

From: [Phan, Johnny](#)
To: [Downtown West Project](#)
Subject: FW: DW -- Updated Project Documents
Date: Tuesday, May 18, 2021 12:20:41 PM
Attachments: [CLEAN Reimbursement Agreement Term Sheet \(revised 5-5-21\).docx](#)
[REDLINE Reimbursement Agreement Term Sheet \(5-5-21\).docx](#)
[Google - Revisions re street ownership issues \(Revised 5 5 21\).docx](#)
[DA Draft Ordinance \(revised 5-4-21\).docx](#)
[Exhibit B of GPA GP Consistency Findings \(revised 5-5-21\).docx](#)
[PD Permit Draft Resolution \(revised 5-4-21\).docx](#)
[PG&E Consent Excerpts.docx](#)
[DWDSG S.17.7.pdf](#)
[Downtown West CIMP CC Version.docx](#)
[Conformance Review Implementation Guide CC Version \(revised 5-5-21\).docx](#)
[PD Zoning Draft Ordinance \(revised 5-4-21\).docx](#)
[VTM Draft Resolution \(revised 5-4-21\).docx](#)

From: MWChan@perkinscoie.com <MWChan@perkinscoie.com>
Sent: Wednesday, May 5, 2021 11:36 PM
To: Phan, Johnny <Johnny.Phan@sanjoseca.gov>
Cc: Gray, Matthew S. (Perkins Coie) <MGray@perkinscoie.com>
Subject: DW -- Updated Project Documents

[External Email]

Johnny,

Please find attached the following updated draft documents:

- Clean and redline of the RA Term Sheet;
- Language regarding street ownership;
- DA Ordinance;
- PD Zoning Ordinance;
- VTM Resolution;
- GP Consistency Findings;
- PD Permit Resolution;
- Modifications to PG&E conditions
- New DWDSG S.6.17.7
- Downtown West CIMP;
- Conformance Review Implementation Guide

Please let us know if any questions. Thanks,

Michelle

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**TERM SHEET FOR
REIMBURSEMENT AGREEMENT
BY AND BETWEEN
THE CITY OF SAN JOSE AND GOOGLE LLC**

This TERM SHEET memorializes the proposed terms for a REIMBURSEMENT AGREEMENT (“Agreement”) by and between GOOGLE LLC, a Delaware limited liability company authorized to do business in the State of California ("Google" or “Project Sponsor”), and the CITY OF SAN JOSE, a municipal corporation ("City"). City and Google are sometimes referred to individually herein as a “Party” and collectively as the “Parties.” The Agreement will provide for Google’s reimbursement of the City for “City Costs” in connection with the City’s performance of Reimbursable Work (as defined below) for the Downtown West Mixed-Use Project (“Project” or “Downtown West”). This Term Sheet is intended to establish the framework and identify key terms for an Agreement. Nothing in this Term Sheet shall be construed as a binding obligation.

Key Terms	Summary of Term
<u>Section 1.</u> Purpose and Intent Agreement	<ul style="list-style-type: none">• The Agreement is intended to memorialize the Parties long-term understanding of Google’s reimbursement of the City for “City Costs” in connection with the City’s processing of Downtown West.• The Parties share the objectives of ensuring (i) full cost recovery for the City in connection with the City’s processing of Downtown West; and (ii) timely processing of Subsequent Approvals in connection with the Project in order to advance the Parties shared vision of transforming Downtown San Jose and the Diridon Station Area Plan into a vibrant, transit-oriented neighborhood with a diverse and complementary mix of land uses that will provide substantial public benefits to the City, including expansion of economic opportunity within the City and significant improvements and investments in the public realm through the Parties’ shared goal of timely implementation of the Project.
<u>Section 2.</u> Reimbursement Obligation	<ul style="list-style-type: none">• Google agrees to reimburse the City for City Costs associated with the City’s performance of “Reimbursable Work”.• “Reimbursable Work” consists of the processing of Subsequent Approvals required to implement the Project, including but not limited to any further environmental review, Conformance Review Applications, City

	<p>Dedicated Open Space designs, permits for Interim Uses and Special Events and Limited Term Uses during the term of the Agreement, phased final subdivision maps, improvement plans, and grading permits. Unless otherwise agreed to by the parties, processing of building permits shall not be considered "Reimbursable Work" under this Agreement and Project Sponsor shall pay any fees and charges incurred for building permits according to the City's standard process and rates, with the ability to elect an expedited review process.</p> <ul style="list-style-type: none"> ● Google's reimbursement obligations in this Agreement, which exceed City standard review and processing fees, are intended by the Parties to compensate the City for its expedited review of Conformance Review Applications as established in the Implementation Guide and other Project approvals and documents. Unless stated otherwise in the Project approvals and documents, City review of Subsequent Approvals following the Conformance Review process shall adhere to standard requirements of the Municipal Code and the Permit Streamlining Act. ● Reimbursement related to litigation/challenges of the Project, legal costs for agreements associated with District Systems, public outreach/community engagement, and any other fees and costs mutually agreed upon between the parties will be covered in this same or a separate reimbursement agreement(s).
<u>Section 3.</u> Consultants	<ul style="list-style-type: none"> ● The City may select and retain Consultants to perform Reimbursable Work. ● As determined by the City through the Work Plan process, Consultants will supplement certain Dedicated Staff and other City staff as needed to address intensification in development activity and/or provide technical or subject matter expertise. The City may allocate/reallocate, in its reasonable discretion, the specific tasks and services between Consultants and City staff and shall reasonably confer with Project Sponsor to ensure that Consultants are used in an efficient manner.
<u>Section 4.</u> City Costs	<p>"City Costs" shall have the meaning set forth in Section 1.18 of the Development Agreement and include the following:</p>

	<ol style="list-style-type: none">1. City's "Fully Loaded Costs" shall mean the standard rate in effect at the time services are provided, as established by City for the full cost to employ such Dedicated Staff and which generally includes the salary, benefits, and other related costs for the "Dedicated Staff." Dedicated Staff shall include a certain number of new full-time equivalent staffing corresponding to City staff positions that represent the Parties' good faith estimate of the staffing levels required to perform the Reimbursable Work. (For the avoidance of doubt, it is intended that this funding for full-time equivalent staff would enable the City to hire additional personnel and thereby increase staffing capacity beyond existing levels for the purpose of expediting the review and approval of Conformance Review/Subsequent Approval applications and implementation of the Project.)2. Actual costs of Consultants, if retained.3. Actual costs of City staff time, based on standard fully loaded hourly rate in effect at the time services are provided, incurred in connection with the Reimbursable Work that cannot reasonably be performed by Dedicated Staff. The fully loaded hourly rates published for City staff time includes the City's standard overhead fee and may incorporate costs associated with Director and management -level staff time and coordination. There shall be no separate overhead cost charged to the Project Sponsor. The fully loaded hourly rate published for City staff time in City departments that are non-ratepayer funded incorporates costs associated with Director-level staff time and coordination; therefore, there shall be no separate costs associated with Director-level staff time charged to the Project Sponsor for non-ratepayer funded City departments. Project Sponsor understands and agrees that actual costs for any Director-level staff time incurred by ratepayer-funded City departments must be charged as a separate cost. The City shall identify Director-level staff time from ratepayer-funded City departments to be separately charged in each Budget. The Project Sponsor's reimbursement of actual costs of City staff time shall be in addition to the City's "Fully Loaded Costs" for Dedicated Staff.4. The Parties will periodically review and adjust (e.g. during Meet and Confer meetings as described below)
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	<p>Dedicated Staff and City staffing levels to ensure that appropriate levels of City resources are available to perform the Reimbursable Work.</p> <p>5. If Processing Fees are charged in connection with any Reimbursable Work, such Processing Fee shall be credited against Google's liability for reimbursement of City Costs; provided, however, that fees for building permits shall be charged according to the City's standard rates and process and are not Reimbursable Work unless otherwise agreed to between the parties.</p> <p>City Costs shall not include any costs that are not identified on an Approved Budget (as defined in Section 8).</p>
<u>Section 5. Term</u>	<p>The term of this Agreement shall be continuous with the term of the Development Agreement unless terminated earlier.</p>
<u>Section 6. Budget Period</u>	<p>Except for the Initial Budget Period (as defined below), each budget period "Budget Period" shall be from July 1 to June 30 consistent with the City's fiscal year.</p>
<u>Section 7. Project Sponsor's Schedule and Work Plan</u>	<ul style="list-style-type: none">● To assist the City in preparing an annual budget for the upcoming Budget Period ("Annual Budget"), Google shall submit to the City by December 1st of each year, a proposed schedule and work plan ("Work Plan") that identifies Google's: (i) anticipated schedule for the submission of Conformance Review/Subsequent Approval applications, (ii) anticipated number of Conformance Review/Subsequent Approval applications, (iii) anticipated type of Conformance Review/Subsequent Approval applications; (iv) anticipated coordination meetings required of City staff and consultants; and (v) anticipated other efforts to be addressed over the course of the year, including but not limited to anticipated public outreach and community engagement to be conducted by or in coordination with the City in relation to the Reimbursable Work .● Google shall notify the City as promptly as possible if it determines that the Work Plan will significantly change including anticipated schedule for the submission of Conformance Review/Subsequent Approval applications or the number of Conformance Review/Subsequent Approval applications will substantially deviate from the Work Plan previously submitted to the City.

<u>Section 8. Annual Budget and Budgeted City Costs</u>	<ul style="list-style-type: none">● Within forty-five (45) calendar days following Google’s submittal of a Work Plan for an upcoming Budget Period, the City and Project Sponsor shall meet and confer in good faith to collectively prepare a proposed budget (“Budget”) of estimated City Costs (“Budgeted City Costs”) in-line with comparable projects for the upcoming Budget Period. The Parties shall prepare a mutually agreed upon Budget for the upcoming Budget Period by February 1st.● Each Budget shall include detailed information of the proposed Budgeted City Costs for the applicable Budget Period, including but not limited to: (i) identifying all City departments and Consultants anticipated to be required to review Reimbursable Work for the upcoming Budget Period; (ii) a description of the anticipated proposed scope of work to be carried out by each City department and/or Consultant; (iii) identifying proposed City staff in each City department anticipated to be required to perform the Reimbursable Work; (iv) the standard hourly rate for the proposed City staff; and (v) an estimated not-to-exceed amount for each City department and/or Consultant for each half of the Budget Period.● At least fifteen (15) calendar days prior to March 1st of each year, the City shall provide an Annual Budget that is the agreed upon Budget established through the collective process to the Project Sponsor for review and approval (“Approved Budget”), which the Project Sponsor shall reasonably approve if substantially consistent with the proposed Budget that the parties collectively prepared.● Each Approved Budget shall be subject to the budget and appropriation process in Chapter 12 of the City Charter. Notwithstanding anything to the contrary herein, Project Sponsor shall have no obligation to deliver a Deposit to City for a particular Budget Period until the City Council has appropriated the monies relevant to and consistent with the applicable Approved Budget.
<u>Section 9. Commencement Date and Initial Budget</u>	<ul style="list-style-type: none">● Commencement Date. The commencement date of this Agreement shall be the later of (i) July 1, 2022; or (ii) termination of the [13-month Reimbursement Agreement] (“Commencement Date”).

	<ul style="list-style-type: none"> ● Initial Budget. The initial budget period (“Initial Budget Period”) shall commence on the Commencement Date and shall end on the next June 30th that occurs following the Commencement Date. Google shall submit to the City a Work Plan for the Initial Budget Period by December 1, 2021 and the parties shall coordinate and collectively develop a Budget for the Initial Budget Period pursuant to the timeframes and process in Section 8.
<p><u>Section 10. Budget Reporting, Modifications and Augmentations</u></p>	<ul style="list-style-type: none"> ● <u>Budget Modifications and/or Augmentation.</u> Google understands the City must be fully cost recovery in providing services under this Agreement. The agreed upon annual Work Plan and Approved Budget for any Budget Period are a good faith estimate based on the information provided by Google. The City and applicable City departments will use its reasonable efforts to work within the agreed upon annual Work Plan and Approved Budget for any Budget Period. However, Google understands additional and unanticipated coordination, meetings, reviews, and other issues may arise as part of processing the Conformance Review applications requiring modification to the annual Work Plan and Approved Budget for any Budget Period. The Budgeted City Costs in an Approved Budget for any Budget Period may be modified or increased from time to time by the City with the written consent of Google, which shall not be unreasonably withheld, conditioned, or delayed, provided the City has conferred with Google and furnished reasonable written justification for the modification or increase. Google shall approve or disapprove a request for modification or increase of the Budgeted City Costs in an Approved Budget within twenty (20) calendar days of receiving the City’s written request and supporting information. In the event Google provides written consent for an increase in the Budgeted City Costs during a Budget Period, Google shall increase the Deposit in the approved amount within thirty (30) calendar days after approving such increase. ● <u>Reporting.</u> The City shall deliver quarterly cost variance reports (“Quarterly Report”) to Google that details City Costs incurred by the City in relation to the approved Budgeted City Costs, the percentage of work that has been completed by each City department, and how much

	remains available for billing for each City department under the then-approved Annual Budget.
<u>Section 11. Deposit and Payment</u>	<ul style="list-style-type: none"> ● <u>Initial Deposit.</u> Within thirty (30) calendar days after the Commencement Date and prior to City commencing any Reimbursable Work, Google shall deliver to the City a deposit in the amount of [fifty percent (50%)] of the Initial Budget (“Initial Deposit”). The remaining fifty percent (50%) shall be deposited no later than January 15, 2023. ● <u>Subsequent Bi-Annual Deposits.</u> No less than five (5) calendar days prior to commencement of a Budget Period, the Project Sponsor shall deposit the approved amount for the first half of that Budget Period (“Deposit”). The Project Sponsor shall make an additional deposit no less than five (5) calendar days prior to January 15 of a Budget Period in the approved amount for that half of the Budget Period.
<u>Section 12. Cooperation</u>	<ul style="list-style-type: none"> ● <u>Expeditious Processing.</u> Provided Google has (i) provided all required notice, and (ii) fully made the payments to City as agreed upon, City agrees to make best efforts to expeditiously implement the Project and review and process Conformance Review Applications and other Subsequent Approvals in accordance with the Implementation Guide and other Project Approvals and Documents in an efficient manner to ensure timely delivery of the economic and community benefits associated with Project implementation. ● <u>Project Manager.</u> The City agrees that it shall engage, at Google’s sole cost and expense, a Dedicated Staff person who will act as a consistent liaison to the Project (“Project Manager”) to assist in coordinating the review and approval of Subsequent Approvals and implementation of the Project. The Project Manager shall host every-other-week meetings among the City, Project Sponsor, and all Dedicated Staff to ensure that the applications are being timely processed and approved and Reimbursable Work is being performed efficiently and expeditiously. The Project Manager shall also be responsible for serving as a liaison between the Project Sponsor and City departments when reasonably requested by the Project Sponsor. As necessary, the Project Manager will engage Director-level support, whose time may not be charged as a separate City Cost

	<p>under this Agreement, for the purpose of: (1) resolving disputes between the Project Sponsor and City departments; (2) facilitating Meet and Confer meetings as defined below; and (3) facilitating the referral of significant issues to the Director/Head of applicable City departments, and if necessary the City Manager. <i>[City Team: Last portion of sentence is removed because it conflicts with the concept above that the Project Manager position is a Dedicated Staff.]</i></p> <ul style="list-style-type: none"> ● Director-Level Support. The City agrees that it shall identify a senior-level liaison (Director-level) that will provide ongoing support for the Project, including regular attendance at Project meetings among the City, Project Sponsor, and Dedicated Staff, generally keeping apprised of the status of the Project, and coordinating with the Project Manager and other Director/Head of City departments as needed to resolve issues between the Project Sponsor and City departments. ● Meet and Confer. The City and the Project Sponsor agree to meet and confer (“Meet and Confer”) a minimum of every six (6) months to discuss matters related to the successful implementation of the Parties’ rights and obligations under this Agreement and the parties’ goal of timely implementing the Project. During a Meet and Confer, the City and the Project Sponsor may discuss the City’s planned or anticipated allocation of Dedicated Staff, any anticipated slowdown or intensification of development activity relative to the then-current Work Plan, and any other matters of concern under this Agreement pertaining to timely and effective review and consideration of Conformance Review/Subsequent Approval applications. Either Party may request a Meet and Confer with the other Party and the Parties shall reasonably seek to Meet and Confer within seven (7) calendar days of such request. ● Coordination with the Building Division. The City and the Project Sponsor acknowledge that it is the parties’ shared objective to provide efficient and expeditious processing of building permits. The Project Sponsor and the Director/Head of the Building Division or their designee shall coordinate to determine whether the existing City standard process advances the shared objective of efficient and expeditious processing of building permits for implementation of the Project, or
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	<p>whether it would be mutually beneficial to establish a framework and process that includes the retention of key personnel (e.g. Dedicated Staff) to achieve the parties' shared objective of processing permits in an expeditious manner to timely implement the Project. The parties may agree to incorporate expedited processing of building permits as a component of Reimbursable Work under this Agreement.</p>
<u>Section 13.</u> Dispute Resolution	<p>Any dispute between the Parties shall be subject to the [meet and confer process set forth in Section 9.2 of the Development Agreement before a Party sends a notice of default].</p>
<u>Section 14.</u> Default	<ul style="list-style-type: none">● Google shall be in default under this Agreement if it: (i) fails to timely fund or replenish the Deposit and does not cure such failure within sixty (60) calendar days after service of written notice from City; (ii) fails to timely submit a Work Plan or timely approve or disapprove a City request for Budget modification or increase; or (iii) otherwise fails to perform any other obligation under this Agreement and does not cure such failure within sixty (60) calendar days after service of written notice from the City.● The City shall be in default under this Agreement if it: (i) fails to timely provide Quarterly Reports; (ii) fails to use best efforts to timely process Subsequent Approvals pursuant to the timelines set forth in the Project approvals and documents provided that Google is not in default of this Agreement; and (iii) otherwise fails to perform any obligation under this Agreement and does not cure such failure within sixty (60) calendar days after service of written notice from Google.
<u>Section 15.</u> Termination	<p>This Agreement may only be terminated as follows:</p> <ul style="list-style-type: none">● <u>Automatic Termination.</u> This Agreement shall automatically terminate upon the termination of the Development Agreement.● <u>Termination by City.</u> If Google is in default under this Agreement and fails to cure such default following written notice and expiration of the cure periods identified above, the City may terminate this Agreement by written notice to Google specifying the date of termination which shall not be less than ten (10)

	<p>calendar days following the date of such notice.</p> <ul style="list-style-type: none">● <u>Termination by Google</u>. If the City is in default under this Agreement and fails to cure such default following written notice and expiration of the cure periods identified above, Google may terminate this Agreement by written notice to City specifying the effective date of termination which shall not be less than ten (10) calendar days following the date of such notice.● In the event of termination of the Agreement by Google or the City, the City's review of the Conformance Review/Subsequent Approval applications would be subject to the standard requirements of the Municipal Code and the Permit Streamlining Act pursuant to the Conformance Review process authorized by the GDP and further set forth in the Implementation Guide (excluding expedited timeframes). .
<u>Section 16</u> . Recordkeeping and Audits	<ul style="list-style-type: none">● City shall maintain records with respect to services performed by City and its Consultants under this Agreement (the "Records") in accordance with the City's current procedures. No less than seven (7) calendar days after notice by Project Sponsor, City shall make available to Project Sponsor all Records for examination.● Nothing in this Agreement shall be construed to require the City to provide documents that are privileged, attorney work product, or attorney-client privileged.
<u>Section 17</u> . Assignment	<ul style="list-style-type: none">● <u>Assignment to Lendlease and Lendlease Affiliate</u>. If Google assigns, or partially assigns, its rights, duties, obligations or interests to Lendlease or any Lendlease Affiliate with respect to residential, hotel, limited-term corporate accommodations, or retail development pursuant to the terms of the Development Agreement, Google may assign or partially assign its obligations under this Agreement to Lendlease or any Lendlease Affiliate. Within thirty (30) calendar days of providing the City with an Assignment and Assumption Agreement as set forth under Section 12 of the Development Agreement, Lendlease or any Lendlease Affiliate shall prepare and submit to the City an anticipated Work Plan that identifies its (i) anticipated schedule for the submission of Conformance Review Applications and other Subsequent Approval applications, (ii) anticipated number of Conformance Review

	<p>Applications and other Subsequent Approval applications, (iii) anticipated type of Conformance Review Applications and Subsequent Approval applications to be submitted, and (iv) other relevant information that may assist the City in preparing an Annual Budget and appropriate levels of City resources and staffing required to perform the Reimbursable Work for the upcoming Budget Period as it relates to its implementation of the Project. Within [fourteen (14) calendar days] of providing the City with its Work Plan, the City and Lendlease or Lendlease Affiliate shall meet and confer to establish a proposed budget pursuant to Sections 7 and 8 above as it relates to Reimbursable Work for Lendlease or any Lendlease Affiliate.</p> <ul style="list-style-type: none">● <u>Other Transfers/Assignments.</u> If Google assigns, or partially assigns its rights, duties, obligations to a third-party (“Assignee”) other than Lendlease or any Lendlease Affiliate pursuant to the terms of the Development Agreement, Google may request, and the City in its sole and reasonable discretion may determine whether to approve this Agreement be assigned or partially assigned to the Assignee. Alternatively, the Assignee may negotiate a separate reimbursement agreement with the City, subject to City approval, to address the Assignee’s reimbursement of the City for “City Costs” in connection with the City’s Reimbursable Work for Assignee to advance the objective of timely implementation of the Downtown West project.
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DOWNTOWN WEST CONFORMANCE REVIEW IMPLEMENTATION GUIDE

This Downtown West Conformance Review Implementation Guide (Implementation Guide) sets forth the procedures for the City of San José's review and approval of Conformance Review Applications for Vertical Improvements, Open Space Improvements, and Horizontal Improvements necessary to implement the Downtown West Mixed-Use Plan (Project). Capitalized terms used but not otherwise defined in this Implementation Guide shall have the meanings for such terms set forth in the Development Agreement between Google and the City of San José and other applicable Project Approvals and Project Documents.

