and reused to accommodate new arts and cultural use. The San José Water Company building (374 West Santa Clara Street) has previously been approved for adaptive reuse and is anticipated to be renovated for commercial use. Existing buildings along Creekside Walk shall also be rehabilitated or altered pursuant to standards set forth in the DWDSG. Existing buildings located at 559, 563, and 567 West Julian Street shall also be relocated within Creekside Walk pursuant to the applicable standards in the DWDSG. 35 South Autumn Street shall also be relocated along Autumn Street, south of the VTA tracks. Portions of the Sunlite Bakery building facade (145 South Montgomery Street) will be salvaged and re-incorporated into the Project onsite.*

*The rehabilitation or reuse of the existing buildings proposed for demolition is not feasible given the location and nature of the existing buildings. Rehabilitation or reuse of the existing buildings proposed for demolition would also be incompatible with the proposed Project, which proposes a high-density, mixed-use neighborhood consistent with the General Plan's strategy of focusing new growth capacity in the Downtown Growth Area.*

f)g) The demolition, removal or relocation of the Building without an approved replacement Building should not have an adverse impact on the surrounding neighborhood.

*The demolition of the existing buildings would not have an adverse impact on the surrounding neighborhood. The proposed project would be compatible with the surrounding neighborhood and would implement the General Plan policies and DSAP goals of establishing Downtown San José as a vibrant, transit-oriented urban neighborhood and destination as further described above.*

g)h) The permit applicant has provided evidence that either the existing Building or Structure is not a Multiple Dwelling or Mobilehome Park or that the permit applicant has complied with all relocation obligations under state and local law, including but not limited to the obligations in Chapters 17.20, 17.23 and 20.200 of the Municipal Code.

*The site does not contain multiple dwellings or mobilehome parks. ~~Therefore,~~ and the Project Sponsor has complied with all-any applicable relocation obligations under state and local law, including the obligations in Chapters 17.20, 17.23, and 20.200 of the Municipal Code.*

**11.13. Non-residential Condominium Findings.** Pursuant to Chapter 20.175 of the San José Municipal Code establishes required findings for Commercial and Industrial Common Interest Development Regulation Act. In order to make the non-residential condominium findings pursuant to Section 20.175.050 of the San José Municipal Code and recommend approval to the City Council must determine that:

- a. Minimum unit size for nonresidential condominium units shall be seven hundred fifty square feet; and



- b. The proposed common interest development will not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity of the development, or in the city as a whole; and
- c. The proposed common interest development includes sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to insure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development; and
- d. The proposed common interest development includes sufficient provisions for the retention of such common areas for the use of all owners of separate interests therein.

*The Vesting Tentative Map ~~resolution~~, approved by Resolution No. \_\_\_\_\_, authorizes up to twenty commercial condominiums to be identified on future phased final maps and created through condominium plans. The Vesting Tentative Map includes a condition of approval that ~~no~~ requires nonresidential condominium unit ~~mays~~ to be smaller than a minimum of seven hundred fifty square feet. ~~A~~ The Vesting Tentative Map (Resolution No. \_\_\_\_\_) also includes a condition ~~to the Planned Development~~ requires of approval that, if the applicant shall record ~~concurrently~~ subdivider of a parcel or future phased final map ~~a~~ elects to create commercial condominiums subject to the Commercial and Industrial Common Interest Development Act, the Subdivider will submit the governing document for the common interested development to insure adequate and safe maintained and repair for the lift of the project of the common interest development. ~~Additionally, the applicant shall record concurrently reciprocate~~ documents for review by the City to confirm that provisions for governance, funding, capitalization, and enforcement are properly addressed, as well as any required deeds for reciprocal easement ~~access rights~~., all as contemplated by Chapter 20.175 of the Municipal Code. As the project is proposing a significant amount of non-*

*residential development on an approximately 80-acre site, 20 non-residential ~~condenimums~~condominiums would not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity of the development, or in the city as a whole.*

#### **12.14. PG&E Property and Subsequent Actions**

- a) The Downtown West PD Zoning District, as further described in Exhibit “A”, of Ordinance No. \_\_\_\_, 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 (see Ordinance No. \_\_\_\_). If Ordinance No. \_\_\_\_, approving the Downtown West PD Zoning District, becomes effective as to the PG&E Property, this Resolution shall become effective as to the PG&E Property which shall automatically become subject to the Downtown West PD Permit.