I. INTRODUCTION

The Downtown West Planned Development Zoning District (Downtown West PD Zoning District) establishes the Conformance Review process to ensure that the development of Vertical Improvements, Open Space Improvements, and Horizontal Improvements substantially conform with the requirements of the General Development Plan (GDP), the applicable standards and guidelines in the Downtown West Design Standards and Guidelines (DWDSG), the Downtown West Improvement Standards (DWIS), Infrastructure Plan, and applicable Project Approvals and Project Documents.

The Conformance Review process involves the submission of one or more of the following applications as the design and development of the Project progresses:

- "Vertical Conformance Review Application" which refers to schematic design development level of detail for Vertical Improvements. Specific submittal requirements for a Vertical Conformance Review Application are set forth in Section II.A.
- "Open Space Conformance Review Application" which refers to schematic design development level of detail for Open Space Improvements, which includes Project Sponsor-Owned Open Space and City-Dedicated Open Space as defined in Section 4.5 of the DWDSG. City-Dedicated Open Space includes City-Dedicated Parks and the Los Gatos Creek Multi-Use Trail. Specific submittal requirements for an Open Space Conformance Review Application are set forth in Section III. The submittal of the Open Space Conformance Review Application for a City-Dedicated Park (equivalent to 35% construction drawings) satisfies the 35% Park Improvement Plans under the Parkland Agreement.
- "Horizontal Conformance Review Application" refers to the horizontal review process that consists of the following components: optional preliminary-level conceptual drawings; 35% improvement plans; 65% improvement plans; and 95% improvement plans submitted to the Department of Public Works for review and comment as further described in Section IV.

The project sponsor may submit Conformance Review Applications for Vertical Improvements, Open Space Improvements, and Horizontal Improvements concurrently for City review and approval. For instance, at the project sponsor's election, an Open Space Conformance Review Application for Project Sponsor-Owned Open Space may be submitted concurrently with a Vertical Improvement Conformance Review Application for an adjacent developable area. In the event the project sponsor elects to submit an Open Space Conformance Review Application for

Project Sponsor-Owned Open Space and a Vertical Improvement Conformance Review Application concurrently, the City shall review and process the applications concurrently as if a single application.

For reference, Appendix B identifies applicable Project Documents and City regulatory documents that the City may refer to during the Conformance Review process.

II. VERTICAL CONFORMANCE REVIEW APPLICATION SUBMITTAL REQUIREMENTS

A. Overview

The project sponsor shall submit, and the Director of PBCE¹, shall review and approve or disapprove, a Vertical Conformance Review Application as set forth in Sections IV and V. Each Vertical Conformance Review Application shall consist of the following components, which are further described in this Section II: (a) data charts providing information regarding the proposed land uses, development program square footage, and type and number of residential units; (b) site plans, and drawings, as applicable, for the area that is the subject of the Vertical Conformance Review application; (c) a completed Vertical Improvement Conformance Review Checklist (*DWDSG Appendix C.1*); (d) request(s) for Minor Modification, Exception, Deferral, or Amendment to the Downtown West PD Permit, if applicable; and (e) Focused Local Transportation Analysis (Focused LTA).

Site plans, drawings, and other information provided with a Vertical Conformance Review Application should be presented in the following format:

1. All drawings, except for location map, shall be drawn to scale, at an appropriate scale between project size to sheet size and no smaller than 1/32" - 1'-0".
2. Submittal name and date, North arrow, key plan, project name, project sponsor's name, sheet title and sheet numbers shall all be included in the title block.
3. Drawings shall include dimensions that describe the development envelope and relationship with the property line.

B. Submittal Requirements

Each Vertical Conformance Review Application shall include the following information, as applicable, for the area subject to the Conformance Review Application:

1. Data Chart(s). Each submittal shall include a data chart(s) addressing the following, as applicable, for the area covered under the Vertical Conformance Review Application:
 - a. Name, address, project sponsor contact information, General Plan designation, assessor's parcel number(s).

¹ Pursuant to Sheet 8.01 in the GDP, the Planning Commission or City Council may act as the decision-maker for a CEQA determination in connection with a Conformance Review approval under certain circumstances.

- b. Program of land uses and approximate gross square footage of each use and building open space (as defined on Sheet 4.01 of the GDP).
- c. Proposed total building gross square footage above and below grade.
- d. Anticipated building height and number of floors on a building-by-building basis.
- e. Approximate number of off-street automobile parking stalls (identify private vs. public, type of parking (e.g. stacking, tandem, etc.), and long-term and short-term bicycle storage).

- f. On-Site Inclusionary Units: The total number of below-market rate residential units proposed as part of each Vertical Conformance Review Application, including the corresponding rentable square footage by unit type (bedroom count). Data on below-market rate units should also include tenure and number of units broken down by unit type, location of units, and level of affordability. The data should clearly identify the percentage of affordable units (i.e. percentage of total units proposed as part of the applicable Vertical Conformance Review Application restricted at 100% AMI for compliance with Mixed Compliance Option in Inclusionary Housing Ordinance). The data table should also identify the total cumulative number of market rate units and below-market rate units developed towards the 3,400 total number of market-rate and on-site inclusionary units pursuant to the Affordable Housing Program. The leasing and marketing plan for below-market rate units and a description of the access to amenities and the types of fixtures for the market rate units and the below-market rate units should also be provided consistent with the guidelines in the Affordable Housing Program. If clustering of restricted units is proposed, either within the market rate building or as a separate standalone building, an explanation of clustering benefits shall be provided.

Land Dedication Parcels: The total below-market rate units and corresponding rentable square footage by unit type located on the land dedication parcels identified in the Affordable Housing Program. Data on below-market rate units should also include tenure, number of bedrooms and number of units broken down by bedroom count, location of units, and level of affordability.

- g. Information indicating (i) whether the proposed development requires construction of a City-Dedicated Open Space, as indicated in the Parkland Agreement and exhibits thereto, (ii) the total acreage of City-Dedicated Open Space proposed, if any, including the amount of parkland dedication credits to be provided, (iii) whether the proposed development requires construction of a Project Sponsor-Owned Open Space, as indicated in the Development Agreement and exhibits thereto, (iv) the total acreage of Project Sponsor-Owned Open Space proposed, if any, including whether and how much of such acreage will be subject to a restrictive covenant, (v) an accounting of the total combined square footage of City-Dedicated Open Space and privately-owned open space

subject to a restrictive covenant that will be provided per unit, and (vi) an accounting of the Project's overall progress with respect to the Parkland Dedication Obligation.

- h. The number of residential units and/or amount of non-residential square footage transferred from one Sub-Area to another, if any as permitted under the GDP. The description shall include information (i) demonstrating that the proposed transfer does not exceed the maximum number of residential units and the total square footage for each non-residential use permitted in the GDP; (ii) showing the reductions in the number of residential units and/or non-residential square footage from a contributing Sub-Area.
 - i. A description of any proposed conversions of land uses, if any as permitted under the GDP.
 - j. A data table identifying the total square footage of development by land use that has been completed or is under active construction within the Downtown West PD Zoning District, including the total number of residential and commercial/public parking spaces that have been completed or are under active construction. Vertical Conformance Review Applications that include residential uses shall also track the number of residential parking spaces provided within the Sub-Area that is covered by the Conformance Review Application and demonstrate that the number of residential parking spaces meets the residential parking standards under the GDP. Vertical Conformance Review Applications that include office uses shall demonstrate that the number of commercial/public parking spaces meets the Required Parking Ratio identified in the Development Agreement (Exhibit K).
 - k. Building occupancy(ies), occupancy separation, type(s) of construction, fire control system.
 - l. If a Vertical Conformance Review Application includes Limited Term Corporate Accommodations, the project sponsor shall provide the following information: (1) net square feet of Limited Term Corporate Accommodations (as described in Section 4.4.1 of the Development Agreement) in the applicable Vertical Conformance Review Application; and (2) the total number of bedrooms proposed for the Limited Term Corporate Accommodations in the applicable Vertical Conformance Review Application. If the Limited Term Corporate Accommodations are proposed on a residential parcel, the project sponsor shall also provide the cumulative total net square feet (as described in Section 4.3.3 of the Development Agreement) of Limited Term Corporate Accommodations built or planned to be built to date.
2. Site Plan(s) and Drawings. The project sponsor shall submit site plan(s) and drawings that pertain to the area of development included in the Vertical Conformance Review Application, showing where applicable:

- a. Building relationships to landscaped areas, roads, sidewalks, mid-block passageways, any transit facilities, and open space areas. Include as applicable easements or setbacks. Public right-of-way improvements to be shown and dimensioned for reference only.
- b. Location of all existing buildings to be retained, existing buildings to be demolished and all proposed buildings.

Design of parking facilities, which includes location of driveways and garage entrances; sight distance and location of pedestrian and

bicycle crossings and access; location of on-street and off-street parking

e.c. Fire access plan including fire exits, fire control room location(s), existing and proposed fire hydrants and/or standpipe, and fire truck access route.

f.d. Location of potable water, wastewater and recycled water submeters on all proposed buildings.

g.e. All existing and proposed grading and drainage conditions to be documented including:

- Topography with pad elevations of the site and properties within 50 feet
- Trees, sizes, species and condition, and disposition to be removed, if not previously identified
- Contours and top of curb or top of walls as applicable
- Drainage flows and overland release flows
- Retaining walls, swales and drainage structure

h.f. Proposed utility plan, stormwater control plan, and stormwater hydromodification management report, as applicable. (Refer to the City of San José's Universal Plan Application for detailed requirements.)

i.g. Waste Management Plan, including the approximate location and specifications of the solid waste enclosure or room, including dimensions, roofing structures, and drainage; number of waste containers to be placed inside the enclosure or room, the types of containers to be used, and the frequency of collection; the circulation plan for the hauler to enter and exit the site; and waste pick-up location; 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). Plan must demonstrate 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 (currently 2011 Version, <https://www.sanjoseca.gov/Home/ShowDocument?id=46404>), City Council Policy 6-29, wherein drainage within a solid waste enclosure or solid waste room should be connected to the sanitary system, SB 1383 for organics handling/ diversion requirements, and Applicable Municipal Code and franchise agreements.

- j.h.** Building elevations, floor plans, and sections sufficient to describe the development proposal, the general architectural character, and materials proposed.
- k.i.** For additions or modifications to existing building(s), clearly identify areas of changes, including materials and exterior elevation changes.
- l.i.** Landscape design drawings showing layouts, materials and intent of landscape elements within the site boundary including but not limited to curb cuts, tree locations, planting area, stormwater flow-through planters, plant species and layouts, paving, material palettes, furnishing elements, hydrozones, and outdoor lighting. Open space and public improvements located outside the boundary of the applicable Vertical Conformance Review Application may be provided for reference only. If the project sponsor submits a combined application for Vertical Improvement and Project Sponsor-Owned Open Space, such open space shall be evaluated for conformance pursuant to the applicable Open Space conformance requirements.
- m.k.** Mid Block Passages. The project sponsor may elect to submit mid-block passages for review with either a Vertical Conformance Review Application or an Open Space Conformance Review Application. If the project sponsor elects to submit mid-block passages for review with a Vertical Conformance Review Application, the project sponsor shall provide design drawings showing the layout, location, and dimension of the mid-block passage.
- n.l.** For any residential building, if credit for Private Recreation Improvements is sought, include a written summary of all qualifying on site Private Recreation amenities, a table itemizing all proposed Private Recreation amenities by net square footage, location and classification type (active classification, non-active elements classification), dimensioned and labeled floor plans showing all recreational amenities, and photo simulations or other illustrative examples of proposed recreational accessories.
- o.m.** District Systems. Where required, site plans and drawings that show the proposed location and alignment of the utilidor(s) within the development lots serving the building(s); location of pipe network, conduit, cables, other private utility connections to the utilidor; and identification of the private utilities provided through the district systems approach.

The project sponsor shall provide additional renderings, sketches, and other appropriate illustrative materials as reasonably necessary to: illustrate unique building design elements; indicate the architectural character of buildings and the relationship of such buildings to streets and open spaces; or demonstrate conformance with DWDSG standards.

3. Vertical Improvement Conformance Review Checklist. The project sponsor shall provide a completed Vertical Improvement Conformance Review Checklist (DWDSG Appendix C.1).

The Vertical Improvement Conformance Review Checklist identifies DWDSG standards and guidelines and DDG standards and guidelines that are applicable to development within Downtown West.

Compliance with applicable DWDSG standards is mandatory. The project sponsor shall consider DWDSG guidelines, however, Conformance Review shall be approved without the implementation of guidelines 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 shall provide a narrative that identifies the applicable guideline(s), describes the reason(s) why implementation of the guideline is not feasible, and describe how the subject application achieves the design intent in the chapter of the applicable guideline without implementation of the applicable guideline.

4. Minor Modifications, Exceptions, Deferrals and Amendments. The GDP authorizes the project sponsor to request the following types of relief from DWDSG standards: Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the Downtown West PD Permit.

The requirements for a Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the Downtown West PD Permit are set forth on Sheet 8.02 of the GDP. If the project sponsor seeks relief from one or more DWDSG standards as part of a Vertical Conformance Review Application, the project sponsor shall:

- a. Identify the type of relief requested;
- b. Describe the rationale for the requested relief; and
- c. Demonstrate that the criteria for such relief has been satisfied, as set forth on Sheet 8.02 of the GDP.

5. Focused LTAs. The project sponsor shall prepare and submit one or more Focused LTAs to provide additional building-specific analysis to demonstrate conformance with the City's Transportation Analysis Policy (Council Policy 5-1), multimodal transportation strategies, goals and policies in the General Plan and the City's Complete Streets Design Standards and Guidelines (CSDSG) and other relevant City standards. The Focused LTA scope will be limited to ensure that the following topics, which were not previously analyzed in the Local Transportation Analysis Report (Appendix J2 to the Downtown West Environmental Impact Report) dated October 7, 2020, the Site-wide Focused LTA, dated April 16, 2021 and the Closure of Delmas Ave Supplemental Memo, dated April 16, 2021 are consistent with City requirements and standards: bicycle and pedestrian infrastructure design, access, and conformance to existing plans and policies ; ADA compliance; sight distance; driveway operations, inclusive of driveway location, number, and design to ensure driveways are safe, visible, and

[do not conflict with pedestrian or bicycle facilities](#); and traffic gap analysis. The limited scope of Focused LTAs described in this section will be analyzed pursuant to the City of San José's Transportation Analysis Handbook (April 2020). The Director of PBCE, in consultation with the Director of Public Works, shall review a Focused LTA concurrently with other plans, documents, and information submitted with the associated Vertical Conformance Review Application in the time frames specified under [Section IV.B](#). If a previously submitted Focused LTA includes building-specific analysis for building(s) that are the subject of a Vertical Conformance Review Application, the project sponsor shall identify the previously submitted Focused LTA to the Director of PBCE.

6. **Central Utility Plants (CUPs).** The design and development of up to two (2) central utility plants proposed for the Project shall be reviewed through the Vertical Conformance Review Application process. The plans will show the location of the CUPs including substations, switching rooms, heating and cooling central plants, energy storage and backup, waste water treatment plant and automatic waste collection system terminals. They also will show any interface with vertical buildings, landscaped areas, roads, sidewalks, mid-block passageways, any transit facilities, and open space areas. In addition to the applicable DWDSG standards, the CUPs are subject to any applicable standards set forth under the Infrastructure Plan and DWIS. The Director of PBCE shall approve a Vertical Conformance Review Application for a CUP, upon consultation with the Director of Public Works, as necessary, to confirm the CUPs are consistent with the Infrastructure Plan and DWIS.

III. OPEN SPACE CONFORMANCE REVIEW APPLICATION SUBMITTAL REQUIREMENTS

The project sponsor shall submit, and the Director of PBCE shall review and approve or disapprove, an Open Space Conformance Review Application as set forth in [Sections IV and V](#). Each Open Space Conformance Review Application shall consist of the following components, which are further described in this [Section III](#): (a) data charts providing information regarding the proposed open space program and associated acreage; (b) site plans, and drawings, as applicable, for the area that is the subject of the Open Space Conformance Review Application; (c) a completed Open Space Conformance Review Checklist (*DWDSG Appendix C.2*); (d) compliance with applicable requirements of the Parkland Agreement if the Open Space Conformance Application includes City-Dedicated Open Space; and (e) request(s) for Minor Modification, Exception, Deferral, or Amendment to the Downtown West PD Permit, if applicable.

Each Open Space Conformance Review Application shall indicate whether the area that is subject to the application includes City-Dedicated Open Space, Project Sponsor-Owned Open Space, or both.

1. **Data Chart and Narrative.** Each submittal shall include a data chart and narrative addressing the following, as applicable:
 - a. Narrative generally describing the program of open space, including design intent, programmatic elements, and character of the open space(s) included within the application submittal.

- b. Proposed open space acreage for each open space category, as applicable.
 - c. Amount of City Dedicated Park and/or Los Gatos Creek Multi-Use Trail with such acreages reflected and tracked using Exhibit E7 to the Parkland Agreement (Parkland Dedication Tracking and Verification Table).
 - d. Amount of Project Sponsor-Owned Open Space.
2. Site Plans and Drawings. The project sponsor shall submit site plans and/or drawings that pertain to the area of development included in the Conformance Review Application, showing where applicable:
- a. Land uses and building heights on blocks adjacent to the Open Space.
 - b. Location of facilities, irrigation systems, and/or structures.
 - c. Anticipated vehicular, bicycle, and pedestrian circulation.
 - d. Open space program and active recreational uses.
 - e. Proposed grading, landscaping, and hardscape surface.
 - f. Locations and sizes of all utility and drainage connections and other service requirements.
 - g. Generalized locations for furnishings, lighting, art, and signage.
 - h. Palette of open space materials and elements for use in expressing the particular character of the open space, including but not limited to: paving and construction materials; plant materials; site and street furniture; lighting; water features and related art work.
 - i. A Conceptual Stormwater Control Plan.
 - j. Existing buildings and trees to be removed, if not previously identified.
 - k. District Systems. Site plans and drawings that show the proposed location and alignment of the utilidor(s) located within the open space(s); location of piping, cables, other private utility connections to the utilidor; and identification of the private utilities provided through the district systems approach and located within the particular utilidor(s) within the open space(s).

The project sponsor shall provide additional renderings, sketches, and other appropriate illustrative materials as necessary to demonstrate conformance with DWDSG standards.

3. City-Dedicated Open Space (Parkland Agreement Requirements). An Open Space Conformance Review Application that includes City-Dedicated Open Space shall include a description describing compliance with applicable

requirements under the Parkland Agreement for City-Dedicated Open Spaces. Pursuant to the Parkland Agreement, the project sponsor's submittal of an Open Space Conformance Review Application shall satisfy the requirement to submit 35% Park Improvement Plans under the Parkland Agreement. Project sponsor shall also refer to the Department of Public Works' Turnkey Project Process and Submittal Requirement (Rev. 11/5/19) and provide any additional items required under the 35% Design Submittal Requirements to the extent not addressed in the Open Space Conformance Review Application for City-Dedicated Open Space. The Design Review Timeline set forth in the Turnkey Project Process and Submittal Requirements shall be superseded by the review timeframes set forth in Section IV below.

The submittal of 65% and 95% Park Improvement Plans shall occur following the Open Space Conformance Review process. The preparation, submittal, and review of the 65% and 95% Park Improvement Plans shall be in accordance with the Parkland Agreement and include the submittal requirements for the 65% Submittal Set and 95% Submittal Set as set forth in the Turnkey Project Process and Submittal Requirements (Rev. 11/5/19).

4. Open Space Conformance Review Checklist. The project sponsor shall provide a completed Open Space Conformance Review Checklist (*DWDSG Appendix C.2*).

The Open Space Conformance Review Checklist identifies DWDSG standards and guidelines and DDG standards and guidelines that are applicable to development within Downtown West.

Compliance with applicable DWDSG standards is mandatory. The project sponsor shall consider DWDSG guidelines, however, Conformance Review shall be approved without implementation of guidelines 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 shall provide a narrative that identifies the applicable guideline(s), describes the reason(s) why implementation of the guideline is not possible, and describe how the subject application achieves the design intent in the chapter of the applicable guideline without implementation of the applicable guideline.

5. Minor Modifications, Exceptions, Deferrals, and Amendments. The GDP authorizes the project sponsor to request the following types of relief from DWDSG standards: Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the Downtown West PD Permit.

The requirements for a Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the Downtown West PD Permit are set forth on Sheet 8.02 of the GDP. If the project sponsor seeks relief from one or more DWDSG standards as part of an Open Space Conformance Review Application, the project sponsor shall:

- A. Identify the type of relief requested;
- B. Describe the rationale for the requested relief; and

- C. Demonstrate that the criteria for such relief has been satisfied, as set forth on Sheet 8.02 of the GDP.

IV. **VERTICAL AND OPEN SPACE CONFORMANCE REVIEW PROCESS**

A. Priority Project

The development of Downtown West is a priority to the City. Accordingly, the City shall review all Conformance Review Applications as expeditiously as reasonably possible in accordance with the process and timeframes set forth in Section IV.B below.

B. Review Process and Timelines

When a Conformance Review Application for Vertical Improvements or Open Space is submitted, the Director of PBCE shall review the Conformance Review Application pursuant to the process and timelines described below.