If Ordinance No. \_\_\_\_, does not become effective as to the PG&E Property, the PG&E Property shall not be subject to the Downtown West PD Permit and the City shall not grant any Subsequent Approvals (as defined in the Development Agreement) over the PG&E Property. Google shall update the Downtown West PD Permit to exclude the PG&E Property which may be administratively approved by the Director of PBCE.

b) The City Council authorizes the Director of Planning, Building, and Code Enforcement in consultation with the City Attorney's Office to make minor changes to this Resolution and its attachments, 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 Resolution and to effectuate the City's performance thereunder.

**13-15. Effective Date.** The effective date of the Downtown West PD Permit (Resolution No. \_\_\_\_\_) shall be the effective date of the Downtown West Planned Development Zoning Ordinance (Ordinance ~~no~~No. \_\_\_\_\_).

In accordance with the findings set forth above, a Planned Development Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth below is hereby **GRANTED**.

~~In accordance with the findings set forth above, a Planned Development Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth below is hereby **GRANTED**.~~

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per San Jose Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
  - a. Acceptance of the Permit by the Permittee; and
  - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.

2. **Permit Expiration.** This Permit shall automatically expire pursuant to the terms of [Section 11.3] the Development Agreement after the date of issuance hereof by the Director/Planning Commission/City Council. The date of issuance is the date this Permit is approved by the Director of Planning/Planning Commission/City Council. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved plans entitled, "Downtown West Planned Development Permit \_\_\_\_\_" dated \_\_\_\_\_, last revised on \_\_\_\_\_ on file with the Department of Planning, Building, and Code Enforcement ("Approved Plans"), and to the San Jose Building Code (San Jose Municipal Code, Title 24), with the exception of any subsequently approved changes. The Approved Plans include the Downtown West Design Standards and Guidelines (DWDSG), Downtown West Improvement Standards (DWIS), Conceptual Infrastructure Plan Sheets, and Conformance Review Implementation Guide (Implementation Guide).
4. **Planned Development District Effectuated.** This Planned Development Permit effectuates the portion of the Downtown West Planned Development Zoning as reflected in the Permit's Approved Plan Set and the corresponding legal description.
5. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, state, and federal laws.

#### ~~6. Construction Project Features~~

- ~~a. Certification of all diesel-powered construction equipment to Tier 4 Final emission standards, as commercially available; and~~
- ~~b. Use of electric equipment for concrete/industrial saws, sweepers/scrubbers, aerial lifts, welders, and air compressors.~~
- ~~c. Approval for construction outside the City's standard permitted construction hours of 7 a.m. to 7 p.m. Monday through Friday.~~

#### ~~7. Operational and Design Features~~

- ~~a. Electrification (no natural gas use) of all buildings at the site, including all office space, all residential space, and all retail space;~~
- ~~b. On-site solar photovoltaic system achieving at least 7.8 megawatts of electricity production; and~~

~~c. Use of recycled water for all non-potable water demands for the project including toilet flushing, irrigation, and cooling.~~

6. **Construction Hours.** Construction outside of the City's standard construction hours of 7 a.m. to 7 p.m. Monday through Friday is permitted and shall be approved based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of adjacent uses. Because it is anticipated that certain construction activities (such as continuous pours of concrete foundations) may require work outside normally permitted construction hours (e.g., overnight), the project's Planned Development Permit would allow for such construction activities, subject to conditions of approval, including performance standards, imposed by the City to limit noise impacts.

8-7. **Vibration Reduction Plan.** All residential development with vibration exposure exceeding 72 VdB from operations on the Caltrain or Union Pacific tracks shall be designed to reduce vibration exposure from Caltrain and other rail operations to 72 VdB or less for residential uses. Before any building permit is issued for structures intended for residential occupancy within 100 feet of the mainline track, a qualified engineer shall complete a detailed vibration design study. The study shall confirm the ground vibration levels and frequency along the Caltrain or Union Pacific tracks and determine the appropriate design to limit interior vibration levels to 72 VdB for residences, if necessary. As part of the plan-check process, the San José Department of Planning, Building, and Code Enforcement shall verify that the recommended measures in the acoustical study have been incorporated into the project's design elements.