Review Process and Action	Timeline
Pre-Submission Conference	Approximately twenty (20) business days before submitting a Conformance Review Application for Vertical Improvements or Open Space, the project sponsor and Planning staff shall hold at least one (1) pre-submission conference at a mutually agreeable time.
Determination of Completeness	<p>Planning staff shall review the Conformance Review Application for completeness and within fifteen (15) business days of the application submittal shall either:</p> <ol style="list-style-type: none">1. Advise the project sponsor that the application is complete; or2. Identify with specificity any deficiencies with the application. <p>If Planning staff identifies any deficiencies, it shall notify the project sponsor within seven (7) business days after receipt of any supplemental information requested whether:</p> <ol style="list-style-type: none">1. The application is complete; or2. Any of the previously identified deficiencies remain. <p><u>Community Notification of Conformance Review Application Submittal:</u></p>

	<ol style="list-style-type: none"> 1. The City shall post a Conformance Review Application on the Planning Division website at the time of Application submittal. 2. An email shall be sent to all subscribing individuals, within seven (7) business days of the submittal.
Director of PBCE Determination Regarding Scope of CEQA Compliance	<p>Within the time period for Planning staff to determine whether the Conformance Review Application is complete, the Director of PBCE shall determine whether the Conformance Review Application can be approved in reliance on the Downtown West Final Environmental Impact Report, if the Conformance Review may be approved in reliance on an Addendum to the Downtown West Final Environmental Impact Report, or if a Supplemental or Subsequent Environmental Impact Report is required.</p> <p>If the Director of PBCE determines that a Supplemental or Subsequent Environmental Impact Report is required based on substantial evidence in accordance with CEQA and identifies one or more significant environmental effects, following mitigation, the Planning Commission shall hold a hearing on the Conformance Review Application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent Environmental Impact Report.</p>
Planning Staff Review of Application	<p><u>Vertical Conformance Application & Open Space Conformance Review Application for Project Sponsor-Owned Open Space</u></p> <p>Within forty-five (45) business days of a determination of completeness, the Planning staff and other applicable City departments shall complete their review of the Conformance Review Application.</p> <p><u>Open Space Conformance Review Application for City-Dedicated Park</u></p> <p>If an Open Space Conformance Review Application includes a City-Dedicated Park, Planning staff shall complete its review of the application within sixty-five (65) business days of a determination of completeness.</p> <p><u>Los-Gatos Creek Multi-Use Trail</u></p>

	<p>If an Open Space Conformance Review Application includes a component of the Los-Gatos Creek Multi-Use Trail, the Open Space Conformance Review Application shall follow the review duration requirements of the adjacent open space.</p> <p><u>Meet and Confer Process</u></p> <p>Planning staff and the project sponsor shall meet and confer as reasonably necessary during the 45-day review period or 65-day review period for an application with City-Dedicated Park. By the close of the 45-day period or 65-day period, as applicable, Planning staff shall provide the project sponsor with the completed Conformance Review Approval Form (attached hereto as Appendix A) and its recommendation of approval or disapproval of the Conformance Review Application; however, Planning staff shall not publish the Conformance Review Approval Form until the informational community meeting has occurred.</p> <p>If Planning staff recommends disapproval of the Conformance Review Application, the Conformance Review Approval Form (Appendix A) shall clearly delineate the reasons for recommending disapproval. For example, if Planning staff determines that the project sponsor is inconsistent with a DWDSG standard, it must provide detailed information outlining reasons for the inconsistency. The project sponsor may request to meet with the Planning staff to discuss the reasons for disapproval; such meeting shall occur within five (5) business days of the project sponsor's request. The project sponsor may resubmit its Conformance Review Application with modifications, and Planning staff shall review the updated Conformance Review Application and provide an updated Conformance Review Approval Form and recommendation for approval or disapproval within twenty-two (22) business days of the resubmittal.</p> <p>The project sponsor may withdraw a Conformance Review Application at any time prior to the Director of PBCE's determination on the application.</p>
Informational Community Meetings	<u>Vertical Improvements & Project Sponsor-Owned Open Space</u>

	<ul style="list-style-type: none"> • The project sponsor shall host one (1) community meeting 10-30 business days following a determination of completeness to present schematic design development level of detail prior to Director's Conformance Determination. • Notification of the community meeting shall be posted on the City's website a minimum of seven (7) business days prior to the community meeting and an email shall be sent to all subscribing individuals a minimum of seven (7) business days prior to the community meeting. <p><u>Los-Gatos Creek Multi-Use Trail</u></p> <p>If an Open Space Conformance Review Application includes a component of the Los-Gatos Creek Multi-Use Trail, the Open Space Conformance Review Application shall follow the community meeting requirements of the adjacent open space. For example, an Open Space Conformance Review Application that includes a component of the Los-Gatos Creek Multi-Use Trail that is adjacent to a Project Sponsor-Owned Open Space shall follow the community meeting requirements for Project Sponsor-Owned Open Space. An Open Space Conformance Review Application that includes a component of the Los-Gatos Multi-Use Trail that is adjacent to a City-Dedicated Park shall follow the community meeting requirement for City-Dedicated Parks.</p> <p><u>City-Dedicated Parks</u></p> <p>If an Open Space Conformance Review Application includes a City-Dedicated Park, the following informational community meetings must be held:</p> <ul style="list-style-type: none"> • <u>Initial Community Meeting Prior to Application Submittal (Initial Community Meeting)</u>. The project sponsor shall host the Initial Community Meeting prior to the submittal of an Open Space Conformance Review Application that includes a City-Dedicated Park to discuss initial park concepts and potential park names. The intent of this meeting is to make the community familiar with the proposed park and solicit feedback on park amenities.
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	<ul style="list-style-type: none"> • <u>Second Community Meeting.</u> The project sponsor shall host one additional community meeting after the Initial Community Meeting but prior to the submittal of an Open Space Conformance Review Application that includes a City-Dedicated Park. During this community meeting, the project sponsor shall present design options to the community based on feedback provided during the Initial Community Meeting. • <u>Final Community Meeting.</u> The project sponsor and City staff shall present to the Parks and Recreation Commission the final proposed plan for adoption of the park plan and recommendation to City Council of the park name. Park naming shall comply with City Council Policy 7-5. This meeting shall be held after holding the post-application submittal meeting, but no later than fifty-five (55) business days after a determination of completeness. <p>Notification of community meetings for an Open Space Conformance Review Application that includes a City-Dedicated Park shall be consistent with the public noticing requirements for community meetings under City Council Policy 6-30.</p>
Conformance Review Hearing	<p><u>Director of PBCE</u></p> <p>The Director of PBCE shall schedule a Conformance Review Hearing within ten (10) business days of providing the project sponsor a copy of the completed Conformance Review Approval Form. Conformance Review Hearings shall be agendized separately from Director of PBCE Hearings held for other purposes pursuant to Title 20 of the Municipal Code.</p> <p>Conformance Review Hearings may be held on dates when Director of PBCE Hearings are also scheduled to occur, or they may be scheduled for any other date at the Director of PBCE's discretion.</p> <p>Notice: Notice of the Conformance Review Hearing and the related staff report shall be published on the City's website 72-hours prior to the date of the hearing.</p>

	<p>Public Comment: The Director of PBCE shall hear and consider all public comments received during the Conformance Review Hearing.</p> <p><u>Planning Commission / City Council (Supplemental or Subsequent EIR Required & Significant Effect Identified)</u></p> <p>If the Director of PBCE determines that a proposed Conformance Review Application requires a Supplemental or Subsequent EIR and results in one or more significant effects, following mitigation, Planning staff shall refer the matter to the Planning Commission within ten (10) business days of providing the project sponsor a copy of the completed Conformance Review Approval Form.</p> <p>The Planning Commission shall hold a public hearing on the Supplemental or Subsequent EIR and make a recommendation to City Council concerning the certification of the Supplemental or Subsequent EIR pursuant to Title 21, as amended via Ordinance No. ____.</p>
Director of PBCE Decision	The Director of PBCE shall provide the project sponsor with a written determination on the Conformance Review Application within seven (7) calendar days of the Conformance Review Hearing.
Appeal of Director of PBCE Decision	The decision of the Director of PBCE is final and not appealable pursuant to Section ____ of Title 20 of the San Jose Municipal Code, adopted by City Council Ordinance No. ____.

C. Building Permits, Site Permits, and Related City Permits

The City shall not issue a building permit or site permit unless the project sponsor has first obtained approval of a Conformance Review Application. The project sponsor may submit a building permit or site permit application to the City pursuant to the process set forth under the City's Municipal Code. The City shall review building and site permits for all development within Downtown West (residential and non-residential) pursuant to its Special Tenant Improvement (STI) / Industrial Tool Installation (ITI) Plan Review process.

V. STANDARD OF REVIEW FOR VERTICAL AND OPEN SPACE CONFORMANCE REVIEW APPLICATIONS

The Director of PBCE shall complete the Conformance Review Approval Form, attached as Appendix A, as part of the Conformance Review process.

The Director of PBCE shall review and approve or deny a Vertical Improvement or Open Space Conformance Review Application pursuant to the standard of review described in GDP, Sheet 8.01.

VI. HORIZONTAL CONFORMANCE REVIEW PROCESS

A. Overview

The Vesting Tentative Map will be subject to conditions of approval requiring the project sponsor to complete open space, infrastructure, and any other horizontal improvements consistent with the GDP and PD Permit (DWDSG Chapter 6: Mobility and other applicable standards in the DWDSG), the Downtown West Improvement Standards, Infrastructure Plan (attached to the Development Agreement), the Encroachment Permit approved for the Project pursuant to Council Resolution No. [] for utilidors located within the public right of way, and applicable standards and guidelines in the Complete Streets Design Standards and Guidelines.

The project sponsor will be required to demonstrate that all phased final maps and associated improvements, as described on 100% improvement plans, are consistent with the Vesting Tentative Map conditions of approval. Before submitting any phased final map or 100% improvement plans, the project sponsor shall submit: (1) 35% Improvement Plans as described in Section IV.C; (2) 65% Improvement Plans as described in Section IV.C; and (3) 95% Improvement Plans as described in Section IV.C.

B. (Optional) Preliminary Concept Document Submittal

Prior to the project sponsor's submission of the 35% Improvement Plans described in Section VI.D below, the project sponsor, in its sole discretion, may elect to submit preliminary-level conceptual drawings ("Preliminary Concept Documents"). The submission of Preliminary Concept Documents shall be a courtesy submittal and shall not be required.

If the project sponsor elects to submit Preliminary Concept Documents, the Director of Public Works shall review the Preliminary Concept Documents and provide the project sponsor with comments. The project sponsor may request a meeting(s) with the Director of Public Works and applicable City departments to review the Preliminary Concept Documents at mutually agreeable times.

C. District Systems Implementation Plan

Prior to, or concurrent with the project sponsor's submittal of the 35% Improvement Plans described in Section VI.D, below, the project sponsor shall submit a District Systems Implementation Plan. Vesting Tentative Map Condition of Approval [] outlines the requirements for the District Systems Implementation Plan and the terms for the City's subsequent review and confirmation of the District Systems Implementation Plan.

D. Horizontal Review Process: 35% Improvement Plans

1. 35% Improvement Plan Submittal Requirements

The project sponsor shall submit 35% Improvement Plans that provide the following information:

- a. Cover Sheet: List of drawings (including future sheet to be submitted), abbreviations, and standard notes.
- b. Project Narrative: Include scope of project, site description, summary of infrastructure proposed for public dedication (consistent with the Infrastructure Plan), and a preliminary schedule for design through construction. Narrative will also include a phasing description of how proposed horizontal improvements align with the Infrastructure Plan and integrate into prior and future development phases, as applicable.
- c. Demolition plan showing existing buildings and trees to be removed.
- d. Site Grading and Drainage Plan with existing grades and proposed street grades at beginning of horizontal curves (BC's), end of horizontal curves (EC's), grade breaks, high points, low points, vertical curves (VC), beginning of VC (BVC's) and end of VC (EVC's), pad grades, overland release routes, grade conforms, street centerline grades and drainage devices.
- e. Stormwater Management Plan (private): The Site Grading and Drainage Plan set shall include a Stormwater Management Plan (private) that provides preliminary green stormwater infrastructure calculations and typical details for onsite private treatment control measures unless otherwise provided in Vertical Conformance Review Application.
- f. Stormwater Management Plan (public streets): Description, preliminary green infrastructure calculations, typical details and plan view layout of how the stormwater management will be achieved within the public ROW.
- g. Utility Plans and Centerline Profiles (public streets): Plans will include existing utilities to be abandoned or relocated. All utilities shown in plan only, except for storm and sanitary sewer. Plans will include all new or reconstructed storm and sanitary mains with pipe slopes, inverts and rim elevations at manholes, on both plan and profile sheets.
- h. Utilidor Crossing and Encroachment Plan: Plan includes a preliminary draft location map, plan view, and elevation showing the dimensions, location, and alignment of the proposed utilidors within the public right of way and its relationship to adjoining properties, and any structures, utilities or improvements. Plan should also show any district systems proposed to be located within the utilidors.
- i. Typical Street Section Plan: Including lane dimensions, sidewalk dimensions, roadway materials, grades, curb heights, and utilities, including all horizontal clearances.
- j. Street Improvement Plan: Including stationing, roadway dimensions, bulb-out locations, traffic calming measures, non-standard roadway conditions for acceptance, horizontal curves, horizontal sight distance studies, transit facilities,

street lights, bikeway and trail dimensions, streetscape design and roadway materials. A separate street layout site plan shall be provided for private streets.

- k. Geometric (Signage and Striping) and Traffic Signal Plan: Including final traffic lines and pavement markings including centerlines, lanelines, edgelines, crosswalks, limit lines (stop lines), arrows, words and other appropriate delineation; permanent project signing in the public right-of-way; and new and/or modified traffic signal locations.
- l. Public Landscape Plan: (if median and/or backup landscaping in the public street is proposed).
- m. Street Light Plans: Including new street light locations, new street light electrical systems, existing street light locations and removal and/or modifications to existing electrical systems.
- n. Improvement Plan Checklists. The project sponsor shall submit the following Improvement Plan Checklists to delineate the design components included with the 35% Improvement Plan Submittal: (1) Grading Permit Checklist (Rev. 03-17-17); (2) Parcel/Tract Map Checklist (Rev. 12/15/09); (3) Private Street Improvement Plan Checklist (Rev. 01/05/12); (4) Public Street Improvement Plan Checklist (Rev. 04/19/13); and (5) Planning Stormwater Submittal Checklist (Rev. 03-15-19). Not all checklist items will be completed at the time of the 35% Improvement Plan submittal and the project sponsor shall be permitted to proceed from 35% to 65% improvements notwithstanding uncompleted checklist items.
- o. Project sponsor's proposed form of Improvement Agreement (as described in Section 19.32.010 of the Municipal Code) for required improvements corresponding with the Improvement Plans and associated phased final map.
- p. A Focused LTA which shall only be required during the Horizontal Improvement Conformance Review process if the project sponsor proposes material deviations from the Vesting Tentative Map that were not previously analyzed in the Site-wide Focused LTA, dated April 16, 2021. If a Focused LTA is required, the PW Director shall review and provide comments pursuant to the timeline for review of 35% Improvement Plans below. The project sponsor shall update the Focused LTA as necessary during the Horizontal Improvement Conformance Review process. The Focused LTA shall be finalized at the 100% Improvement Plan stage.

2. 35% Improvement Plan City Review Process

Upon receipt of the 35% Improvement Plans, the PW Director will distribute the plans electronically to any City departments responsible for permitting, reviewing, or operating any improvement depicted in the plans ("Commenting Departments"). Commenting Departments will review the 35% Improvement Plans and other materials provided under Section VI.D.1 for consistency with the GDP and Downtown West PD Permit (DWDSG Chapter 6: Mobility and other applicable standards in the DWDSG), the DWIS, Infrastructure Plan (attached to the Development Agreement), and applicable standards and guidelines in the Complete Streets Design Standards and Guidelines. The proposed location of utilidors shall be reviewed for

consistency with the Conceptual Encroachment Plan Sheets (approved for the Project's Encroachment Permit by Council Resolution No. _____).

The Commenting Departments will provide any comments on the 35% Improvement Plans to the PW Director within 25 business days of project sponsor's submittal of said plans to the PW Director. The PW Director will compile all comments and provide them to the project sponsor no later than 27 business days of the project sponsor's original submittal of the 35% Improvement Plans to the PW Director. Inclusion of changes from the comments will be in the subsequent submittal phase. Every reasonable attempt should be made to meet these review times. However, the review times are goals and are subject to change at the sole discretion of the Director of Public Works depending on the organizational capacity to meet the review times when the documents are submitted.

E. Horizontal Review Process: 65% Improvement Plans

1. 65% Improvement Plan Submittal Requirements

The 65% Improvement Plans will represent design development, which is intended to further refine the concepts developed during the 35% Improvement Plan phase. The 65% Improvement Plans will be advanced to the point that all major design issues and solutions are represented in the plans. If not already provided with the 35% Improvement Plan submittal, utility potholing is provided at this stage with a survey to verify the preliminary design established in the 35% Improvement Plans is feasible. Descriptions are added for sheets not previously provided during the 35% Improvement Plan phase.

The project sponsor shall submit the following information for Improvement Plans developed to 65%:

- a. Cover Sheet
- b. Project Narrative
- c. Demolition Plan
- d. Site Grading and Drainage Plan
- e. Stormwater Management Plan (private), otherwise provided in Vertical Conformance Review Application.
- f. Stormwater Management Plan (public streets)
- g. Utility Plans and Centerline Profiles
- h. Utilidor Crossing and Encroachment Plan
- i. Typical Street Section Plan
- j. Public Street Improvement Plans
- k. Private Street Improvement Plans

- l. Geometric (Signage and Striping) and Traffic Signal Plan
- m. Public Landscape Plans
- n. Street Light Plans
- o. Erosion Control Plan: Include City standard notes and cover sheet elements, proposed erosion control elements, typical details
- p. Construction Details: Include City Standard Details where applicable for proposed horizontal infrastructure.
- q. Estimate of Costs for Infrastructure Qualified for Reimbursement
- r. Subsequent Construction Impact Mitigation Plan (Subsequent CIMP): The project sponsor shall submit a draft Subsequent CIMP with the submittal of the 65% Improvement Plans. The project sponsor, in its sole discretion, may elect to submit a Subsequent CIMP with the submittal of the 35% Improvement Plans, in which case the Director of Public Works and Commenting Departments shall review the Subsequent CIMP as part of the 35% Improvement Plan submittal.²
- s. Improvement Plan Checklists: The project sponsor shall submit the Improvement Plan Checklists identified in Section VI.D.1(n) above and identify the design components included with the 65% Improvement Plan submittal. Not all checklist items will be completed at the time of the 65% Improvement Plan submittal and the project sponsor shall be permitted to proceed from 65% to 95% improvements notwithstanding uncompleted checklist items.

2. 65% Improvement Plan City Review Process

Upon receipt of the 65% Improvement Plans, the PW Director will distribute the plans electronically to all applicable Commenting Departments. Commenting Departments will review the 65% Improvement Plans and other materials provided under Section VI.E.1 for consistency with the GDP and Downtown West PD Permit (DWDSG Chapter 6: Mobility and other applicable standards in the DWDSG), the Downtown West Improvement Standards, Infrastructure Plan (attached to the Development Agreement), and applicable standards and guidelines in the Complete Streets Design Standards and Guidelines. The proposed location of utilidors shall be reviewed for consistency with the Conceptual Encroachment Plan Sheets (approved for the Project's Encroachment Permit by Council Resolution No. _____).

The Commenting Departments will provide any comments on the 65% Improvement Plans to the PW Director within 20 business days of the project sponsor's submittal of said plans to the PW Director. The PW Director will compile all comments and provide them to the project sponsor no later than 22 business days of the project sponsor's original submittal of 65% Improvement Plans to the PW Director. Inclusion of changes from the comments will be in the subsequent submittal phase. Every reasonable attempt should be made to meet these review

² Subsequent CIMP's for vertical improvements and open space will be submitted, as needed, during the building permit process as further described in the CIMP, dated _____, approved by Resolution No. ____.

times. However, the review times are goals and are subject to change at the sole discretion of the Director of Public Works depending on the organizational capacity to meet the review times when the documents are submitted.

F. Horizontal Review Process: 95% Improvement Plans

1. 95% Improvement Plan Submittal Requirements

The 95% Improvement Plan submittal ("Final Design") shall respond to comments on the 65% Improvement Plan submittal and include final detailed plans, specifications, and estimates for proposed improvements qualified for reimbursement. The Final Design shall also include updated plans showing the location, alignment, and dimension of the utilidors within the public right of way and any district systems intended to be located within the utilidors, ensuring consistency with the Conceptual Encroachment Plan Sheets. At the time of the 95% Improvement Plan submission, the project sponsor shall also submit:

A completed Horizontal Improvement Conformance Review Checklist (*DWDSG Appendix C.3*) to the Director of Public Works to demonstrate that horizontal improvements are consistent with applicable standards in the CSDSG and applicable DWDSG standards (Chapter 6: Mobility).

Improvement Plan Checklists identified in Section VI.D.1(n) above and identify the design components included with the 95% Improvement Plan submittal.

Prior to the submittal of the Final Design, the project sponsor shall submit an updated and final Subsequent CIMP to the Director of Public Works that responds to applicable comments provided by the Director of Public Works and Commenting Departments following the initial submittal of the Subsequent CIMP during the 35% (if applicable) or 65% Improvement Plan stage.

2. 95% Improvement Plan City Review Process

The Commenting Departments will provide any comments on the 95% Improvement Plans to the PW Director within 15 business days of project sponsor's submittal of said plans to the PW Director. The PW Director will compile all comments and provide them to the project sponsor no later than 17 business days of the project sponsor's original submittal of the 95% Improvement Plans to the PW Director. Inclusion of changes from the comments will be in the 100% Improvement Plans. Every reasonable attempt should be made to meet these review times. However, the review times are goals and are subject to change at the sole discretion of the Director of Public Works depending on the organizational capacity to meet the review times when the documents are submitted.

The Director of Public Works and applicable City departments shall also evaluate the Horizontal Improvement Conformance Review Checklist for consistency with the CSDSG and applicable standards in DWDSG Chapter 6: Mobility within the review periods for 95% Improvement Plans identified above. The Director of Public Works and applicable Commenting Departments shall clearly identify any applicable standards that the project sponsor is inconsistent with, provide detailed information outlining reasons for such inconsistency, and identify any additional information or detail that can remedy such inconsistency. The project sponsor shall be permitted to proceed from 95% to 100% improvements notwithstanding inconsistency with applicable CSDSG or DWDSG standards at the Final Design stage provided the project sponsor provides

additional information with the final map and 100% Improvement Plan submittal demonstrating consistency with any CSDSG or DWDSG standard that the Director of Public Works has determined it is inconsistent with.

Upon approval of the 95% Preliminary Improvement Plans, the project sponsor will prepare the final 100% Improvement Plans consisting of complete construction documents, incorporating previous comments and including drawings, specifications and schedule as set forth in Section VII.

G. DWIS Modifications; Minor Deviations and Amendments from Infrastructure Plan

1. DWIS Modifications

The project sponsor may request a DWIS Modification (defined in Section 1.5 of the DWIS) during the Horizontal Improvement Conformance Review process. A request for a DWIS Modification shall be reviewed and approved pursuant to Section 1.5 of the DWIS.

2. Infrastructure Plan Amendments

As further set forth in the Infrastructure Plan, minor deviations are expected as improvement plans progress from 35% to 65% to 95% and are permitted provided the deviation will not affect the overall system, its configuration and performance, and is otherwise compatible with the intent of the Infrastructure Plan.

Pursuant to Section 1.8 of the Infrastructure Plan, the project sponsor may request (1) Non-Material Amendments, and (2) Material Amendments from the Infrastructure Plan. The project sponsor may request a Non-Material Amendment or Material Amendment from the Infrastructure Plan during the Horizontal Improvement Conformance Review process, which shall be reviewed and approved pursuant to Section 1.8 of the Infrastructure Plan.

3. Relief from DWDSG and CSDSG

The GDP authorizes the project sponsor to request the following types of relief from DWDSG standards: Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the Downtown West PD Permit.

The requirements for a Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the Downtown West PD Permit are set forth on Sheet 8.02 of the GDP. If the project sponsor seeks relief from one or more DWDSG standards as part of a Horizontal Improvement Conformance Review Application, the project sponsor shall:

- a. Identify the type of relief requested;
- b. Describe the rationale for the requested relief; and
- c. Demonstrate that the criteria for such relief has been satisfied, as set forth on Sheet 8.02 of the GDP.

The project sponsor may also request relief from the CSDSG standards and guidelines pursuant to the processes set forth under the CSDSG.

VII. FINAL MAP(S) AND 100% IMPROVEMENT PLANS

The project sponsor shall apply for approval of subdivision maps and 100% improvement plans pursuant to the procedures described in Title 19 of the Municipal Code and any ordinances governing the design and permitting of subdivisions and improvements applicable to projects within the Downtown West PD Zoning District.

During the final subdivision mapping and improvement plan process, the project sponsor shall demonstrate compliance with all tentative map conditions of approval to ensure that horizontal improvements are consistent with applicable permitting requirements, which include the GDP and Downtown West PD Permit (DWDSG Chapter 6: Mobility and other applicable standards in the DWDSG), the DWIS, Infrastructure Plan, and applicable standards and guidelines in the Complete Streets Design Standards and Guidelines, the Encroachment Permit approved for the Project pursuant to Council Resolution No. [] or utilidors located within the public right of way, and other applicable Project approvals and documents.

A. Final Map and Improvement Plan Submittal Requirements.

The project sponsor shall submit the following:

1. 100% Public Improvement Plans. The project sponsor shall also provide a copy of the final form of any District Systems Transaction Documents that are required to be recorded to the PW Director for final confirmation.
2. 100% Public Improvement Plans Checklists. The project sponsor shall demonstrate compliance with the relevant City checklists identified in Section VI.D.1(n).
3. Private Improvement Plans (for those improvements required to serve the residential subdivision).
4. Matrix addressing all Horizontal Review Comments. Concurrent with project sponsor's submittal of 100% improvement plans to the City, project sponsor shall provide a summary matrix documenting how each comment received as part of the 95% Improvement Plans has been addressed, or, why any particular comment has not been incorporated.
5. Final Map Checkprint, including a title report, closure calculations and other map references, pursuant to the Final Map Checklist (Rev. 12/15/09).
6. Tentative Map Conditions of Approval Compliance Matrix. The project sponsor shall prepare a matrix of the tentative map conditions and identify in writing how the proposed final map or other documents satisfy the conditions of approval. The conditions of approval shall require compliance with applicable standards and guidelines in the DWDSG (Chapter 6 (Mobility) and other DWDSG standards designated *[HI]*) in addition to applicable standards and guidelines in the CSDSG, which are identified in the Horizontal Improvement Conformance Review Checklist.

7. Horizontal Improvement Conformance Review Checklist. The project sponsor shall either (1) confirm that the Director of Public Works has determined that the project sponsor is consistent with applicable DWDSG standards (Chapter 6: Mobility) and CSDSG standards; or (2) submit an updated Horizontal Improvement Conformance Review Checklist, with any applicable information, that is limited to those standards that the Director of Public Works has determined the project sponsor is inconsistent with.
8. Updated Maintenance Matrix.

B. Final Map and Improvement Plan Review Process

The City shall process, review and approve the Improvement Plans and final map pursuant to the procedures established in Title 19 of the Municipal Code and any ordinances governing the design and permitting of subdivisions and improvements applicable to the Downtown West PD Zoning District and in accordance with the requirements set forth in the Development Agreement, including the Parkland Agreement. The City will review Final Map Checkprints and provide any comments to the project sponsor within 14 business days of receipt of any Final Map Checkprint or Final Map Checkprint resubmittal.

VIII. CONFORMANCE APPROVAL ADJUSTMENT

As design progresses from Conformance Review to the building permit stage, adjustments to the design documents are expected, including but not limited to architectural elements or landscape details, relocation of doors, equipment screening, minor changes to landscape furniture and structures.

As further set forth on Sheet 8.01 of the GDP, adjustments to a previously approved Conformance Review Application shall require a Conformance Approval Adjustment prior to the issuance of a Building Permit. These elements are identified on Sheet 8.01 of the GDP. The process for requesting and approving a Conformance Approval Adjustment is described on Sheet 8.01 of the GDP.

IX. MITIGATION MONITORING AND REPORTING PLAN (MMRP)

Pursuant to Section 4.3.1 of the Development Agreement, the project sponsor shall comply with all Mitigation Measures imposed by the MMRP, as applicable, on each Project component, except for any Mitigation Measures that are expressly identified as the responsibility of a different party or entity. The MMRP is attached as Exhibit "A" to Resolution No. ___ certifying the Downtown West Mixed-Use Environmental Impact Report. To the extent any plans or other requirements imposed by the MMRP require compliance prior to or concurrently with the Conformance Review process, the City shall review and process such MMRP plans or requirements diligently and expeditiously as set forth in Section 4.3.1 of the Development Agreement. The City shall review and provide comments on any plans or other requirements imposed by the MMRP within twenty (20) business days following receipt of such plans or requirements.

X. MODIFICATIONS TO IMPLEMENTATION GUIDE

The project sponsor and the Director of PBCE and the Director of Public Works, as applicable, may agree to modify provisions in this Implementation Guide and any attached Appendices. Modifications to this Implementation Guide may be completed administratively, without a public hearing. A modification of this Implementation Guide and any attached Appendices shall not require an amendment to the GDP or the Downtown West PD Permit.

Appendix A
City of San Jose
Downtown West Planned Development Zoning District
Vertical and Open Space Conformance Review Approval Form

A. GENERAL INFORMATION

Project Sponsor: _____

Conformance Review Application Submittal Date: _____

Determination of Completeness Date: _____

Property Subject to Conformance Review Application: _____

B. CONSISTENCY DETERMINATION

1. General Plan Consistency

(a) The Conformance Review Application includes property within the following General Plan land use designation(s):

- ☐ Downtown
- ☐ Commercial Downtown

(b) The land uses proposed for the area subject to the Conformance Review Application are consistent with the applicable General Plan land use designation(s) above.

- ☐ Yes.
- ☐ No. The Conformance Review Application is not consistent with the General Plan.

[Include detailed explanation describing why the Conformance Review Application is not consistent with the General Plan.]

(c) The Conformance Review Application is consistent with the permitted density and intensity level of development permitted under the land use designation(s) identified above.

- ☐ Yes.
- ☐ No. The Conformance Review application is not consistent with the General Plan.

[Include detailed explanation describing why the Conformance Review application is not consistent with the General Plan.]

2. Downtown West PD Zoning District: Consistency with General Development Plan and Downtown West Design Standards and Guidelines

(a) The project sponsor requested a transfer of development square footage from one Sub-Area to another as identified in the GDP.

- ☐ Yes
- ☐ No

(b) If yes to Section 2(a): The requested transfer of development square footage satisfies the requirements under the GDP.

- ☐ Yes, all of the following conditions have been satisfied:
 - ☐ Compliance with CEQA has been demonstrated and any additional necessary environmental review has been completed in connection with any proposed transfer of residential units or non-residential square footage
 - ☐ The transfer does not result in the exceedance of the maximum number of residential units and the total square for each non-residential use permitted in the Downtown West PD Zoning District as identified in Table 3.03.1 of the GDP
 - ☐ The applicant concurrently requests a commensurate reduction in the number of residential units and/or non-residential square footage from any contributing Sub-Area controlled by the applicant.
 - ☐ The written consent to the transfer is provided by the owner(s) of the receiving Sub-Area and the owner(s) of the contributing Sub-Area (only applicable if the receiving and contributing Sub-Areas have different owners)
 - ☐ The applicant provides written notice to the Director of PBCE, of the transfer that includes a table demonstrating that the proposed permitted transfer, when combined with development already implemented, approved, or applied for, will not exceed the maximum development square footages limits for the Downtown West PD Zoning District established in Table 3.03.1 of the GDP.

- ☐ No, the applicant has not satisfied the following requirements for the requested transfer of development square footage:

[Planning staff to identify requirements that the project sponsor did not satisfy and provide a detailed explanation why such condition was not satisfied.]

(c) The project sponsor requested a conversion of development square footage.

- ☐ Yes
- ☐ No

(d) If yes to Section 2(c): The requested conversion of development square footage satisfies the requirements under the GDP.

- ☐ Yes, all of the following conditions have been satisfied:
 - ☐ Compliance with CEQA has occurred in connection with the proposed conversion;
 - ☐ The conversion does not result in exceedance of the overall 13,858,000 square foot cap on development;
 - ☐ The applicant has identified a commensurate reduction in the total number of residential units and/or non-residential square feet of the original land

- use(s) that were allowed in the Downtown West PD Zoning District prior to the proposed conversion; and
- ☐ The conversion is consistent with the General Plan and advances the goals and objectives of the Downtown West PD Zoning District
- ☐ No, the applicant has not satisfied the following requirements for the requested transfer of development square footage:
- [Planning staff to identify requirements that the project sponsor did not satisfy and provide a detailed explanation why such condition was not satisfied.]*
- (e) If a Vertical Conformance Review Application that includes office development, the number of commercial/public parking spaces satisfies the Required Parking Ratio.
- ☐ Yes
☐ No
- (f) The Conformance Review Application is consistent with the development standards in the General Development Plan.
- ☐ Yes
☐ No
- (g) The project sponsor's request for clustering of restricted units is approved.
- ☐ Yes
☐ No
- (h) The Conformance Review Application includes City-Dedicated Parks.
- ☐ Yes
☐ No
- (i) The project sponsor has completed the ____ Vertical Improvement ____ Open Space Conformance Review Checklist and demonstrated consistency with all applicable DWDSG standards.
- ☐ Yes
☐ No. The Conformance Review application is not consistent with the DWDSG standards identified below for the reasons described. *[Planning staff shall identify each DWDSG standard that the Conformance Review application is not consistent with and the reason why the application is not consistent with such standard.]*

DWDSG Standard	Planning Staff Findings of Inconsistency

--	--

- (f) The project sponsor has completed the _____ Vertical Improvement _____ Open Space Compliance Checklist and demonstrated consistency with all applicable DWDSG guidelines or demonstrated that the subject application on balance generally promotes the design intent of the chapter objectives for the applicable guideline.

☐ Yes

☐ No. The Conformance Review application does not generally promote the design intent of the chapter objectives for the DWDSG guidelines identified below for the reasons described. *[Planning staff shall identify each DWDSG guideline that the Conformance Review application is not consistent with and the reason why the application does not promote the design intent of the chapter objectives.]*

DWDSG Guideline	Planning Staff Findings of Inconsistency

3. California Environmental Quality Act (CEQA)

☐ The Conformance Review application is consistent with the Downtown West Final Environmental Impact Report (EIR) and the proposed development will not result in new or more significant impacts than previously analyzed under the EIR. A Subsequent or Supplemental Environmental Impact Report is therefore not required.

☐ The Conformance Review application will result in new or more significant impacts and a Subsequent or Supplemental Environmental Impact Report is required.

4. Requests for Minor Modifications, Exceptions, Deferrals, and Amendments ***[If applicable]***

The Project Sponsor requested the following Minor Modifications, Exceptions, Deferrals and Amendments:

Requested Minor Modification, Exception, Deferral or Amendment	Planning Staff Recommendation
1.	<input type="checkbox"/> Approve (Standard of Review identified on GDP Sheet 8.02 has been satisfied) <input type="checkbox"/> Deny; see Attachment __ describing reasons for recommended denial.

2.	<input type="checkbox"/> Approve (Standard of Review identified on GDP Sheet 8.02 has been satisfied) <input type="checkbox"/> Deny; see Attachment __ describing reasons for recommended denial.
3.	<input type="checkbox"/> Approve (Standard of Review identified on GDP Sheet 8.02 has been satisfied) <input type="checkbox"/> Deny; see Attachment __ describing reasons for recommended denial.
4.	<input type="checkbox"/> Approve (Standard of Review identified on GDP Sheet 8.02 has been satisfied) <input type="checkbox"/> Deny; see Attachment __ describing reasons for recommended denial.

5. The Conformance Review application includes property within 100 feet of the riparian corridor of Los Gatos Creek or the Guadalupe River.

☐ Yes
☐ No

6. If yes, to Item 5 above, the Conformance Review application confirms that the Project will cause no significant impact to riparian corridors or riparian habitats, and therefore is consistent with applicable provisions of the Santa Clara Valley Habitat Plan.

☐ Yes
☐ No

RECOMMENDATION

Planning staff recommends:

- ☐ Approving the Conformance Review Application.
☐ Denying the Conformance Review Application. See Attachment __ describing reasons for denying the Conformance Review Application.

DIRECTOR OF PBCE DECISION

The Director of PBCE approves the Conformance Review Application for [Block / Open Space ____].

Appendix B
Conformance Review
Project Documents and Applicable City Regulatory Documents

Project Approvals and Documents

The Director of PBCE, Planning Commission, or Director of Public Works, as applicable, may refer to the following Project Approvals and Project Documents, as approved on May __, 2021 (and as such documents may be amended from time to time), during the Conformance Review process:

1. Final Environmental Impact Report for Downtown West Mixed-Use Project (Resolution No. __)
 - a. Mitigation Monitoring and Reporting Program
 - b. Statement of Overriding Considerations
 - c. CEQA Findings
2. Overruling the Airport Land Use Commission's Inconsistency Determination (Resolution No. __)
3. Envision San José 2040 General Plan (as amended in connection with the Project approved by Resolution No. __), vested as of May __, 2021
4. Diridon Station Area Plan (as amended in connection with the Project approved by Resolution No. __), vested as of May __, 2021
5. Downtown West Planned Development Zoning District and General Development Plan (Ordinance No. __)
6. Downtown West Planned Development Permit (Resolution No. __)
 - a. Downtown West Design Standards and Guidelines
 - b. Downtown West Improvement Standards
 - c. Conceptual Infrastructure Plan Sheets (for conceptual reference only, as the Conceptual Infrastructure Plan Sheets do not establish governing standards or designs)
 - d. Conformance Review Implementation Guide
7. Development Agreement for Downtown West Mixed-Use Plan (Ordinance No. __)
 - a. Affordable Housing Program (Exhibit D), including Schedules D2, D3 and D5
 - b. Parkland Agreement (Exhibit E)
 - c. Park Improvements Value and Costs (Exhibit E1)
 - d. City-Dedicated Open Space and Covenant Privately-Owned Publicly Accessible Open Space Approximate Acreage (Exhibit E2)
 - e. City-Dedicated Open Space Dedication and Improvements Schedule (Exhibit E3.1)
 - f. Park Dedication/Delivery Triggers Figure (Exhibit E3.2)
 - g. Design and Construction Requirements (Exhibit E5)
 - h. Parkland Dedication Tracking and Verification Table (Exhibit E7)
 - i. List of Required Exceptions from Parkland Dedication Ordinance (Exhibit E9)
 - j. Infrastructure Plan (Exhibit I)
 - k. Downtown West Parking Requirements (Exhibit K)
8. Title 20 of the San José Municipal Code, as amended May __ 2021 (Ordinance No. __), vested as of May __, 2021
9. Vesting Tentative Map for Downtown West (Resolution No. __)
10. Master Encroachment Permits (Resolution No. __)
11. Construction Impact Mitigation Plan (Resolution No. __)

12. [Partial Vacation of Portions of a portion of South Montgomery Street, Park Avenue, and Otterson Street with the Reservation of Public Easements Over the Vacated Area in Conjunction with the Downtown West Mixed-Use Plan \(City Council Resolution No. ____\)](#)
13. [Partial Vacation of Portions of South Montgomery Street with the Reservation of Public Easements Over the Vacated Area in Conjunction with the Downtown West Mixed-Use Plan \(City Council Resolution No. ____\)](#)
14. [Partial Vacation of Portions of Cinnabar Street with the Reservation of Public Easements Over the Vacated Area in Conjunction with the Downtown West Mixed-Use Plan \(City Council Resolution No. ____\)](#)
15. [Partial Vacation of Portions of Otterson Street with the Reservation of Public Easements Over the Vacated Area in Conjunction with the Downtown West Mixed-Use Plan \(City Council Resolution No. ____\)](#)
16. [Partial Vacation of Portions of Otterson Street with the Reservation of Public Easements Over the Vacated Area in Conjunction with the Downtown West Mixed-Use Plan \(City Council Resolution No. ____\)](#)

Other Vested Elements

The Director of PBCE, Planning Commission, or Director of Public Works, as applicable, may refer to the following Vested Elements during the Conformance Review process:

1. City of San José Municipal Code, amendments to the Municipal Code as set forth in Ordinance No. ____
2. Complete Streets Design Standards and Guidelines (May 2018)
3. San José Downtown Design Guidelines and Standards (as amended pursuant to a Director Update on ____)
4. Standard Details and Standard Specifications, adopted by City's Public Works Department (July 1992) ("1992 Standards"), subject to modifications in the Downtown West Improvement Standards

Additional Regulatory Documents

The Director of PBCE, Planning Commission, or Director of Public Works, as applicable, may refer to the following regulatory documents during the Conformance Review process:

1. Santa Clara Valley Habitat Plan
2. San José Green Stormwater Infrastructure Plan
3. County of Santa Clara Green Stormwater Infrastructure Handbook
4. California Manual of Uniform Traffic Control Devices
5. City of San José Public Streetlight Design Guide (2016)
6. Los Gatos Creek Trail Master Plan - Reach 5
7. Trail Signage Guidelines: City of San José Trail Program

Appendix C
Interim Use Application

Project Address:
Block / Lot:

Applicant Information:
Name:
Address:
Email Address:
Telephone:

Use Details

Name of Interim Business:
Name of Primary Contact / Responsible Party During Business Hours:
Telephone Number:
Location of Interim Use:
Duration of Interim Use:
Start Date:
End Date:
Total Number of Days:
Operating Hours:
Frequency of Interim Use within the window of authorization (ex. Every day, weekly, monthly, etc.):
Project sponsor/applicant is seeking:
☐ **Downtown West Use Certificate** ☐ **Downtown West Use Permit**

Please indicate which use(s) below best describes the proposed Interim Use (select all that apply)

Interim Uses Requiring a Downtown West Use Certificate:

- ☐ Mobile food carts
- ☐ Retail establishments, including pop-up retail and vendor markets
- ☐ Small scale conferences and educational events
- ☐ Food and beverage (an ABC permit shall be required if alcohol is served)
- ☐ Indoor and outdoor gym and workout area
- ☐ Surface parking to support permitted interim uses
- ☐ Parks and gardens: including pocket parks, dog parks, playgrounds, community gardens, or nurseries
- ☐ Community space

- ☐ Site management services, administrative functions, drop-in center and customer amenities
- ☐ Retail or sales office incidental to new development
- ☐ Art/Culture Exhibitions: including outdoors art galleries, installation art, sculpture park museums, immersive experiences, art installations.
- ☐ Workshop and studio space
- ☐ Temporary central utility plant, if located on Block E
- ☐ Educational and personal enrichment

Interim Uses Requiring a Downtown West Use Permit:

- ☐ Classroom / day-care, primary and/or secondary school
- ☐ Pre-school or school age educational activities, including but not limited to after-school day camp and summer camps
- ☐ Amusement: small festivals, circuses, amusement fairs and rides, musical and theatrical
- ☐ Concerts and performances, and other live entertainment
- ☐ Recreational facilities including urban beaches, riding center, or sports stadium
- ☐ Drinking establishments, and taproom or tasting rooms in conjunction with a winery, brewery or distillery
- ☐ On-site assembly and production of goods in enclosed or unenclosed temporary structures
- ☐ Storage facility, including battery storage
- ☐ Job training center

If other, please describe. Note: the use may not qualify for this application and may require additional review.

The proposed Interim Use is authorized under the General Development Plan pursuant to a ☐ **Downtown West Use Certificate** ☐ **Downtown West Use Permit**

Design Standards

The proposed Interim Use meets the building height and lighting and signage design standards in the General Development Plan (Sheet 4.04).

☐ **Yes** ☐ **No**

If no, please describe what does not comply.