9-8. **Airport Conditions.** As required by City policies, the California Building Code, Project mitigation measures and City Resolution No. \_\_\_\_\_ ("ALUC Override Resolution"), Project Sponsors shall:

- a. Obtain an FAA Determination of No Hazard to Air Navigation from the FAA prior to issuance of building permits for any building or structure that would exceed 200 feet in height above ground level
- b. Implement FEIR Mitigation Measure NO-3 to ensure that interior noise levels in residences and hotel rooms do not exceed 45 dBA CNEL, prior to approval of construction-related permits. Within the Airport Influence Area of the Mineta San Jose International Airport, dedicate aviation easements to protect airport operations, as required by General Plan Transportation Policy TR-14.4, prior to approval of construction-related permits
- c. Within the Airport Influence Area, and where noise associated with the Mineta San Jose International Airport exceeds 65 dBA CNEL, include in

all residential rental/lease agreements with tenants a statement advising that the tenants are living within an exterior noise exposure area designed by the ALUC as greater than the 65 dBA CNEL, in a manner that is consistent with current state law including AB2776 (2002), to be submitted to and confirmed by the Director or delegee prior to issuance of certificates of occupancy

**10-9. Santa Clara Valley Habitat Plan.** The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit, for each phase, the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit.

**11-10. Structures of Merit.**

- a. The project sponsor shall comply with this condition prior to the issuance of a permit that would allow for the demolition of the following buildings:
  - i. 357 N. Montgomery Street
  - ii. 102 S. Montgomery Street
- b. The project sponsor shall advertise the availability for relocation of each building proposed for demolition, as follows:
  - i. A dollar amount equal to the estimated cost of demolition of the building proposed for demolition, as certified by a licensed contractor, including any associated Planning Permit fees for relocation, shall be offered to the recipient of the building who is willing to undertake relocation and rehabilitation after relocation. All other costs and liability of the relocation and rehabilitation of the building shall not be the responsibility of the project sponsor.
  - ii. Advertisement and outreach to identify an interested third party shall continue for no less than 60 days. Advertisements shall include notification in at least one newspaper of general circulation and on online platforms as appropriate, including at a minimum the San José Mercury News (print and online), and the City of San José Department of Planning, Building and Code Enforcement's Environmental Review website.
  - iii. Noticing shall be compliant with City Council Policy 6-30: Public Outreach Policy and shall include posting of a notice, on each building proposed for demolition, that is no smaller than 48 x 72 inches and is visible from the public right-of-way.
  - iv. Satisfaction of the notification provisions shall be subject to review by the Director of PBCE or their designee following completion of

the minimum 60-day public outreach period, before the issuance of demolition permits.

- c. If, before the end of the outreach period, an interested third party (or parties) expresses interest in relocating one or more of the resources to a suitable site under their ownership or control, they shall be allowed a period of up to [60] additional days to complete removal of the resource(s) from the project site. Following relocation, any rehabilitation of the buildings subject to this condition of approval shall not be required to comply with the Secretary of the Interior's Standards for the Treatment of Historic Buildings.

**12.11. Demolition Permits.** The project sponsor may request that the Director issue a demolition permit for the demolition of existing building(s) located within Downtown West identified in S3.4.1 and Figure 3.6 of the Downtown West Design Standards and Guidelines (DWDSG) as set forth below:

- a. The project sponsor may request that the Director issue a demolition permit for an existing building within Downtown West concurrent with the submittal of an application for a "Downtown West Permit" for property that is the subject of a demolition permit. A "Downtown West Permit" means a full structural building permit; a partial permit, such as a foundation-only permit or grading permit; site development permit; excavation permit; private street improvement permit; public street improvement permit; special use permit; [administrative permit]; historic preservation permit; Downtown West Use Certificate; Downtown West Use Permit; or any other ministerial or discretionary permit or approval authorizing a ground-disturbing activity or authorizing the use of property in connection with the Downtown West project.
- b. Notwithstanding section (1) above, the project sponsor may request a demolition permit prior to the issuance of a Downtown West Permit provided that any one of the following conditions is applicable:
  - i. Demolition of a building or structure or portion thereof is required to comply with the project sponsor's affordable housing or land dedication obligations under the Development Agreement. The project sponsor shall identify the existing building(s) it seeks to demolish under the development agreement and the affordable housing or land dedication requirement necessitating the demolition activity;
  - ii. A building or structure or portion thereof creates an endangerment to the life, limb, health, property, safety or welfare of the occupants of the building or members of the public necessitating demolition;
- c. A building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated by any cause or is in any stage that it becomes an attractive nuisance, a harbor for vagrants,