Interim Use Application Submittal Requirements

☐ **NARRATIVE:** Please provide a description of the Interim Use, including as applicable: purpose, entertainment, food and any food preparation, beverages (including alcohol),

cleanup plan, any potential impacts on adjacent property, etc. The narrative should indicate whether amplified sound equipment will be used and whether the applicant is requesting that the City provide additional electric power.

☐ **SITE DIAGRAM:** Detailed drawing depicting the proposed layout and location within the Downtown West PD Zoning District, including the location of booths, tables, stages, tents, fences, lighting, dumpsters, signage, portable toilets as applicable. Diagram must also show adjacent streets and residential units, and indicate the linear feet from the event boundary to streets and residences.

☐ **CONCEPTUAL PLANS:** Provide conceptual plans that shows, as applicable: proposed buildings, structures or areas required for the Interim Use; location of existing and proposed on-site lighting fixtures; height and elevations of proposed building if applicable; location of on-site utilities and connection points; note all existing and proposed parking spaces, driveways/circulation elements, loading areas, and fences; and any temporary water services, wastewater services, or waste service.

☐ **ENVIRONMENTAL INFORMATION (For Downtown West Use Permit Only):** Provide information demonstrating the proposed Interim Use complies with the California Environmental Quality Act (CEQA).

☐ **PRIVATE PROPERTY LETTER (only applicable if applicant is not the property owner):** If the applicant is not the owner of the property where the Interim Use is located, the applicable shall provide a letter from the property owner (or an agent authorized by the owner) with this application. The letter should be on company letterhead acknowledging the property owner's approval of the proposed Interim Use, acknowledgement of the date, time, and activities scheduled to take place. Contact information (address, email, and phone) for this individual should be included in the letter.

☐ **OPERATION PLAN:** Provide an operation plan that identifies the days of operation, hours of operation, parking layout (if applicable), outdoor uses (if applicable), proposed maintenance plan for public streets and spaces if the Interim Use is located adjacent to a public street or space, security plan (e.g. whether additional security personnel are anticipated), any proposed closure of a public street, measures to prevent disturbing or unreasonable noise that may adversely impact neighboring properties, and whether alcohol and/or food service will be provided.

Declaration

As the authorized representative of the applicant, I hereby declare that the information contained in this application and attachment(s) is true, complete and correct to the best of my knowledge.

Applicant Signature:

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN JOSE AND GOOGLE LLC RELATIVE TO THE DEVELOPMENT OF PROPERTY LOCATED IN THE DIRIDON STATION AREA PLAN FOR THE DOWNTOWN WEST MIXED-USE PLAN AND AUTHORIZING THE CITY CLERK TO EXECUTE THE DEVELOPMENT AGREEMENT AND CAUSE THE SAME TO BE RECORDED WITH THE SANTA CLARA COUNTY RECORDER'S OFFICE

File No. _____

WHEREAS, the City Council of the City of San José ("City") adopted the Envision San José 2040 General Plan in 2011, which General Plan has been amended from time to time ("General Plan"); and

WHEREAS, the General Plan sets forth a vision and comprehensive road map to guide the City's continued growth through the year 2040 and includes land use policies to focus new growth capacity in strategically identified "Growth Areas" to facilitate the development of higher-density, mixed-use, urban districts that can accommodate employment and housing growth while reducing environmental impacts of that growth by promoting transit use and walkability; and

WHEREAS, the General Plan identifies Downtown San José as a key "Growth Area" and includes policies intended to support the development of Downtown consistent with the City's economic, fiscal, environmental, and urban placemaking goals; and

WHEREAS, the City adopted the Diridon Station Area Plan ("DSAP") in 2014, which is a component of the General Plan and implements the goals and policies of the General Plan within the DSAP area while also addressing issues that are unique to the development of the DSAP area; and

WHEREAS, since the City's adoption of the DSAP in 2014, the City engaged in a community outreach process regarding the community's vision for the DSAP, resulting in several key changes, prompting the City to propose certain amendments to the DSAP, which the City is processing separately from the Project-specific DSAP amendment; and

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

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

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

WHEREAS, since October 7, 2020 Google has submitted updated Project applications in response to public comments and discussions with City staff for the General Plan Amendment; DSAP Amendment; rezoning to a Planned Development Zoning District,

including a General Development Plan; a Planned Development Permit consisting of the Downtown West Design Standards and Guidelines, Downtown West Improvement Standards, Conceptual Infrastructure Plan Sheets, and Downtown West Conformance Review Implementation Guide; Infrastructure Plan; amendment to the Historic Preservation Permit; Vesting Tentative Map; and development agreement; and

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, the Project, which is located within the Downtown Growth Area Boundary and within the boundaries of the DSAP (as such boundaries are amended by Resolution No. __), advances the shared vision and the shared goals identified in the MOU by optimizing density and a mix of land uses, preserving existing housing and creating new housing, creating broad job opportunities, pursuing equitable development, enhancing and connecting the public realm, pursuing excellence in design, enhancing sustainability

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

WHEREAS, on December 30, 2019, Governor Gavin Newsom certified the Project 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

[**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), as well as over 100 community outreach events that provided the public with the opportunity to review the Project through a combination of in-person and digital engagement with residents, neighbors, business owners and employees, construction trades, and other stakeholders that included: public design workshops; booths at local and regional community events; presentations to and discussions with local neighborhood, business, and community/special interest associations and organizations; focus group discussions; engagement with faculty and students at local universities and schools; and other large and small events reaching communities within and around the Project site; and

WHEREAS, the City and Google negotiated a development agreement for the Project (the "Development Agreement"), a copy of which is on file with the City Clerk and is by this reference adopted and incorporated into this Ordinance the same as if it were fully set forth herein; and

WHEREAS, the Development Agreement establishes the rights and obligations of Google and the City relating to the development of the Project, secures Google's vested right to develop the Project in accordance with the requirements of the Development Agreement, and establishes community benefits and public benefits that the Project will provide, including Google's obligations pursuant to the Parkland Agreement, as required under the City's Parkland Dedication Ordinance (San José Municipal Code Ch.19.38), to satisfy Google's Parkland Dedication Obligation for the Project; and

WHEREAS, on April 28, 2021, the Planning Commission of the City of San José held a duly noticed and advertised public hearing to receive oral and written testimony regarding the Development Agreement and to make a recommendation to the City Council regarding the approval or disapproval of the Development Agreement; and

WHEREAS, on ____2021, the City Council of the City of San José held a duly noticed and advertised public hearing to receive oral and written testimony regarding the Development Agreement and to consider the Planning Commission's recommendation; and

WHEREAS, the Project and the approvals described herein, including the actions contemplated under this Ordinance, were the subject of that certain Final Environmental Impact Report for the Downtown West Mixed-Use Plan ("FEIR"); and

WHEREAS, this City Council of the City of San José has considered, approved, and certified said FEIR and adopted related findings, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations under separate Resolution No. ____ on ____, 2021, prior to taking any approval actions on the Project; and

WHEREAS, in conjunction with this Ordinance, City Council has taken or intends to take a number of actions in furtherance of the Project, including approval of: an override of the Santa Clara County Airport Land Use Commission's Comprehensive Land Use Plan inconsistency determination (Resolution No. ____); amendments to the General Plan

(Resolution No. ____); amendments to the DSAP (Resolution No. ____); Planned Development Rezoning, including a General Development Plan (Ordinance No. ____); a Planned Development Permit (Resolution No. ____); amendments to Title 20 of the San Jose Municipal Code (Ordinance No. ____); approval of a Vesting Tentative Map (Resolution No. ____); approval of amendments to the boundaries of Historic Landmarks (San Jose Water Company at 374 West Santa Clara Street and 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. ____); approval of a Construction Impact Mitigation Plan (Resolution No. ____); and approval of partial vacation of certain streets within Downtown West (Resolution Nos. _____); and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed Development Agreement;

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

SECTION 1. This Ordinance is adopted under the authority of California Government Code Section 65868 et seq. ("Development Agreement Statute") and pursuant to the provisions of Chapter 18.02 of the San José Municipal Code ("Development Agreement Ordinance"), both of which provide for the ability of the City to adopt development agreements and set forth procedures and requirements for the consideration of those agreements.

SECTION 2. This Ordinance incorporates by reference as though fully set forth herein that certain Development Agreement by and between the City of San José and Google LLC, the substantive form of which is attached hereto as Exhibit A.

SECTION 3. Environmental Findings.

- A. The City is the lead agency for the Project and has prepared the Final Environmental Impact Report for the Project pursuant to and in accordance with the California Environmental Quality Act ("CEQA"), which Final Environmental Impact Report is comprised of the Draft Environmental Impact Report for the Project ("Draft EIR") and all appendices thereto, comments and responses to comments on the Draft EIR (collectively, all of said documents are referred to herein as the "FEIR").
- B. On April 28, 2021, the Planning Commission of the City of San José reviewed the FEIR and recommended to the City Council that it find the environmental review for the Project, including the actions contemplated in this Ordinance, was completed in compliance with CEQA.
- C. On _____, 2021, the City Council independently reviewed and analyzed the FEIR and other information in the record, and adopted Resolution No. ____, certifying the FEIR and adopting findings under CEQA, including the adoption of the Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations in connection with the Project, which resolution is on file with the Director of Planning, Building and Code Enforcement at the Director's office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113.

SECTION 4. Consistency Findings.

Based upon the foregoing facts, findings, and conclusions, and as required by the Development Agreement Ordinance, the City Council hereby adopts the following as its findings:

- A. The proposed development is consistent with the General Plan, as amended, and all applicable specific or area plans of the City including amendments thereto.

1. General Plan Consistency.

The General Plan land use designations for the area subject to the Development Agreement are Downtown and Commercial Downtown, pursuant to the General Plan Amendment approved by Resolution No. ____ for the Project. 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 a floor-area ratio (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 a FAR up to 15.0. The Project is consistent with the designation of the site in the applicable General Plan, as amended by Resolution No. ____.

The City Council further finds that the Project is consistent with the General Plan for the reasons set forth in Exhibit B to Resolution No. __ approving the General Plan Amendment, which findings are incorporated herein by reference.

2. Diridon Station Area Plan Consistency. The subject site is within the boundaries of the Diridon Station Area Plan ("DSAP") as amended by Resolution No. _____. The Project is consistent with the following key DSAP goals:

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

The Project consists of a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood and destination. The development program optimizes development density, which consists of up to 7.3 million gsf of commercial office space; up to 5,900 residential units; up to 500,000 gsf of

active uses (commercial retail/restaurant, arts, cultural, live entertainment, community spaces, institutional, childcare and education, maker spaces, non-profit, and small-format office space); up to 300 hotel rooms; up to 800 limited-term corporate accommodations; up to 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 the

Development Agreement establishes a Required Parking Ratio for commercial/public parking. 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.

- B. The proposed development should be encouraged in order to meet important economic, social, environmental or planning goals of the City.

The development of the Project site in accordance with the Development Agreement and other Project approvals will further Major Strategy #9 of the General Plan to support continued growth in Downtown San José as a unique and important employment and residential neighborhood, and will help realize the City's goals to provide housing, jobs, urban revitalization, and economic benefits to the City. The Project will provide significant housing, jobs, urban revitalization, environmental, and economic benefits to the City, including but not limited to the following:

1. The Project provides a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood and destination that enhances connections to nature, surrounding neighborhoods, and the greater Bay Area region, by strengthening links to Downtown and surrounding neighborhoods.
2. The Project is anticipated to generate tens of thousands of permanent jobs across a range of skills and income levels, including high wage, highly skilled jobs, implementing the General Plan's goals of attracting and sustaining a growing concentration of companies to serve as the economic engine for San Jose. The Project 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), and approximately nine million (\$9,000,000) in projected net new General Fund revenues to the City 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.

3. The Project will increase the amount of housing contemplated on-site by over six times the amount currently permitted, supporting the City's goal of becoming more "jobs rich" while simultaneously increasing housing production.
4. The Project will provide a robust affordable housing program through a combination of mechanisms, such as land dedication, moderate income inclusionary housing units, development fees, and other funding sources for affordable housing production and preservation, all of which will contribute significantly to the goal of achieving twenty-five percent (25%) affordable housing overall within the DSAP boundary.
5. The Project will include development of approximately 15 acres of new publicly accessible parks, open space, and trails, including approximately 4.8 acres to be improved and dedicated to the City, and approximately 10.2 acres of Privately-Owned Publicly Accessible Open Space.
6. The Project will improve access to nature in the heart of San José's urban center, with the creation of over 4.25 acres of enhanced riparian habitat.
7. The Project will provide new bike and pedestrian infrastructure and enhanced access to public transit, which includes new pedestrian passageways and trail extensions, new and improved bikeways, and new street extensions, as part of the Project's approximately eight hundred ninety million dollar (\$890,000,000) investment in infrastructure improvements.

8. The Project supports and exemplifies the City's ambitious climate targets through a commitment to carbon-free energy and net zero greenhouse gas emissions for construction and thirty years of operation, 65 percent (65%) non-single-occupancy vehicle trips by the time adjacent transportation infrastructure is fully delivered, 7.8 megawatts of on-site solar energy generation, and a shared district utilities system that reduces the physical footprint of infrastructure while significantly improving efficiency.
9. The Project provides a Limited Term Corporate Accommodations Affordable Housing Contribution and a Limited Term Corporate Accommodations Parks Contribution for the limited term corporate accommodations use proposed by the Project, a use akin to corporate suites that would accommodate Google employees for up to 60 days as further defined in the General Development Plan approved by Ordinance No. __, and as further set forth in the Development Agreement. Notwithstanding anything to the contrary in the Municipal Code, the Limited Term Corporate Accommodations Affordable Housing Contribution and a Limited Term Corporate Accommodations Parks Contribution shall constitute the full extent of fee liability owed by the Project Sponsor to the City in connection with the development, use, and operation of the limited term corporate accommodations.
10. The Project will provide workforce commitments, including payment of prevailing wage, local hire goals, and volunteer, career and development opportunities with community-based organizations.
11. The Project will provide funding for a Community Stabilization and Opportunity Pathways Fund spanning the interdependence between housing, education and job access, with a focus on social equity and serving underserved and historically underrepresented students, families, and adults. The fund will support programs like affordable housing preservation, homeless prevention, and homeless services, as well as education, workforce development, small business resilience and entrepreneurship, and is structured to involve

community participation in the grantmaking process, as further described in Exhibit H of the Development Agreement.

The City has therefore determined that, Google LLC shall constitute a qualified “applicant/developer” for purposes of Chapter 18.02, Section 18.02.050 and as a result of the development of the Project in accordance with this Agreement, additional clear benefits to the public will accrue that could not be otherwise obtained through application of existing City ordinances, regulations, and policies.

C. The development agreement would facilitate the development of the subject property in the manner proposed.

The Development Agreement will facilitate the development of the Project Site in the manner proposed. The Development Agreement, which provides Google with the vested right to develop the Project as set forth in the Development Agreement and as authorized by the Project approvals and documents, including but not limited to the Downtown West Planned Development Rezoning, which includes the General Development Plan (Ordinance No. ____), Downtown West Planned Development Permit (Resolution No. ____), Vesting Tentative Map (Resolution No. __) and approval of Major Encroachment Permits (Resolution No. ____), will eliminate or significantly diminish uncertainty in the orderly development and planning of the Project site. Development of the Project is intended to occur in phases, and the General Development Plan authorizes and establishes the Downtown West Planned Development Zoning District Design / Conformance Review (“Conformance Review”) process, a subsequent review process for the design and development of Vertical Improvements, Open Space Improvements, and Horizontal Improvements (as defined in the Development Agreement) within the Downtown West Planned Development Zoning District. The Conformance Review process, which is further detailed in the Conformance Review Implementation Guide (Implementation Guide) facilitates the phased development of the Project by identifying submittal application requirements for future phased

design applications and City review timelines to advance the City's and Google's shared goal of timely implementation of the Project.

D. The proposed development meets all of the findings listed for criteria a. or b. or c. below.

a) i. The developer will incur unusually substantial costs in order to provide public improvements, facilities or services from which the public will benefit; and

Google will incur unusually substantial costs in order to provide public improvements, facilities, or services from which the public will benefit, such as new bike and pedestrian infrastructure and enhanced access to public transit and improvements to aging public infrastructure (e.g., utilities, bridges), pedestrian bridges, rehabilitation of natural waterways as part of the Project's approximately eight hundred ninety million dollar (\$890,000,000) investment in infrastructure improvements. The amount does not include discretionary infrastructure related costs for other Project features, including a "District Systems" approach to delivery of on-site utilities, including designated infrastructure zones with up to two on-site centralized utility plants totaling up to 130,000 gsf. The Project will provide a robust affordable housing program through a combination of mechanisms, such as land dedication, moderate income inclusionary housing units, development fees, and other funding sources for affordable housing production, all of which will contribute significantly to the goal of achieving twenty-five percent (25%) affordable housing overall within the DSAP boundary. At full buildout, the project will also provide for the development of approximately 15 acres of new publicly accessible parks, open space, and trails, including approximately 4.8 acres to be fully improved and dedicated to the City and approximately 10.2 acres of Privately-Owned Publicly Accessible Open Space.

ii. The developer has made commitments to a very high standard of quality and agreed to development limitations beyond that required by existing city zoning code

Google has made commitments to a very high standard of quality, and has agreed to development obligations and requirements beyond those required by the existing San José Zoning Code. The specific land use regulations and development standards for development within the Downtown West Planned Development Zoning District are reflected in the Downtown West General Development Plan ("GDP"), which establishes the permitted uses, development standards, and use regulations applicable to development within the Downtown West Planned Development Zoning District and guides the content of the Downtown West Planned Development Permit. The Downtown West Planned Development 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"). The DWDSG establishes objective and performance based standards and qualitative and subjective guidelines that implement the vision for Downtown West. Development of Downtown West is also subject to the DDG and CSDSG standards and guidelines unless a DDG or CSDSG standard or guideline is superseded by the DWDSG. The DWIS describes the standards and specifications used to evaluate horizontal improvements within the Downtown West Planned Development 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 Standards. The Downtown West Planned Development Zoning District is individually designed to meet the needs of the subject property. The use regulations and design standards facilitate the development of the Project and optimize density and a

complementary mix of land uses, preserve existing housing and create new housing, create broad job opportunities, enhance and connect the public realm, while pursuing excellence in design, enhancing sustainability and innovation.

- b) The development will make a substantial contribution to the economic development of the city in that it:

- i. Will create new, net permanent jobs located within the City, will create substantial new, net revenues for the city, or will retain a substantial number of existing permanent jobs within the city; and

The Project will create new, net permanent jobs within the City and will create substantial new net revenues for the City. The Project is anticipated to generate up to an annual average of 5,700 construction jobs during construction and, upon completion, approximately 29,000 office employees and 2,000 non-office employees. At full build out, it is anticipated the Project will also create substantial new net revenue to the City in the amount of approximately \$9 million in General Fund revenues annually 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.

- ii. Is located on a legal parcel of at least five acres; or

The Project Site is located on real property that exceeds five acres. The site is located in the General Plan Downtown Growth Area Boundary and within the boundaries of the Diridon Station Area Plan (as amended by Resolution No. ____). The 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.

E. The subject development agreement is consistent with this chapter.

For the reasons set forth above, the City finds that the Development Agreement and all attached exhibits, including but not limited to the Affordable Housing Program (Exhibit D), Parkland Agreement (Exhibit E), Community Stabilization and Opportunity Pathways Fund (Exhibit H), and Infrastructure Plan (Exhibit I), are consistent with the Development Agreement Ordinance.

SECTION 5. Development Impact Fees, Housing Requirements and Municipal Code Conformity.

- A. For the Project, the Council approves the development impact fees and other methods of satisfying the code's requirements with respect to development impact fees or housing requirements as set forth in the Development Agreement and waives any inconsistent provision in the [Municipal Code] Chapters 5.08 (inclusionary Housing), 5.11 (Commercial Linkage Fee), 14.35 (Diridon Station Area Basic Infrastructure Fee Requirements), and 19.38 (Parkland Dedication).
- B. For the Project, the Council approves the Project Inclusionary Housing Ordinance Implementation Guidelines and the Form of Affordability Restrictions attached to the Development Agreement at Exhibit D, Schedules D2 and D3 respectively, and such Schedules shall constitute the guidelines and restrictions applicable to the Project's inclusionary housing described in Exhibit D to the Development Agreement.

SECTION 6. Exceptions from Parkland Dedication Ordinance.

A. Pursuant to San Jose Municipal Code Sections 19.38.300 and 19.38.410, the developer is entering into a parkland agreement with the City that describes the manner in which the developer will satisfy the requirements of the City's Parkland Dedication Ordinance (San José Municipal Code Ch. 19.38) and otherwise meet the intent of its provisions. As described in the Parkland Agreement set forth in Exhibit E of the Development Agreement and the List of Required Exceptions from Parkland Dedication Ordinance set forth in Exhibit E9, certain exceptions from the Parkland Dedication Ordinance (San José Municipal Code Ch. 19.38) are necessary in order to provide the City-Dedicated Open Spaces, Park Improvements, and private recreation improvements in the manner set forth in the Development Agreement and Parkland Agreement. The exceptions are an exception from Municipal Code Section 19.38.300(A) to allow completion of the City-Dedicated Open Spaces in accordance with the schedule set forth in Exhibits E3.1 and E3.2 to the Development Agreement; and from the Section 19.38.330(B) requirement that real property conveyed to the City be dedicated free and clear of encumbrances, in order to allow for utilities and emergency vehicle access through and under the City-Dedicated Open Spaces to serve adjacent buildings, for emergency vehicle access easements to serve Project buildings and/or DISC Agency facilities, and for easements to allow for development of the Social Heart City-Dedicated Open Space above a subterranean parking garage. The Development Agreement is approved with the exceptions set forth in Exhibit E9.

SECTION 7. Municipal Code Conformity.

The Development Agreement shall prevail if there is any conflict between the Development Agreement and Chapter 18.02 (Regulations for Development Agreements), and without limiting the generality of the foregoing clause:

A. The provisions of the Development Agreement regarding any amendment, including those relating to "Material Change," shall control in the event of any

conflict with the provisions of Chapter 18.02, Sections 18.02.250, 18.02.410, 18.02.420, and 18.02.430.