- criminals or other persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful acts; or
- d. Demolition of a building or structure is required for construction staging, temporary parking, or to otherwise facilitate the phased development of Downtown West.
  - e. If the project sponsor requests that the Director issue a demolition permit for the demolition of a historic building identified in Figure 3.6 of the Downtown West Design Standards and Guidelines (DWDSG), the project sponsor shall comply with all applicable mitigation measures for the demolition of historic buildings in the Mitigation Monitoring Reporting Program (MMRP).
  - f. Notwithstanding section (a) - (c) above, if the project sponsor seeks to perform work, which includes demolition activity, on a city landmark that has not been contemplated through an existing Historic Preservation (HP) Permit Amendment, the project sponsor must obtain a separate Historic Preservation (HP) Permit or Amendment prior to the commencement of any work on the building or structure, as set forth in Muni Code Section 13.48.210.

**13-12. Tree Removal.** As authorized under the Municipal Code, the Downtown West Planned Development Permit serves as the Downtown West Tree Removal Permit. (Muni Code, §13.32.080.) During the Conformance Review process (as further set forth in the Implementation Guide), the project sponsor shall:

- a. Identify the street trees proposed to be removed as part of the Conformance Review application submittal and note if there are any proposed deviations from the Downtown West Tree Removal Permit; and
- b. If the project sponsor proposes removing a dead tree as defined in Muni Code Section 13.32.020, provide an arborist report, if requested, by the Director.
- c. The project sponsor shall not proceed with the removal of any street trees within Downtown West until the Director has approved the Conformance Review application that includes the subject trees. Prior to the removal of any street tree under the Downtown West Tree Removal Permit, the project sponsor shall post copies of the Downtown West Tree Removal Permit on the subject parcel as required under Title 13 of the Municipal Code.

**14. Jobs and Economic Improvement through Environmental Leadership Act of 2011 (AB 900) Compliance: Prevailing Wage**

**a-13. Consistent. Provided that AB 900 certification for the Project is extended by SB 7 or other legislation, consistent with the Governor's December 30, 2019 certification of the Project under AB 900, the Project Sponsor shall, prior to the City issuance of construction permits, submit to the Director of PBCE or the**



Director's designee copies of all construction contracts for the work to be authorized by those permits. Each such contract shall include terms requiring that all construction workers employed in the execution of the project be paid prevailing wages as described in Public Resources Code section 21183(b).

**15.14. Air Quality.** The following design features have been included in the modeling for the proposed project and are discussed in greater detail below. These features would be included as conditions of approval so that they will be enforceable by the City:

- a. Construction:
  - i. Certification of all diesel-powered construction equipment to Tier 4 Final emission standards; and
  - ii. Use of electric equipment for concrete/industrial saws, sweepers/scrubbers, aerial lifts, welders, and air compressors.
- b. Operations:
  - i. LEED for Neighborhood Development (ND) Gold Certification (which requires that at least one building in each phase be certified LEED Gold), construction of all office buildings to meet LEED Gold standards, and compliance with the City's New Construction Green Building Requirements;
  - ii. Electrification (no natural gas use) of all buildings at the site, including all office space, all residential space, and all retail space; ~~with the exception of 20,000 square feet of restaurant kitchens;~~
  - iii. Constrained parking (less parking than required by the City code, based both on the base parking requirement and the Code-permitted reductions in parking for transit accessible and Downtown projects available in Municipal Code Section 20.90.220 and 20.70.330, respectively), with no more than 4,800 spaces for commercial uses (including potential access to a portion of the residential spaces that could be shared with office uses);
  - iv. On-site solar photovoltaic system achieving at least 7.8 megawatts of electricity production;
  - v. Installation of electric vehicle supply equipment for a minimum of 10 percent of parking spaces;
  - vi. Installation of Minimum Efficiency Reporting Value (MERV) 13 filtration for all new on-site buildings;
  - vii. Use of recycled water for all non-potable water demands for the project including toilet flushing, irrigation, and cooling; and
  - viii. A potential district water reuse facility that would treat wastewater to California Code of Regulations Title 22 disinfected tertiary (unrestricted reuse) recycled-water standards.