- B. The provisions of the Development Agreement regarding any default, termination or compliance review shall control in the event of any conflict with the provisions of Chapter 18.02, Sections 18.02.260, 18.02.300, and 18.02.420.

SECTION 8. Approval and Authorization

- A. The City Council hereby approves the proposed Development Agreement in substantially the form attached hereto as Exhibit A, and authorizes and directs the City Clerk to execute the Development Agreement, substantially in the form attached hereto as Exhibit A, on behalf of the City as soon as this Ordinance becomes effective.
- B. The City Council finds that the Development Agreement substantially complies with the requirements of the Development Agreement Ordinance and the Development Agreement Statute.
- C. The City Council hereby approves all exhibits attached to the Development Agreement, including but not limited to the Affordable Housing Program (Exhibit D), the Parkland Agreement (Exhibit E), Infrastructure Plan (Exhibit I), and Community Stabilization and Opportunity Pathways Fund (Exhibit H).
- D. The City Council hereby authorizes the City Clerk, in consultation with the City Attorney, to (i) execute the Parkland Agreement (Exhibit E to Development Agreement) in substantially the form attached to the Development Agreement; and (ii) execute the Transfer Agreements and the transfer agreement for the Autumn Street Parcels.

E. The City Council hereby (i) authorizes the City Manager or their designee to negotiate and execute a Reimbursement Agreement with Google, Inc. consistent with the terms set forth in the Term Sheet attached as Schedule A to the Development Agreement, and (ii) delegates the authority to the City Manager or designee to negotiate and execute amendments to the Reimbursement Agreement.

E.F. Final versions of the Development Agreement shall be provided to the City Clerk for inclusion in File No. ____ within thirty (30) days after execution by all parties.

F.G. The City Council hereby authorizes all subsequent action to be taken by City officials consistent with this Ordinance.

SECTION 9. The City Clerk is hereby directed to record this Ordinance including the fully executed form of the Development Agreement attached hereto as Exhibit A with the Santa Clara County Recorder no later than ten (10) days following the effective date of this Ordinance.

SECTION 10. This Ordinance shall take effect thirty (30) days after adoption.

PASSED FOR PUBLICATION of title this ____ day of May ____ 2021, by the following vote:

EXHIBIT A

**DOWNTOWN WEST MIXED USE PLAN
DEVELOPMENT AGREEMENT**

DRAFT

**Downtown West
Construction Impact Mitigation Plan**

May~~April~~ 2021

Prepared for:

City of San Jose
200 E Santa Clara St
San Jose, CA 95112
USA

Prepared by:

Google LLC
1600 Amphitheatre Parkway
Mountain View, CA, 94043

Project Team Contact:

Duanne Gilmore - duanne@google.com +1 650-499-1168

Preface:

A CIMP will be submitted for each phase or individual horizontal, vertical or open space project within the Downtown West project area ("Subsequent CIMP").

The Subsequent CIMP for each project or phase of a project will be submitted to the City in accordance with the following timing:

- For horizontal infrastructure projects or phases the Subsequent CIMP will be submitted to the City in draft at the 65% horizontal infrastructure design submission and finalized for the Encroachment Permit issuance.
- For vertical projects within a parcel or phase that has an existing Subsequent CIMP covering any impact to the surrounding right of way, the Subsequent CIMP specifically covering the impacts of the vertical construction will be submitted in draft at the Building Permit application and finalized for the Building Permit issuance.
- For Open Space projects, if not submitted as part of a vertical or infrastructure submission, the Subsequent CIMP will be submitted in draft at Building Permit Application, and finalized for the Building Permit issuance.

This framework document is intended to provide guidance for the content of each Subsequent CIMP. The project information contained within this CIMP is derived from the EIR. As the specific timing and construction methodologies for each project are not yet known, this document cannot provide a description of the project impacts and mitigations at this stage.

A Recommended Temporary Traffic Control Plan (RTTCP), developed in accordance with San Jose's standards, is to be included as an Appendix to each Subsequent CIMP. Traffic impacts identified in a RTTCP will be addressed in the Subsequent CIMP.

Each Subsequent CIMP may supersede an earlier plan, as each phase or sub-project is commenced. If so, this is to be noted within each Subsequent CIMP.

A. Project Description

City's CIMP Policy: A detailed project description, including site maps and a phasing schedule depicting the proposed location and timing of construction activity on a month-by-month basis for the duration of the project.

Executive Summary

[This section will provide a broad description of the whole Downtown West project. Particularly for the earlier Subsequent CIMP submissions, it will not be possible to provide a full and detailed description of work on every subsequent site and within every geographical area of the Downtown West project, as each individual building may not have completed the design phase. The Project will provide all details known of the respective project to inform the City of the overall approach to construction on the respective sites.]

Google LLC, the project applicant, is proposing the Downtown West Mixed-Use Plan (proposed project) as part of the company's expansion of its workforce and business operations in the Bay Area. To address workforce growth and create more efficient transportation linkages between the Google workplace and employees' homes, the proposed project is located in the Envision San José 2040 General Plan (General Plan) Downtown Growth Area and largely within the boundaries of the City of San José's (City's) Diridon Station Area Plan (DSAP), 1 which envisions a new high-density job center anchored by public transportation. The proposed project would include a mix of uses generally consistent with the General Plan and DSAP, providing for a mixed-use Downtown neighborhood.

The proposed project consists of the demolition of most existing buildings on the project site and phased development of new buildings on approximately 81 acres on the west side of Downtown San José.

The proposed project would include development of the following uses:

- A maximum of 7.3 million gross square feet (gsf) of commercial office space
- A maximum of 5,900 residential units
- A maximum of 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community center, institutional, childcare and education, maker spaces, non-profit, and small-format office space)
- A maximum of 300 hotel rooms
- A maximum of 800 limited-term corporate accommodations (lodging of company workforce for not more than 60 consecutive days and not open to the public; considered a non-residential use)
- A maximum of 100,000 gsf of event and conference space
- On- and off-street public/commercial and residential parking
- A district systems approach to delivery of on-site utilities including designated infrastructure zones with 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. Various 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.

Scope of work described by this CIMP

[In this section, we will describe the extent of work that is the subject of a particular Subsequent CIMP. This is necessary because the project will be divided into a number of phases and sub-projects by geographical area. Therefore, there will be multiple Subsequent CIMP submissions covering the different phases of the project.]

Each Subsequent CIMP will be submitted for approval to the City in accordance with the timing stated in this CIMP. The applicant would therefore be able to demonstrate that it has an approved Subsequent CIMP when submitting an encroachment permit application for each phase of work.]

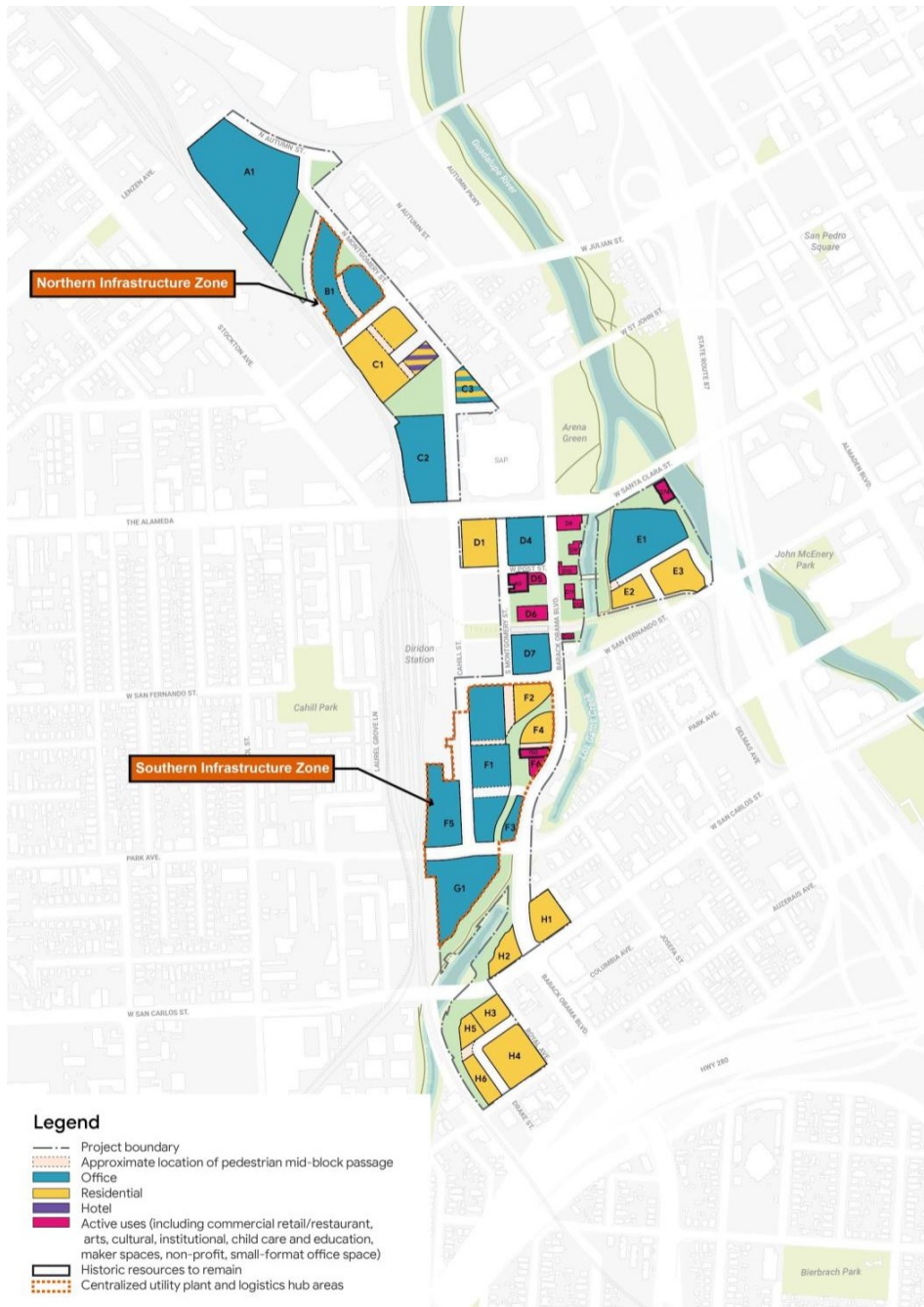
Site Map

[This will show the overall Downtown West project area, and then highlight the specific geographical area that is the subject of this particular CIMP. It will also show any previously submitted/approved CIMP areas.]

The project area is located in the western portion of Downtown San José, mostly within the DSAP. (The DSAP boundary would be amended to include the previously entitled project area west of Barack Obama Boulevard (formerly South Autumn Street) between West Santa Clara Street and West San Fernando Street.)

The figure below shows the project site 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 Royal Avenue to the east; Auzerais Avenue to the south; and Diridon Station and the Caltrain rail tracks to the west. Cahill Street fronts Diridon Station and runs generally parallel to the rail tracks in the project's central area.

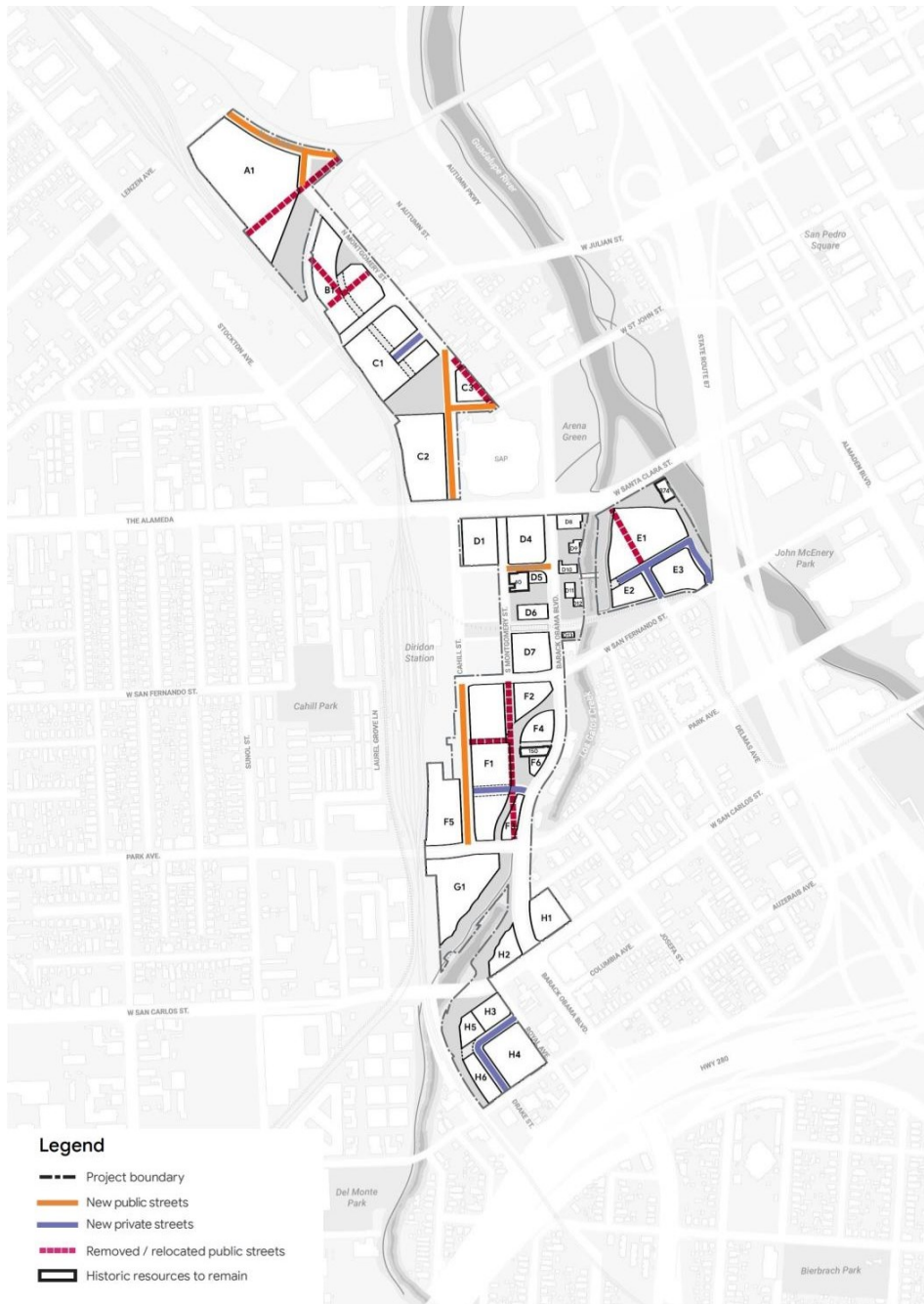
The site is approximately 1 mile long from north to south and generally less than 800 feet wide from east to west, although the site reaches nearly 1,500 feet from east to west at its widest, just south of West Santa Clara Street.



The project applicant proposes to extend portions of certain streets across the project site and remove sections of other streets (refer to the figure below). Notably, the proposed project would extend Cahill Street from its current terminus at West Santa Clara Street to North Montgomery Street in the north and from West San Fernando Street to Park Avenue in the south to enhance north-south connectivity throughout the length of the project site. North of the SAP Center, West St. John Street would be extended to connect with the extended Cahill Street. North of the UPRR tracks, circulation would be reconfigured with a perimeter street framing new development. The project would also create a new block-long east-west extension of Post Street between South Montgomery and Barack Obama Boulevard. Privately owned but generally publicly accessible streets would be added in the form of a Ring Road extending west from the intersection of North Montgomery and Cinnabar Street around the rear (west) of Block A1, connecting to the former Lenzen Avenue right-of-way north of Block A1 and to a new public street along the east side of Block A1; west from North Montgomery Street within Block C1; north from West San Fernando Street along the alignment of Delmas Street between Blocks E2 and E3 and turning east to the Guadalupe River; and an L-shaped street linking Royal Avenue and Auzerais Street (between Blocks H3 and H4).

Limited-access private streets providing primarily service and loading access would include a street that would run north of West San Fernando Street and parallel to Delmas Avenue at the eastern border of the project site and a connection between Cahill Street and Barack Obama Boulevard north of Park Avenue (through Block F1).

The proposed project would remove a number of street segments within the project site: Cinnabar Street west of North Montgomery Street, North Montgomery Street between West St. John and Cahill Streets, Delmas Avenue between West Santa Clara and West San Fernando Streets, South Montgomery Street between West San Fernando Street and Park Avenue, and Otterson Street west of South Montgomery Street. The southern portion of the segment of Delmas Avenue to be removed as a through street would be reconfigured as a private street north of West San Fernando Street, between Blocks E2 and E3, as noted above; this private street would provide parking access and egress to and from the proposed development on the E blocks. In addition, as a flood control improvement, the project applicant proposes to replace the existing Los Gatos Creek bridge along San Fernando Street with a new bridge in approximately the same location. This off-site improvement would not affect the circulation system, except temporarily during construction.



Phasing Schedule

[In this section, we will provide a phasing schedule for the particular area that is the subject of this CIMP. We do not intend to provide a phasing schedule for the entire Downtown West project with any of these individual CIMP submissions, as the overall project schedule and phasing sequence of particular buildings and geographical areas is subject to change. It is important to maintain this flexibility and to provide relevant information to the City with appropriate durations for review and comment.]

The phasing schedule to be included with each Subsequent CIMP shall depict the location and timing of construction activity within the geographical area described by a particular Subsequent CIMP, on a month-by-month basis for the duration of the works within that area.]

The construction of the project's proposed buildings, street network changes, and infrastructure would occur in multiple phases and sub-projects. The duration of each phase of construction would vary, with the end of one phase and the start of the subsequent phase sometimes overlapping one another.

The timing of construction of buildings and other project components within each phase may shift due to market conditions or other external factors. The specific type of construction work would also vary by phase, but would generally consist of the following sequence for each of the three phases:

1. Demolition and site clearance
2. Excavation and soils removal (and remediation, as needed)
3. Foundation and/or basement level/garage work; utilities and subsurface infrastructure
4. Vertical construction
5. Surface street/right-of-way work
6. Streetscape and open space improvements

Construction Methodology

[This section will describe the general nature of the construction work within the area covered by each project of phase CIMP, and the methodology to be employed. It is not possible to describe at this stage, as the vertical and horizontal works are not yet designed. Details of the construction methodology will be provided with each Subsequent CIMP submission as outlined in the Preamble.]

B. Potential Physical, Environmental and other Impacts

City's CIMP Policy: A detailed analysis of the potential physical, environmental and other impacts of the construction activities on residents and businesses within a thousand (1000) foot radius of the project. The Subsequent CIMP may incorporate by reference the analysis of physical and environmental impacts identified in any document prepared for the project pursuant to the California Environmental Quality Act.

Physical Impacts

[In this section, we will describe the physical impacts of the work that is the subject of this CIMP.]

Environmental Impacts

[In this section, we will describe the environmental impacts of the work that is the subject of this CIMP.]

Other Impacts

[In this section, we will describe any other impacts of the work that is the subject of this CIMP.]

C. Mitigation Measures

City's CIMP Policy: A detailed description of the mitigation measures proposed to be undertaken by the contractor or the project owner to mitigate each of the impacts identified to the extent practicable. The Subsequent CIMP may incorporate by reference the mitigations of physical and environmental impacts proposed in any document prepared for the project pursuant to the California Environmental Quality Act.

Mitigation of Physical Impacts

[In this section, we will describe the mitigation measures to be employed to minimize the physical impacts of the work that is the subject of this CIMP.]

Mitigation of Environmental Impacts

[In this section, we will describe the mitigation measures to be employed to minimize the environmental impacts of the work that is the subject of this CIMP.]

Mitigation of Other Impacts

[In this section, we will describe the mitigation measures to be employed to minimize any other impacts of the work that is the subject of this CIMP.]

Note: *For ease of reference, the mitigation section may be combined with the impact section, such that each impact can be described with its mitigation measure clearly outlined alongside. This may be communicated by means of a table if this provides increased clarity.*

Reference shall be made to the Downtown Construction Guidelines, and how the project will comply with this document. Where a particular impact can be mitigated appropriately by compliance with a section of the Guideline, reference to that section shall be stated herein, and compliance with that Guideline will be required.]

D. Communications Plan

City's CIMP Policy: A detailed Communications Plan outlining the steps that will be taken by the contractor and the project owner during the course of construction of the project to alleviate the identified impacts, which shall include, but not be limited to the following:

- 1. A schedule of regular meetings with the surrounding businesses throughout the course of construction;*
- 2. A display of maps and construction schedule information posted in and around the*

- construction area;
3. A schedule of meetings with the surrounding community, emphasizing the market area of the impacted businesses;
 4. A schedule of regular meetings to coordinate with any other construction project within 500 feet of the project; and
 5. Nominate a Community Outreach Coordinator for the project.

[The project proponent commits to providing a Communication Plan in accordance with the requirements outlined above. This will be updated and provided with each Subsequent CIMP submitted.]

In this section, we will provide a general overview of the Communication Plan for the overall Downtown West project, and then a more descriptive plan that addresses the geographical area and any stakeholders specifically affected by the area of work described in a particular Subsequent CIMP. The sections shall include:

Downtown West Communication Plan - General Overview

[We will provide a general overview of the Communication and Stakeholder Management plan for the whole Downtown West project, so that the City understands how this particular Subsequent CIMP strategy fits within the overall plan.]

Specific Communication Plan for this CIMP

[Describe the geographical area of each Subsequent CIMP and any key differences or focus areas from the overall Downtown West plan. This section will address:

1. Schedule of Meetings with Surrounding Businesses & SAP Center

[Provide a schedule of regular meetings with surrounding businesses that extends throughout the course of construction of the works subject of each Subsequent CIMP, addressing all key business stakeholders, and provide a proposed agenda for these meetings. A schedule of regular meetings will be established with the management and ownership of the SAP Center, the Downtown Business Association and other identified key stakeholders.]