**16-15. Biological Resources.** SCA BI-2: Tree Replacement. The removed trees would be replaced according to [the following](#) tree replacement ratios ~~required by the City~~:

Circumference of Tree to be Removed <sup>1</sup>	Type of Tree to be Removed <sup>2</sup>			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
12 inches or more <sup>3</sup>	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

<sup>1</sup> As measured 4.5 feet above ground level  
<sup>2</sup> X:X = tree replacement to tree loss ratio  
<sup>3</sup> 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

**17-16. Cultural Resources and Tribal Cultural Resources**

- a. SCA CR-1: Subsurface Cultural Resources. If 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 Director of Planning, Building and Code Enforcement of the Director’s designee shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall:
  - i. Evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and
  - ii. 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 shall be submitted to Director of Planning, Building and Code Enforcement, or the Director’s designee, and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

- b. SCA CR-2: Human Remains. 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 PRC Sections 5097.9 through 5097.99, as amended per AB 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonable suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement, or the Director's designee, and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (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. 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:

- i. 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;
- ii. The MLD identified fails to make a recommendation; or
- iii. The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

c. SCA CR-3: Vibration Impacts to Adjacent and Nearby Historic Buildings. The project applicant shall implement the following measures prior to and during construction:

- i. Prohibit impact, sonic, or vibratory pile driving methods. Drilled piles cause lower vibration levels where geological conditions permit their use.
- ii. Limit other vibration-inducing equipment to the extent feasible.
- iii. Submit a list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams) to the Director of Planning, Building and Code Enforcement or the Director's designee. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring.

## **18. Geology, Soils, and Paleontological Resources**

a.17. . SCA GE-1: Paleontological Resources. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, 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 applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or the Director's designee.

#### **19-18. Hazards and Hazardous Materials**

- a. Asbestos and Lead-based Paint. If asbestos-containing materials (ACM) or lead-based paint (LBP) are present and need to be removed during the demolition of structures, the project applicant shall implement the following conditions:
  - i. Conduct a visual inspection/pre-demolition survey, and possible sampling in conformance with state and local laws, to determine the presence of ACMs and/or LBP prior to the demolition of on-site building(s).
  - ii. Remove all building materials containing LBP during demolition activities, in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations (CCR) Section 1532.1, including employee training, employee air monitoring, and dust control. Dispose any debris or soil containing LBP or coatings at landfills that meet acceptance criteria for the type of lead being disposed.
  - iii. Remove all potentially friable ACMs in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines before demolition or renovation activities that may disturb ACMs. Undertake all demolition activities in accordance with Cal/OSHA standards contained in Title 8, CCR Section 1529, to protect workers from asbestos exposure.
  - iv. Retain a registered asbestos abatement contractor 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 1 percent asbestos are also subject to BAAQMD regulations. Remove materials containing more than 1 percent asbestos in accordance with BAAQMD requirements and notifications.
  - vi. Implement the following conditions in accordance with Cal/OSHA rules and regulations, to limit impacts to construction workers.

1. Before commencement of demolition activities, complete a building survey, including sampling and testing, to identify and quantify building materials containing LBP.
2. During demolition activities, remove all building materials containing LBP in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR Section 1532.1, including employee training, employee air monitoring, and dust control.
3. Dispose of any debris or soil containing LBP or coatings at landfills that meet acceptance criteria for the type of waste being disposed.

### **20-19. Noise and Vibration**

- a. SCA NO-1: Construction-Related Noise. The project applicant shall implement noise minimization measures that include, but are not limited to, the following:
  - i. Limit construction hours to between 7 a.m. and 7 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
  - ii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
  - iii. Equip all internal combustion-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
  - iv. Prohibit unnecessary idling of internal combustion engines.
  - v. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining noise-sensitive land uses.
  - vi. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
  - vii. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
  - viii. Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule in writing and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
  - ix. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control

blanket barrier along surrounding building facades that face the construction sites.

- x. Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
  - xi. Limit construction hours to 7 a.m. to 7 p.m., Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site- specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. Because it is anticipated that certain construction activities (such as continuous pours of concrete foundations) may require work outside normally permitted construction hours (e.g., overnight), the project’s Planned Development Permit would allow for such construction activities, subject to conditions of approval, including performance standards, imposed by the City to limit noise impacts.
- b. SCA NO-2: Interior Noise Standard for Residential Development. The project applicant shall prepare final design plans and incorporate building design and acoustical treatments to ensure compliance with state building codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential units. The project applicant shall conform with any special building construction techniques requested by the City’s Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

## **21. Non-Residential Condominiums**

- a. ~~The applicant, at its sole cost, shall prepare, submit for prior review and approval by the city, and record concurrently with the applicable parcel or final map, governing documents for the common interest development that include sufficient provisions for governance, funding and capitalization, and enforcement mechanisms, including enforcement by the city, to insure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development and that~~

~~such common area shall be retained for the use of all owners within the development. Prior to approval of the parcel or final map by the city, the applicant shall submit the proposed governing documents to the city for review for compliance with the requirements of this chapter.~~

- ~~b. The applicant shall, at its sole cost, prepare grant deeds for all mutual or reciprocal easement rights, which shall be reviewed by the city for compliance with the terms of this chapter and the requirements of Title 19 of this Code, and shall upon city approval be recorded concurrently with the approved parcel or final map.~~
- ~~c. Any non-residential condominiums shall not be smaller than seven hundred fifty gross square feet.~~

**22-20. Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of ~~the Tract or Parcel~~ a phased Final Map (if applicable) by the Director of Public Works, or the issuance of Grading or Building permits, ~~whichever occurs first, as applicable,~~ the applicant will be required to have satisfied all of the following Public Works conditions. All improvements of the public streets shall be to the satisfaction of the Director of Public Works. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

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 Construction Agreement(s) 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. **Grading/Geology:**
  - i. A grading permit is required prior to the issuance of a Public Works Clearance.
  - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot 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 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.

- iii. A haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
- iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
- v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

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

~~d. **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).~~

e.d. **Stormwater:** At the Grading/Drainage Permit stage, provide detailed Stormwater Control Plan for each development parcel to include the following:

- i. Design stormwater treatment facilities using Low Impact Development (LID) treatment measures pursuant to the City's GSI Plan.



- ii. Design stormwater conveyance by gravity flow. To the ~~extend extent~~ feasible, the use of pumps and mechanical devices shall be avoided. ~~Any exceptions shall be subject to City review and approval.~~
- iii. Private treatment facilities must be located on private properties. The project may not use public areas for private stormwater treatment.
- iv. Provide ~~final~~ numeric sizing calculations for each drainage management area.
- v. Provide ~~final~~ maintenance and inspection information for private facilities on treatment control measures.

**f.e. Flood Zones D, X and AO and A:**

- i. For new structures in Zone D and X: There are no City floodplain requirements.
- ii. For structures located within the Valley Water 100-year floodplain model, the Developer shall:
  - 1. Submit a topographic survey, based on NAVD88, identifying the elevation of the existing highest adjacent grade to the existing structure or base flood elevation and the elevation of the existing finished floor.
  - 2. New structures in Zone A requires additional flood study to determine the base flood elevation.
  - 3. Elevate the lowest floor 1 foot above the base flood elevation (or depth of flooding plus one foot). Non-residential structures may be floodproofed to the same elevation.
  - 4. Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation (depth of flooding plus one foot) or protected from flood damage.
  - 5. Construction materials used below the base flood elevation (depth of flooding plus one foot) must be resistant to flood damage.
  - 6. An Elevation Certificate (FEMA Form 086-0-33) for each proposed structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate for each built structure, based on finished construction is required prior to issuance of an occupancy permit.
  - 7. If the structure is to be floodproofed, a Floodproofing Certificate (FEMA Form 086-0-34) for each structure, floodproofing details, and if applicable, a Flood Emergency

Operation Plan and an Inspection & Maintenance Plan are required prior to the issuance of a Public Works Clearance.

**g. ~~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.~~

**h. ~~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. The project shall perform and submit Focused Local Transportation Analyses consistent with the specific topics identified in the Project's Conformance Review Implementation Guide.~~

**i. ~~Street Improvements:~~**

- ~~i. 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:
  - ~~1. Cahill Street, from Park Avenue to San Fernando Street.~~
  - ~~2. Cahill Street, from West Santa Clara Street to North Montgomery Street.~~
  - ~~3. West Post Street, from South Montgomery Street to Autumn Street.~~
  - ~~4. West St. John Street extension from project boundary to New Cahill Street.~~
  - ~~5. North Autumn Street extension from project boundary to Lenzen Avenue.~~
  - ~~6. Autumn Street, from West San Carlos Street to West St John Street.~~
  - ~~7. West Julian Street, from N. Montgomery Street to western project boundary.~~~~