2. Schedule of Community Meetings

3. Location of Information Boards

[Show by means of a site plan the locations for display of project information on approved posters, displaying construction schedule information and the contact details of a project information line.]

4. Schedule of Public Meetings

[Provide a schedule of regular meetings with the general public that extends throughout the course of construction of the works subject to this CIMP, and provide a proposed agenda for these meetings.]

5. Coordination with Other Construction Projects

[In this section, we will show a map of any other construction projects underway or likely to commence during the construction duration that are within 500 feet of the work area the subject of this CIMP. We will provide a brief overview of our understanding of those projects, and outline a schedule of meetings for coordination with those projects.]

E. Potential Impacts to Businesses

City's CIMP Policy: The potential impacts to businesses within a 1,000 foot radius of the Project that shall be addressed in the CIMP, if applicable, shall include:

- 1. Impacts on patronage due to impediments to pedestrian and vehicular access, visual impediments to signage loss of on street parking, or perceived safety issues;*
- 2. Forced temporary business closure due to loss of utilities, loss of access for patrons and employees, loss of access for services such as deliveries or garbage service, or perceived safety issues;*
- 3. Forced permanent business closure due to permanent loss of pedestrian or vehicular access.*

[In this section of the CIMP, we will describe all known impacts to businesses within a 1,000 foot radius of the area that is the subject of this CIMP. Sub-sections will include:

Impacts on Patronage

[In this section we will describe the investigations undertaken into the surrounding businesses, and what the Developer expects may be the impact to patronage as a result of the work in the subject area. We will also specifically outline any measures that we intend to take to mitigate impact to the affected businesses.]

Temporary Closures

[We will describe any temporary closures required to businesses that result from work in the subject area, and explain why. We will explain why the temporary closure is necessary and unavoidable.]

Permanent Closures

[In this section, we will describe any permanent closures required to businesses that result from work in the subject area, and explain why. We will explain why the permanent closure is necessary and unavoidable.]

Relocation of Businesses

[In this section, we will describe any initiatives that the Developer is taking to relocate businesses either within the Downtown West project area, or to another receiver site.]

Schedule of meetings with Downtown Business Association

[In this section, we will provide a schedule of meetings with the Downtown Business Association, and a commitment to meet with the Association at an agreed frequency.]

Parking Space Assessment

[In this section, we will identify the number of parking spaces needed during construction of the applicable phase. We will also describe other construction-related impacts to parking during construction of the applicable phase.]

6.17 Off-Street Parking and Loading Access

Driveways providing vehicular access to off-street parking and loading areas interrupt the active streetscape. Restricting driveways limits gaps in primary active frontage, improves safety, and supports a vibrant public realm. Vehicular building access locations and design shall be guided by DDG Sections 3.5.2, 3.5.3, and 5.5.2, unless otherwise noted.

Standards

S6.17.1 Prohibited curb cut locations. Curb cuts shall be prohibited in the locations identified in Figure 6.54. Additionally, on-street loading and curb cuts for vehicular access to buildings shall be prohibited on open space. Temporary loading and service access for events shall be exempt from this standard. Additional curb cuts shall be permitted at the discretion of the City.

[DDG Standard 3.3.2.b, Standard 3.5.2.a, Standard 3.5.3.b, Guideline 3.3.2.f — superseded]

S6.17.2 Parking and loading access near riparian corridors. Off-street parking and loading access shall not be located within 100 feet of the Los Gatos Creek Riparian Corridor nor within the 35-foot Guadalupe River Riparian Setback to reduce the potential for new light sources directed towards the riparian corridor that negatively affect wildlife.

S6.17.3 Parking and loading access in open space. Access to below-grade parking shall be permitted on project sponsor-owned open space and the Social Heart City-dedicated open space in accordance with the Parkland Agreement. Driveway entrance shall not exceed 200 feet in length from the curb cut on the nearest street. Driveways shall not count toward open space area denoted in Table 4.1.

[DDG Standard 3.5.2.a, Standard 3.5.2.c, Standard 3.5.3.b — superseded]

S6.17.4 Signalized intersection adjacency. Driveways shall be located at least 150 feet from signalized intersections except for infrastructure zones as denoted in Figure 3.3.

[CSDSG Guideline 27 — superseded]

S6.17.5 Porte cochères. Porte cochères shall be permitted within residential, limited-term corporate accommodation, or hotel uses where the use is not otherwise served by a dynamic lane on any adjacent street. Curb cuts for porte cochères shall be consolidated with off-street building loading or parking access.

[DDG Standard 3.5.3.c, Standard 5.5.2.f — superseded]

S6.17.6 Curb cut maximum width. Curb cuts shall be limited to a maximum width of 32 feet. Where service access is needed within infrastructure zones — including logistics warehouses and central utility plants — on private streets, and Cahill Street between West San Fernando Street and Park Avenue, curb cuts shall be permitted to exceed the maximum width of 32 feet.

S6.17.7. West Santa Clara Street block E1 garage access. Full vehicular ingress and, at a minimum, partial vehicular egress shall be provided between West Santa Clara Street and the below grade parking garage under block E1. Curb cut and ramp design shall be coordinated with the open space design of Los Gatos Creek East (Section 4.17) and Gateway to San José (Section 4.18) to minimize the impact on pedestrian experience and safety, while maintaining the view corridor to 374 West Santa Clara Street. Any curb cut and ramp shall remain physically separated by planting, materials, or other design features from the Los Gatos Creek Trail.

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. ____); and approval of partial vacation of certain streets within Downtown West (Resolution Nos. _____).

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.

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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.

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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.

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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.

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

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

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

EC-1.7 Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City’s Municipal Code. The City considers significant

construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

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

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

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

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

Goal EC-2 – Vibration

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

EC-2.1 Near light and heavy rail lines or other sources of ground-borne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or

below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.

EC-2.3 Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to: excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

Consistency Findings. The Project is consistent with and will implement Goals EC-1 and EC-2 and applicable policies. The Project site is located in an area of Downtown San Jose that is surrounded by a network of regional transportation facilities that influence the local noise environment, including Diridon Station located west of the Project boundary, and state and federal highways (State Route 87 located adjacent to easternmost portion

of the Project site, Interstate 280 one block south of the southern Project boundary, and I-880 located approximately one-mile northwest of the site's northern boundary).

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

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

The Project is consistent with Policy EC-2.3 as the Project requires the implementation of Mitigation Measure NO-2a (Master Construction Vibration Avoidance and Reduction Plan), which requires the Project Sponsor to prepare a Master Construction Vibration Avoidance and Reduction Plan prior to the issuance of the first building permit for the Project, which must include certain vibration avoidance and reduction measures, including notification of neighbors within 500 feet of the construction site and

implementation of a construction vibration monitoring plan to document conditions before, during and after pile driving. The Project Sponsor will also implement Mitigation Measure NO-2b (Master Construction Vibration Avoidance from Compaction) for construction activities that will not involve impact or vibratory pile driving but will employ a vibratory roller. The Project Sponsor also will implement Mitigation Measure CU-4 (Construction Vibration Operation Plan for Historic Resources) which requires submission of a Construction Vibration Operation Plan for work within 170 feet of a historic resource.

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

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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.

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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.

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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.

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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 curbless 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.

CHAPTER 7: IMPLEMENTATION

Goal IP-1 - Land Use / Transportation Diagram. Make land use and permit decisions to implement the Envision General Plan Land Use / Transportation Diagram and to further the vision, goals and policies of the Envision General Plan.

IP-1.3 Ensure that proposals for redevelopment or significant intensification of existing land uses on a property conform to the Land Use / Transportation Diagram. Because the Diagram designation identifies the City's long-term planned land use for a property, non-conforming uses should transition to the planned use over the timeframe of the Envision General Plan. Allow improvements or minor expansions of existing, non-conforming land uses provided that such development will contribute to San José's employment growth goals or advance a significant number of other Envision General Plan goals.

Consistency Findings. The development of the Project is intended to occur in phases. The Project Sponsor currently owns a significant portion of the Project site; however, certain real property is currently owned by other entities. The City owns the real property commonly referred to as "Lots ABC" which is currently being used by the Sharks pursuant to the terms of the Arena Management Agreement by and between the City of San José and San José Arena Management, LLC, as amended through December 4, 2018 (the "AMA"). The Project Sponsor has an option to purchase Lots ABC from the City and redevelopment of Lots ABC cannot proceed during the term of the AMA absent a mutually-agreed amendment to the AMA. The Sharks are currently using Lots ABC as authorized under the AMA, including but not limited to parking, temporary staging of event trailers and equipment, fan festivals, special merchandise sales, press events, and other special events consistent with historical practices. Such uses, which support the adjacent SAP entertainment use, are consistent with the Downtown and Commercial Downtown land use designations for Lots ABC. The existing uses on Lots ABC and any other use the City is obligated to allow on Lots ABC under the AMA are supportive entertainment uses and contribute to San José's employment growth goals as they facilitate the successful operation of the Arena.

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.

The City and Google have recently determined that the City does not have a fee title interest to certain public streets (approximately 1.7 acres) within the proposed Project area that are proposed to be abandoned and developed as part of the Project's Privately-Owned Publicly Accessible Open Space network. Google and the City have discovered that descendants of the original 19th century owners may, in fact, have an ownership interest in the underlying land. Google is committed to working with the City to gain the requisite legal or equitable interest needed so that Google can develop the Privately-Owned Publicly Accessible Open Space in the manner contemplated by the proposed Project documents. ~~In furtherance of that effort,~~ Google proposes the following few revisions to ~~the Development Agreement (including the Parkland Agreement),~~ the Planned Development Zoning- General Development Plan, the Downtown West Design Standards and Guidelines, and to the notes and findings for the Vesting Tentative Map to ensure these areas can still be developed in the manner most consistent with the DWDSG in the event they cannot be acquired by the City or Google.

Addition to General Development Plan

[NEW SECTION ON SHEET 8.01] Potential Ped/Bike Streets. This GDP authorizes the project sponsor to make adjustments to blocks and lots, the street network, and development programming (including but not limited to open spaces, parking, and associated improvements) as reasonably necessary to exclude areas that are shown on the Vesting Tentative Map (approved by Resolution No. _____) as public streets to be abandoned and subsequently merged into adjacent ~~lots~~Deviations~~lots without amending this GDP.~~ Deviations from standards and guidelines in the DWDSG that are necessary in connection with such adjustments shall be reviewed by the Director of PBCE as part of the Conformance Review process as further set forth in the Implementation Guide, and shall be approved by the Director of PBCE without requiring amendment to the DWDSG if findings can reasonably be made that the resulting reconfiguration is consistent with the General Plan and compliance with CEQA has been demonstrated. ~~Notwithstanding any other requirement of the GDP or the Downtown West PD Permit, in~~ the event any portion of the public streets identified for abandonment in the Vesting Tentative Map are not abandoned and merged into the adjacent lot(s) as part of a phased final map, the project sponsor shall have no obligation to improve the subject street area ~~as project sponsor-owned open space, and the total acreage of project sponsor-owned open space in Table 6.04.1 of the GDP shall be proportionately reduced.~~ The project sponsor may request to modify a previously approved Conformance Review Application that assumed the abandonment of a public street or easement; the City shall review and approve such request for modification pursuant to the Conformance Approval Adjustment process.

In the event that ~~the a~~ portion of ~~existing S. Park Avenue at the northeast northwest corner of the intersection of Park Avenue and South~~ Montgomery Street together with an adjacent portion of South Montgomery Street, South Montgomery between Park Avenue and West San Fernando Street, Cinnabar Avenue between North Autumn Street and the Peninsula Corridor Joint Powers Board rail tracks, North Montgomery south of future Cahill Street, or Otterson Street ~~subject to~~

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abandonment, as shown on the Vesting Tentative Map, are east of Cahill (each a “Potential Ped/Bike Streets”) is not abandoned and merged into adjacent lots, Google may elect one or more adjacent parcels as described in the preceding paragraph, then the project sponsor shall be authorized to effectuate vacation of the vehicular traffic function of such street pursuant to complete or Resolution Nos. _____ provided:

- The project sponsor shall install and/or construct pedestrian and bicycle improvements within such Potential Ped/Bike Street sufficient to maintain the pedestrian and bicycle circulation functions of the reserved pedestrian and bicycle street rights, including minimum dimensions of 12 feet in width for a bikeway and 8 feet in width for a pedestrian thoroughway, subject to other dimensional requirements applicable to Shared-Use Paths in Section 4.10,
- If requested by project sponsor, City shall allow for project sponsor to construct improvements within the Potential Ped/Bike Street to eliminate curbs and create a continuously graded within the Potential Ped/Bike Street to eliminate curbs and create a continuously graded within the Potential Ped/Bike Street to eliminate curbs and create a continuously graded surface and consistent with DWDSG standards and guidelines regarding materials in Section 6.14 and other improvements consistent with the DWDSG to the maximum extent compatible with the reserved pedestrian and bicycle rights, and subject to any required deviations authorized in this GDP,
- In no event shall the project sponsor be obligated to construct improvements beyond what is specified in the Development Agreement.

Improvements described in the preceding bullets are authorized in the public right of way pursuant to Resolution No. _____ [Major Encroachment]

. Maintenance of improvements installed on Potential Ped/Bike Streets, and the funding of such maintenance, shall be as provided in the Development Agreement.

[EDIT TO SHEET 4.05 re SPECIAL EVENT PERMITTING IN POTENTIAL PED/BIKE STREETS: *Edits to existing GDP language are in bold below*]

Special Events and Limited-Term Uses on Public Property

Except within Potential Ped/Bike Streets, the project sponsor shall obtain permits from the San Jose Police Department (Police Department) or the San Jose Fire Department, as required under the Municipal Code, for events or uses that are located within the public right of way or on City-dedicated Park. **In Potential Ped/Bike Streets, notwithstanding anything to the contrary elsewhere in this GDP or the Municipal Code, permitting for Special Events and Limited**

Term Uses shall be in accordance with the provisions in the preceding section of this GDP titled “Special Events and Limited Term Uses on Private Property,” subject to compliance with state and federal law.

Addition to Sheet 6.04 (Open Space)

Potential Ped/Bike Streets as defined on Sheet 8.01, if established, are designed to enable implementation to the maximum extent possible of the DWDSG’s design intent for publicly accessible open spaces. Accordingly, any land uses authorized on Open Space as set forth in this GDP are similarly authorized on any Potential Ped/Bike Street areas established within this GDP pursuant to Sheet 8.01 to the maximum extent permitted consistent with any reserved pedestrian and bicycle easement notwithstanding anything to the contrary in the Municipal Code and subject to compliance with state and federal law.

[ADDITION TO TABLE 8.02.1 ON SHEET 8.02]

<u>Type of Relief</u>	<u>Description</u>	<u>Standard of Review</u>	<u>Decision Maker</u>	Formatted: Not Highlight
<u>Relationship to Abandonment of Public Streets / Potential Ped/Bike Streets</u>	<u>This GDP and DWDSG S.6.3.6 authorize adjustments to blocks and lots, the street network, and development programming (including but not limited to open spaces, parking, and associated improvements) in the event the areas shown on the Vesting Tentative Map (approved by Resolution No. _____) as public streets to be abandoned in associated phased final maps are not abandoned and merged into adjacent lots. Pursuant to GDP and S.6.3.6, in the event any portion of a Potential Ped/Bike Street is not abandoned and merged into adjacent lots, the project sponsor is authorized to effectuate vacation of the vehicular traffic function of such street subject to the requirements of the GDP and S.6.3.6.</u>	<u>The Director of PBCE shall approve deviations pursuant to this GDP and S.6.3.6 if findings can reasonably be made that the reconfigured development and improvements are consistent with the General Plan and compliance with CEQA has been demonstrated.</u>	<u>Director of PBCE</u>	Formatted: Not Highlight
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	The project sponsor may process a clerical update to the DWDSG to memorialize any deviations made pursuant to S.6.3.6.	
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Addition to DWDSG

[NEW STANDARD] S.6.3.6. Abandonment of Certain Streets / Potential Ped/Bike Streets.

Consistent with the Downtown West PD Zoning District and the GDP, in the event the areas shown on the Vesting Tentative Map (approved by Resolution No. ____) as public streets to be abandoned in associated phased final maps are not abandoned and merged into adjacent lots, this standard authorizes the project sponsor to make adjustments to blocks and lots, the street network, and development programming (including but not limited to open spaces, parking, and associated improvements) without amending this DWDSG. This standard further authorizes deviations from standards and guidelines elsewhere in the DWDSG as reasonably necessary to accommodate such adjustments. Further, and notwithstanding any other requirement of the DWDSG, in the event any portion of the public streets identified for abandonment in the Vesting Tentative Map are not abandoned and merged into the adjacent lot(s) as part of a phased final map, the project sponsor shall have no obligation to improve the subject street area as project sponsor-owned open space, and the total acreage of any open space requirements of the DWDSG, including Table 4.1, shall be proportionately reduced. In the event that a portion of Park Avenue at the northeast corner of the intersection of Park Avenue and South Montgomery Street together with an adjacent portion of South Montgomery Street, South Montgomery between Park Avenue and West San Fernando Street, Cinnabar Avenue between North Autumn Street and the Peninsula Corridor Joint Powers Board rail tracks, or Otterson Street east of Cahill (each a “Potential Ped/Bike Street”) is not abandoned and merged into one or more adjacent parcels as described in the preceding sentence, then the project sponsor shall be authorized to effectuate vacation of the vehicular traffic function of such street pursuant to Resolution Nos. _____ provided:

- The project sponsor shall install and/or construct pedestrian and bicycle improvements within such Potential Ped/Bike Street sufficient to maintain the pedestrian and bicycle circulation functions of the reserved pedestrian and bicycle street rights, including minimum dimensions of 12 feet in width for a bikeway and 8 feet in width for a pedestrian thoroughway, subject to other dimensional requirements applicable to Shared-Use Paths in Section 4.10.
- ~~and (2) and if~~ requested by project sponsor, City shall allow for project sponsor to construct and dedicate to City, improvements within the Potential Ped/Bike Street to eliminate curbs and create a continuously graded surface and consistent with DWDSG standards and guidelines regarding materials in Section 6.14 and other improvements consistent with the DWDSG, consistent with DWDSG standards and guidelines

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~~applicable to such Potential Ped/Bike Street area to the maximum extent compatible with the reserved pedestrian and bicycle rights and subject to any required deviations authorized in this DWDSG.~~

- ~~In no event shall the project sponsor be obligated to construct improvements beyond what is specified in the Development Agreement.~~

Improvements described in the preceding bullets are authorized in the public right of way pursuant to Resolution No. ____ [Major Encroachment]

Deviations proposed by the project sponsor pursuant to this standard shall be reviewed and approved by the Director of PBCE as part of the Conformance Review process. The Director of PBCE shall approve such deviations without requiring amendment to the DWDSG if findings can reasonably be made that the reconfigured development and improvements are consistent with the General Plan and compliance with CEQA has been demonstrated.

New Vesting Tentative Map Note

NOTES RELATING TO STREETS

1. PROPOSED LOTS DEPICTED ON THIS VESTING MAP MAY BE REDUCED IN SIZE OR RECONFIGURED ON PHASED FINAL MAPS TO ACCOUNT FOR THE EXCLUSION FROM SUCH LOTS OF AREAS CURRENTLY DESIGNATED AS PUBLIC STREETS AND WHICH ARE SHOWN HEREON AS BEING SUBJECT TO ABANDONMENT AND INCLUSION WITHIN THE ADJACENT PROPOSED LOTS. THE RESULTING LOTS, AFTER ACCOUNTING FOR SUCH REDUCTION OR RECONFIGURATION, SHALL BE DEEMED TO SUBSTANTIALLY COMPLY WITH THIS VESTING MAP.

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2. [FINDING REVIEWED ON 4/30 CALL] IF THERE IS PROPOSED LOCATION OR RELOCATION OF PUBLIC UTILITIES THAT UTILIZES LESS THAN ALL OF A RESERVED PSE IN A POTENTIAL "PED/BIKE STREET" (AS DEFINED IN THE GENERAL DEVELOPMENT PLAN), ANY REQUEST TO VACATE THE REMAINING UNUSED PORTION OF THE PSE SHALL BE PROCESSED BY THE DIRECTOR OF PUBLIC WORKS TO FACILITATE THE INSTALLATION OF IMPROVEMENTS WITHIN THE POTENTIAL PED/BIKE STREETS CONSISTENT WITH THE DESIGN INTENT AND STANDARDS OF THE DWDSG FOR SUCH AREA TO THE MAXIMUM EXTENT POSSIBLE.

3. [FINDING REVIEWED ON 4/30 CALL] WHERE AN EMERGENCY VEHICLE ACCESS EASEMENT HAS BEEN RESERVED IN A POTENTIAL PED/BIKE STREET, THE CITY SHALL OPTIMIZE LOCATION OF THE EMERGENCY VEHICLE ROUTE OF TRAVEL TO FACILITATE THE INSTALLATION OF ~~PUBLIC~~ IMPROVEMENTS WITHIN THE POTENTIAL PED PIKE STREET CONSISTENT WITH THE DESIGN INTENT AND

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STANDARDS OF THE DWDSG FOR SUCH AREA TO THE MAXIMUM EXTENT POSSIBLE.