- ~~8. Park Avenue within project boundary.~~
  - ~~9. West San Carlos Avenue within project boundary.~~
  - ~~10. West Santa Clara Street, within project boundary.~~
  - ~~11. Additional streets to be determined prior to final permit approval.~~
  - ~~ii. 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.~~
  - ~~iii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.~~
  - ~~iv. 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.~~
  - ~~v. Close unused driveway cut(s).~~
  - ~~vi. Developer shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.~~
  - ~~vii. 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.~~
  - ~~viii. 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.~~
  - ~~ix. 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.~~
  - ~~x. Additional street and transportation improvements may be identified as part of the Project's Focused Local Transportation Analyses.~~
- j.f. Private Improvement Encroachments within Public Property:** All encroachments shall be consistent with City of San Jose Municipal Code Title 13 and California Building Code (CBC) Chapter 32 Section 3202 entitled Encroachments into the Public Right-of-Way. All proposed private improvements within public right-of-way, including, without limitation, utility infrastructure, will require an Encroachment Permit issued by the City pursuant to Chapter 13.37 of the Municipal Code.

k.g. **Assessments:** Some of the parcels within the project boundary isare located within the Basic Zone of the Downtown San Jose Property-Based Business Improvement District, which provides enhanced cleaning, information and safety services, beautification activities, and business retention and growth programs within the boundaries of the district. Benefiting properties within the district pay for services through annual assessments placed on the County property tax bills, which may be increased by up to 5% each year. The assessment is calculated based on the land use and its building and lot square footages. For 2020-2021, commercial properties pay \$0.077775814 and residential properties pay \$0.052498379 per building and lot square footages. Future year assessments will be adjusted accordingly and will continue to be collected through the Country property tax bills listed under Tax Code 0916 "DOWNTOWN PBID". Any questions may be directed to Thomas Borden at (408) 535-6831. The APN's within the project boundary that are located within the Basic Zone of the Downtown San Jose Property-Based Business Improvement District consist of: 259-38-128, 259-38-142, 259-38-148, 259-38-042, 259-38-041, 259-38-147, 259-38-146, 259-38-145, 259-38-040, 259-38-039, 259-38-110, 259-38-036, 259-38-132, 259-38-121, 259-38-030, 259-38-043.

h. **Right-of-Way Work Permit (Street/Sidewalk Closures):** At the Implementation stage, Developer shall apply for a Revocable Encroachment Permit for any proposed sidewalk and lane closures to support the onsite construction activities.

- i. The following should be included with the Right-of-Way Work Permit application, but are not limited to:
  1. **Letter of Intent:** This document should provide a detailed description of the reasons for the sidewalk/lane closures and why they are absolutely necessary (man lifts, baker tanks, staging area, concrete pumping activities, etc.) and reasons why covered pedestrian walkways will not be provided (ex. swinging loads over sidewalk not safe for pedestrians).
  2. **Multi-Phased Site Specific Sketches:** These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work to be accomplished within the right-of-way. The exhibit should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.

- ii. Developer shall minimize the potential impact to vehicular and pedestrian traffic by:
  - 1. Implementing the closures at the time the onsite activities dictate the need for the closure.
  - 2. Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlines in **condition 9.a.ii** above.
- iii. If proposed lane and parking closures are a part of the Right-of-Way Work Permit Application, Developer shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at: <http://www.sanjoseca.gov/index.aspx?NID=3713>. Developer shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.

**m.i. Electrical:** Existing electroliers within project boundary will be evaluated at the public improvement stage and street lighting requirements will be included on the public improvement plans.

**n.i. Private Streets:** Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.

**o.k. Street Trees:**

- i. Provide street trees at back of curb (where feasible) along project frontages.
- ii. Incorporate street trees in accordance with the Downtown West Design Standards and Guidelines, and as approved by the City Arborist.

**23-21. Environmental Services Department Project Conditions:** The following items shall be included as Project Conditions:

- a. **Connection Fees and Use Charges:** Prior to issuance of Building Permits, remit all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits for existing connections. All fees and charges shall be calculated and charged in the same manner as fees charged to other property owners consistent with the San Jose Municipal Code and state law.
- b. **Rate Control:** The project shall comply with rate protections in the Resolution for the Project's Vesting Tentative Map pertaining to "Rate Control" for District Systems.

- c. **Submeters:** Each building shall have potable water and recycled water submeters. Wastewater meters must be installed prior to connections to the City's sanitary sewer collection and treatment system.
- d. **Wastewater Discharge:** Before approval of the issuance of Building Permits for any development for the parcel, the developer shall demonstrate:
  - i. Discharge from the proposed development and use will be within the allocated capacity in compliance with the San Jose Municipal Code. Capacity may not be transferred between parcels
  - ii. compliance with a wastewater pretreatment program; and
  - iii. compliance with all permits for the onsite wastewater collection and treatment facility under federal, state and local laws and regulatory agencies.
- e. **Wastewater/Recycled Water Design Review:** Developer shall obtain approvals from the State Water Board DDW through the SF Bay Regional Quality Control Board permit process, for review of the engineering report, and satisfy technical comments on tertiary filtration and disinfection unit processes. The Santa Clara County Department of Public Health (DPH) may act in an advisory or regulatory role.
- f. **Odor Controls:**
  - i. Developer shall:
    1. Comply with Odor Mitigation Measures for Wastewater (AQ-5), including a Hydrogen Sulfide and Odor Management program (HSOM Program) at each water reuse facility (WRF).
    2. Include measures to mitigate and control odor in the site plans and drawings.
    3. Comply with Odor Mitigation Measures for Waste at Collection Terminals under SJMC §9.10.430(A), SJMC §9.10.430(D), SJMC §9.10.430(F), SJMC §9.10.450(C), SJMC §9.10.1395, and SJMC §9.10.840.
    4. Comply with CalRecycle requirements for an Odor Impact Minimization Plan (as applicable).
    5. Comply with BAAQMD regulations for an onsite wastewater treatment facility and any additional requirements if the project is within 1,000 feet of a school.
    6. Provide the Environmental Services Department Director the information necessary as part of the Central Utility Plant Downtown West Conformance Review to coordinate review

and approval of the requirements listed in subsections 1 through 5 above.

- ii. In addition to any other legal remedies, the City may require further measures to mitigate against future complaints of public nuisance based on odor during the Conformance Review process for subsequent phases of the development.
- g. **City Wastewater Discharge Permit:** The development connected to the district systems must be covered under a Wastewater Discharge Permit, updated at minimum annually or more frequently as described in the San Jose Municipal Code, and shall meet the following requirements:
- i. Proposed uses and estimated amount and characteristics of wastewater discharges for each phase will be identified during the Conformance Review process;
  - ii. Compliance with County permits - if the County exerts jurisdiction over the onsite wastewater/recycled water system - or City permit(s) - if the City adopts a wastewater/recycled permitting process in the future;
  - iii. Adopt a pretreatment program for all properties that would ensure compliance with the City's pretreatment program and NPDES requirements;
  - iv. Maintenance of records such as monthly flow, production changes, closures, and wastewater sampling records;
  - v. Notification to the City before a change such as ownership, discharge volumes, operator, use, tenancy; and
  - vi. Compliance with all other regulatory applicable permits as required by federal, state and local law.
- h. **Solid Waste Handling Plans:** Developer must provide a Waste Management Plan, for City review and approval for each building in the development including:
- i. The type of collection containers, service provider at the building and/or terminal collection (if serviced by the district system), commercial and residential premises waste management plan in the event of service reduction or termination, locations of, collection plans, and style of public litter cans that would be placed in the public right of way, and planned handling of special wastes (e.g. biosolids if applicable);
  - ii. Demonstrated compliance with onsite waste collection space and truck collection access in accordance with the applicable sections of the City's Solid Waste Enclosure Area Guidelines (2011 Version) <https://www.sanjoseca.gov/Home/ShowDocument?id=46404>;

- iii. Demonstrated compliance with City Council Policy 6-29, wherein drainage within a solid waste enclosure or solid waste room should be connected to the sanitary system;
- iv. Demonstrated compliance with California law and regulations, such as those enacted to implement SB 1383 for organics handling/diversion requirements; and
- v. Demonstrated compliance with applicable San Jose Municipal Code and franchise agreements.

i. **External Wastewater, Recycled Water, and Waste Permits:** District systems shall have the following:

- i. Onsite wastewater treatment and recycled water facility permits from applicable State and local agencies including the State Water Resources Control Board for the appropriate Class of wastewater treatment plant and, at a minimum, be subject to the applicable General Order(s) for domestic wastewater treatment plants, general waste discharge requirements for biosolids, and other regulations such as monitoring and reporting.
- ii. Applicable permits as a waste transfer station in accordance with PRC 40200(a). The specific permit required from CalRecycle is based on the tonnage the inbound tonnages/day:

<https://www.calrecycle.ca.gov/swfacilities/permitting/facilitytype/transfer>.