Modifications to VTM Resolution Finding No. 18

Abandonment of Public Streets and Easements.

a. [EXISTING FINDING RENUMBERED] Certain existing public streets and public easements are indicated on the Vesting Tentative Map as being subject to abandonment pursuant to Government Code Section 66434(g). In approving this Vesting Tentative Map, this City Council has determined that the referenced public streets and easements shall be abandoned, that such abandonment will be described on the face of associated phased final maps including by reference to recording data or other official records creating the streets or easements, and that abandonment will be certified by the Director of Public Works pursuant to Government Code Section 66434(g). At the time of approval of phased final maps including such streets and easements, and provided that the requirements of Government Code Section 66434(g) and the conditions of approval in this Resolution are satisfied, these streets and easements shall be unnecessary for present or prospective public use. The City Council further finds that incorporation of the underlying properties into the adjacent parcels, as described in the Vesting Tentative Map, free of the public street interest and identified public easements, is assumed as part of the Project and is essential for the City and the public to realize the full measure of the Project's public benefits. _

b. [NEW FINDING] Subdivider may reduce— the size of or reconfigure proposed lots, easements and improvements on phased final maps to account for the exclusion of those areas that are shown on the Vesting Tentative Map as public streets to be abandoned and which are assumed to be merged into adjacent lots. In the event that such lots, easements or improvements are modified as described in the preceding sentence, the phased final map ~~will~~shall be deemed to substantially comply with the Vesting Tentative Map notwithstanding such modifications. ~~If, as a result of such modifications, the resulting lots do not include — areas contemplated on the Vesting Tentative Map to be — used as “Project Sponsor Owned Open Space,” — the Public Works Director — may require the Subdivider to — complete — improvements — on the adjacent public street areas — consistent with the PD Permit, the Development Agreement, and the Parkland Agreement, and to irrevocably offer those improvements for dedication to the City. Subdivider may also be required to enter into an agreement with the City concerning the ongoing maintenance of those improvements.~~

c. [NEW FINDING] In the event that a portion of Park Avenue at the ~~northeast~~ northwest corner of the intersection of Park Avenue and South Montgomery Street together with an adjacent portion of South Montgomery Street, South Montgomery between Park Avenue and West San Fernando Street, Cinnabar Avenue between North Autumn Street and the Peninsula Corridor

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Joint Powers Board rail tracks, North Montgomery south of future Cahill Street, or Otterson Street east of Cahill (each a "Potential Ped/Bike Street") is not abandoned and merged into one or more adjacent parcels as described on the Vesting Tentative Map, then the Subdivider shall be authorized to effectuate vacation of the vehicular traffic function of such street pursuant to Resolution Nos. _____ provided:

- The Subdivider shall install and/or construct pedestrian and bicycle improvements within such Potential Ped/Bike Street sufficient to maintain the pedestrian and bicycle circulation functions of the reserved pedestrian and bicycle street rights, including minimum dimensions of 12 feet in width for a bikeway and 8 feet in width for a pedestrian thoroughway, subject to other dimensional requirements applicable to Shared-Use Paths in Section 4.10.
- If requested by Subdivider, City shall allow for Subdivider to construct improvements within the Potential Ped/Bike Street to eliminate curbs and create a continuously graded surface and consistent with DWDSG standards and guidelines regarding materials in Section 6.14 and other improvements consistent with the DWDSG to the maximum extent compatible with the reserved pedestrian and bicycle rights, and subject to any required deviations authorized pursuant to the DWDSG.
- In no event shall the Subdivider be obligated to construct improvements beyond what is specified in the Development Agreement.

Improvements described in the preceding bullets are authorized in the public right of way pursuant to Resolution No. _____ [Major Encroachment]

Maintenance of improvements installed on Potential Ped/Bike Streets and the funding of such maintenance, shall be as provided in the Development Agreement.

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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”), including the Errata dated _____, 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. ____); approval of the Construction Impact

Mitigation Plan (Resolution No. ____); and approval of partial vacation of certain streets within Downtown West (Resolution Nos. _____);

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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 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 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.

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), updating the DWDSG to implement the changes described in the Errata, 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 delegatee 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 ¹	Type of Tree to be Removed ²			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
12 inches or more ³	5:1	4:1	3:1	15-gallon
6.0 to 12 inches	3:1	2:1	None	15-gallon
Less than 6.0 inches	1:1	1:1	None	15-gallon
¹ As measured 4.5 feet above ground level ² X:X = tree replacement to tree loss ratio ³ Ordinance-sized tree Notes: Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter. A 19-inch tree equals 6.1 inches in diameter. One 24-inch box tree= two 15-gallon trees				

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 h.i.1** 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>.

22. The project sponsor shall not redevelop the Delmas West surface parking lot (as defined in Exhibit C of the Parking Lease dated December 19, 2018 between Google LLC and the San Jose Arena Management ("Parking Lease")) until the earlier of: (1) satisfaction of conditions precedent for conversion of Lot D as set forth in the Parking Lease; or (2) expiration or termination of the Parking Lease.

In accordance with the findings set forth above, a permit to use the subject property for said purpose specified above is hereby approved.

EFFECTIVE DATE

The effective date of this Permit (File No. PD19-029) shall be the effective date of the Planned Development Rezoning Ordinance for File No. PDC19-039, approved for publication on _____, 2021 (the "Downtown West Mixed-Use Plan DC(PD) Planned Development Zoning District") and shall be no earlier than the effective date of said Rezoning Ordinance.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.

ORDINANCE NO. _____

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

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

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

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

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

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

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

WHEREAS, the Project, which is located within the Downtown Growth Area Boundary and within the boundaries of the Diridon Station Area Plan (as such boundaries are amended by Resolution No. ____), advances the shared vision and the shared goals identified in the MOU by optimizing density and a mix of land uses, preserving existing

housing and creating new housing, creating broad job opportunities, pursuing equitable development, enhancing and connecting the public realm, pursuing excellence in design, enhancing sustainability and innovation, prioritizing community engagement regarding community benefits, and proceeding with timely implementation; and

WHEREAS, the Project advances a plan that re-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 center space; up to 4,800 publicly accessible commercial parking spaces and up to 2,360 unbundled parking spaces for residential use; a "District Systems" approach to delivery of on-site utilities, including designated infrastructure zones with up to two (2) on-site centralized utility plants totaling up to 130,000 gsf; one or more on-site logistics centers to serve the commercial on-site uses that would occupy a total of about 100,000 gsf; a total of approximately 15 acres of parks, plazas and open space, including areas for outdoor seating and commercial activity (such as retail, cafes, and restaurants), green spaces, landscaping, mid-block passages, riparian setbacks, and trails; and various other improvements to the public realm to improve transit access and pedestrian and bicycle circulation and facilitate connectivity, both within the site and to and from surrounding neighborhoods; and

WHEREAS, On December 30, 2019, Governor Gavin Newsom certified the Project 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 for the Project has been ongoing since 2018 and has included over 50 meetings with members of the Diridon Station Area Advisory Group (SAAG), as well as over 100 community outreach events that provided the public with the opportunity to review the Project through a combination of in-person and digital engagement with residents, neighbors, business owners and employees, construction trades, and other stakeholders that included: public design workshops; booths at local and regional community events; presentations to and discussions with local neighborhood, business, and community/special interest associations and organizations; focus group discussions; engagement with faculty and students at local universities and schools; and other large and small events reaching communities within and around the Project site; and

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

WHEREAS, the requirements for a General Development Plan are set forth in Section 20.120.510 of the City of San José's Municipal Code; and

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

WHEREAS, on April 28, 2021, the Planning Commission of the City of San José held a duly noticed and advertised public hearing to receive oral and written testimony regarding

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

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

WHEREAS, the Project's potential environmental impacts, including the proposed rezoning of the Project site, were analyzed in that certain Final Environmental Impact Report for the Downtown West Mixed-Use Plan ("FEIR"); and

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

WHEREAS, this Ordinance approving the Downtown West PD Zoning District is a companion to the following approvals relating to Downtown West: override of the Santa Clara County Airport Land Use Commission's Comprehensive Land Use Plan inconsistency determination (Resolution No. __); amendments to the General Plan including land use designations applicable to Downtown West (Resolution No. __); amendments to the Diridon Station Area Plan (Resolution No. __); the Development Agreement for the Downtown West Mixed-Use Plan (Ordinance No. __); a Planned Development Permit (Resolution No. __); amendments to Title 20 of the San José Municipal Code (Ordinance No. __); approval of a Vesting Tentative Map (Resolution No. __); amendment to the boundaries of two Historic Landmarks, the San José Water Company at 374 West Santa Clara Street and the Southern Pacific Depot Historic District (Resolutions No. __ and __); an amendment to Historic Preservation Permit (HP16-

002) (Resolution No. ____); approval of Major Encroachment Permits (Resolution No. ____); approval of the Construction Impact Mitigation Plan (Resolution No. ____); and approval of partial vacation of certain streets within Downtown West (Resolution Nos. _____); and

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

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

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

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

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

WHEREAS, all the Project's infrastructure will be privately funded with no public subsidy; and

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

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

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

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

SECTION 2. General Plan and DSAP Consistency.

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

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

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

The Project is consistent with the following key DSAP goals:

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

The Project consists of a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood and destination. The development program optimizes development density, which consists of up to 7.3 million gsf of commercial office space; up to 5,900 residential units; up to 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community spaces, institutional, childcare and education, maker spaces, non-profit, and small-format office space); up to 300 hotel rooms; up to 800 limited-term corporate accommodations; up to 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.

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

- A. The Downtown West PD Zoning District consists of approximately 80 acres and is generally bounded by Lenzen Avenue and the Union Pacific Railroad (UPRR) tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, Barack Obama Boulevard (formerly South Autumn Street and Bird Avenue), and Royal Avenue to the east; Auzerais Avenue to the south; and Diridon Station and the Caltrain railroad tracks to the west ("Downtown West PD Zoning District").

- B. The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference.
- C. Development and use of property within the Downtown West PD Zoning District shall be subject to the land use regulations and development standards reflected in the Downtown West General Development Plan ("GDP"), dated _____, as it may be amended from time to time. The Downtown West PD Zoning District consists of three (3) sub-areas, identified as Sub-Area 1, Sub-Area 2, and Sub-Area 3 in the GDP. The locations of the sub-areas are generally depicted in the GDP and consist of the real property described in Exhibit A.
- D. The permitted uses, development standards, and use regulations applicable to the Downtown West PD Zoning District shall be those established in the GDP, which authorizes transfers of square footage and conversion of land uses between Sub-Areas subject to the conditions and criteria established in the GDP, including but not limited to compliance with CEQA.
- E. The regulations and standards established in the Downtown West PD Zoning District and GDP, adopted by this Ordinance, shall control and govern development of the Project within the Downtown West PD Zoning District notwithstanding any contrary provision in Title 20, including but not limited to any greater restrictions on the use of buildings or premises, height of buildings, or open space requirements in Title 20.
- F. The Downtown West Planned Development Permit dated _____, as it may be amended from time to time ("Downtown West PD Permit"), approved by Resolution No. _____, effectuates the Downtown West PD Zoning District pursuant to Section 20.60.020 of the Municipal Code. The Downtown West PD Permit consists of the following components: Downtown West Design Standards and Guidelines ("DWDSG"), Downtown West Improvement Standards ("DWIS"), Conceptual

Infrastructure Plan Sheets, and the Conformance Review Implementation Guide (“Implementation Guide”), as they may be amended from time to time (collectively, these documents are referred to as the “Downtown West PD Permit”).

- G. Sub-Area 2, as generally depicted in the GDP, is included within the boundaries of the Downtown West PD Zoning District but is not included within the Downtown West PD Permit. Development within Sub-Area 2 shall be subject to the requirements of the DC Downtown Commercial zoning district, which shall continue to apply to Sub-Area 2 until the issuance of a Planned Development Permit for Sub-Area 2. Any subsequent Planned Development Permit for Sub-Area 2 shall conform to the requirements in the GDP, including the specific development standards applicable to Sub-Area 2 set forth on Sheet 3.02a of the GDP, as those may be amended from time to time. Development of Sub-Area 2 shall also be subject to the Conditions of Approval to the Downtown West PD Permit.
- H. The GDP establishes the commercial and residential parking requirements for development within the Downtown West PD Zoning District. The project sponsor shall provide publicly accessible off-street parking spaces serving new office development in compliance with the Required Parking Ratio as set forth in the GDP and the Development Agreement, approved by Ordinance No. _____. Residential parking requirements shall be provided in accordance with the standards in the GDP. The GDP also establishes the standards and requirements for bicycle parking in the Downtown West PD Zoning District notwithstanding anything to the contrary in Title 20.
- I. The development of the Project is intended to occur in phases and this Ordinance authorizes and establishes the Downtown West PD Zoning District Design / Conformance Review (“Conformance Review”) process, a subsequent review process for the design and development of vertical improvements, open space, and horizontal improvements within the Downtown West PD Zoning District.

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

K. Development within the Downtown West PD Zoning District shall be allowed pursuant to the standards and requirements set forth in this Ordinance and the GDP, and shall not be subject to provisions of Title 20 that conflict with, or would interfere with development and occupancy of the real property subject to the Downtown West PD Zoning District, including but not limited to the following:

1. The Director of PBCE’s determination on a Conformance Review application shall occur at a Conformance Review Hearing (as set forth in the Implementation Guide), which may be held on dates when Director of PBCE Hearings is also scheduled to occur for other matters. A Conformance Review Hearing shall not constitute a “Director’s hearing” under Section 20.100.220 and Table 20-260) Appeal Hearing Body) of Title 20 of the Municipal Code. The Director of PBCE’s decision on a

Conformance Review application shall not be subject to appeal to the Planning Commission or City Council. The decision of the Director of PBCE is final and shall not be appealable to any other approval body within the City.

2. The GDP for the Downtown West PD Zoning District establishes the maximum allowable building heights for development within the Downtown West PD Zoning District. The GDP further establishes a process where the maximum building heights for individual buildings in the Downtown West PD Zoning District may be increased without amendment to the GDP, provided that (a) such increase correlates to an increase in maximum allowable height authorized by the FAA and approved by City Council following review by the Santa Clara County Airport Land Use Commission, if applicable, and (b) Director of PBCE conducts environmental review of the building's proposed height increase to determine compliance under CEQA. The provisions of Chapter 20.85 of Title 20 shall not apply to the Downtown West PD Zoning District.
3. The GDP establishes the land uses authorized within the Downtown West PD Zoning District. The GDP identifies whether land uses are: Permitted; a Conditional Use that requires the approval of a subsequent planned development permit; a Special Use that requires the approval of a subsequent planned development permit; and authorized upon the issuance of an Administrative Permit. Certain uses require compliance with conditions of approval that are set forth in the GDP. The land use regulations in the GDP shall control and apply within the Downtown West PD Zoning District notwithstanding anything to the contrary in Title 20.
4. The term of an Administrative Permit issued within the Downtown West PD Zoning District shall be a minimum of five (5) years, subject to a five (5) year extension. A permittee may request the renewal of an Administrative Permit

pursuant to the terms of the GDP. This shall supersede Section 20.100.1250 of Title 20 for development within the Downtown West PD Zoning District.

5. The GDP authorizes special events and limited-term uses (as defined in the GDP) on private property within the Downtown West PD Zoning District, without any further authorization, permits, or approvals from the Director of PBCE or any other City department, except to the extent a permit is required under the San Jose Municipal Fire Code or the event includes amplified noise that exceed 60 decibels (dBA) based on an hourly average noise level (hourly L_{eq}). The GDP establishes a process for obtaining a Fire Permit for Special Events and Limited-Term uses on private property, which shall apply to the Downtown West PD Zoning District. The GDP establishes a process for obtaining an Amplified Sound Permit for Special Events and Limited-Term Uses that include amplified noise that exceeds 60 dBA based on an hourly L_{eq} , which shall apply to the Downtown West PD Zoning District. The GDP also establishes a process for coordinating review of certain Special Events with other City departments (Police Department and Department of Transportation).

6. The GDP establishes specific residential parking standards applicable within the Downtown West PD Zoning District. The Development Agreement and the GDP also establishes specific commercial/public parking requirements applicable to the Downtown West PD Zoning District (the "Required Parking Ratio" as defined and described in the GDP and Development Agreement, approved by Ordinance No. ____). The specific parking standards set forth in the GDP and Development Agreement shall apply and govern development within the Downtown West PD Zoning District notwithstanding anything to the contrary in Title 20. The GDP also establishes the standards and requirements for bicycle parking in the

Downtown West PD Zoning District notwithstanding anything to the contrary in Title 20.

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6.7. Notwithstanding anything to the contrary under the Municipal Code, the Project Sponsor is authorized to improve Potential Ped/Bike Streets (as defined in the GDP) consistent with applicable standards under the GDP and DWDSG and any land uses authorized on open space as set forth in the GDP shall be similarly authorized on any Potential Ped/Bike Street areas to the maximum extent permitted consistent with any reserved pedestrian and bicycle easement. Special Events and Limited-Term Uses on Potential Ped/Bike Streets shall be permitted accordance with the requirements of Special Events and Limited Term Uses on Private Property as described in the GDP, notwithstanding anything to the contrary under the Municipal Code and subject to compliance with state and federal law.

- L. Concurrent with the approval of this Ordinance, the City Council adopted codified Ordinance No. ____, which amends Title 20 to include a new Section 20.70.700. It is the Council's intent that Section 20.70.700, this Ordinance, the San Jose Municipal Code, and all Project approvals and documents should be construed in a manner that fully implements development of the Project consistent with the standards, requirements and procedures set forth in the Downtown West PD Zoning District and the GDP.
- M. The GDP is on file in the office of the Director of PBCE and is available for inspection by anyone interested therein and said GDP is by this reference adopted and incorporated herein the same as if it were fully set forth herein.
- N. The San José Downtown Design Guidelines and Standards ("DDG") and the Complete Streets Design Standards and Guidelines ("CSDSG") shall continue to apply to the development within the Downtown West PD Zoning District unless a DDG or CSDSG standard or guideline has been expressly superseded by the

DWDSG. This Ordinance hereby expressly authorizes the DWDSG to supersede DDG and CSDSG standards and guidelines as specified in the DWDSG.

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

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

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

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

2. Section 11.24.250 shall be amended, as set forth below, upon the Project Sponsor's completion and offer of dedication of improvements in that portion or component of Montgomery Street to allow for vehicles to travel south and north.

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

§ 11.24.070 Barack Obama Blvd. Autumn Street: "Vehicles shall be permitted to travel ~~driven from~~ south and ~~to~~ north ~~only on Autumn~~

~~Street~~ Barack Obama Blvd. between Park Avenue and Santa Clara Street.

§ 11.24.250 - Montgomery Street: Vehicles shall be permitted to travel ~~driven from~~ north ~~and to south only~~ on Montgomery Street between Santa Clara Street and Park Avenue.

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

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

1. The City Council is hereby empowered to grant a franchise to any person whether operating under any existing franchise or not, to construct or use poles, wires, conduits or appurtenances for transmitting and distributing electricity for any purpose, or to lay or use pipes or appurtenances for transmitting and distributing gas for any purpose across the public streets, as the same now or may hereafter exist within said city, upon terms as are provided in the applicable provisions of the Charter, and may in such franchise impose other additional terms not in conflict with said Charter or this chapter, whether governmental or contractual in character, as in the judgement of the council are to the public interest.
2. Notwithstanding any other provision of the City of San José Municipal Code, no franchise shall be required for any person to use wires, conduits or other appurtenances for transmitting and distributing electricity to the extent that such transmission and distribution: (i) is not deemed to be subject to regulation as a public utility by the California Public Utilities Commission; (ii) occurs pursuant to an integrated electrical system capable of being disconnected from, and

operated independently of, the primary electrical grid serving the City of San José; and (iii) is limited to the Downtown West PD Zoning District as described in this Ordinance. As such, the Council approves these specific requirements for the Project based on the following:

- a. Downtown West will be a highly sustainable and environmentally responsible project. District Systems will help underpin the environmental performance of the Project, reducing the burden on existing networks and increasing resilience. This increased performance will be achieved by consolidating plant systems and connecting resources within the Project's boundary. By connecting resources, the Project maximizes sustainability outcomes, as the Centralized Utility Plant (CUP) and accompanying microgrid run at higher efficiencies, reducing carbon emissions and potable water needs and also help achieve broader objectives including advancing the City's sustainability goals on GHG emissions, climate adaptation and resilience. Further, they also establish a system that is innovative and replicable.
- b. To Project will use utilidors, which are private service structures, to connect the private networks to the buildings. The utilidors will cross streets at a subterranean level in designated zones as depicted on the Conceptual Encroachment Plan Sheets (Resolution No. _____) in order to minimize impacts and disruptions on the City's streets. The networks and services will not be publicly dedicated and will serve the Downtown West area only.

C. Uncodified Amendment of Title 21. Notwithstanding anything to the contrary in Title 21 of the San José Municipal Code, the CEQA procedures set forth in the GDP shall apply to all subsequent approvals associated with development of the Project, including the following:

1. The Project Sponsor shall provide information to support a determination whether the City's approval of development under the Conformance Review would be consistent with any applicable requirements of CEQA. If necessary, to support that determination, the Project Sponsor shall provide any required technical studies, either associated with any subsequent CEQA review or otherwise required as part of mitigation to reduce identified impacts.
2. The Director of PBCE shall be responsible for making a determination, reflecting the City's independent judgment, regarding the appropriate environmental clearance for a Conformance Review application. The Director of PBCE shall determine whether a Conformance Review application shall be approved in reliance on the Downtown West Final Environmental Impact Report (Final EIR), or in reliance on an Addendum to the Final EIR, or if a Supplemental or Subsequent EIR is required to support any approval. The Director of Public Works shall be responsible for making a determination that discretionary approvals in connection with the Horizontal Conformance Review process (DWIS Modification and amendments to Infrastructure Plan) comply with the requirements of CEQA. The CEQA procedures applicable to subsequent approvals set forth in this Ordinance shall similarly apply to the Director of Public Works.
3. The Director of PBCE shall have jurisdiction over a Conformance Review application if the Director of PBCE determines that a Conformance Review application can be approved in reliance on the Final EIR (without or with an Addendum), or that a Supplemental or Subsequent EIR, if required, does not identify any new or substantially more severe significant environmental effects, following mitigation, than those identified in the Final EIR.
4. Pursuant to this Ordinance, the Director of PBCE's determination regarding the appropriate form of environmental clearance for a Conformance Review application shall not be appealable to the Planning Commission, the City

Council, or any other City decision-making body. Pursuant to this Ordinance, the Director of PBCE's reliance on an Addendum to, a Supplemental or Subsequent EIR to, or a Determination of Consistency with the Final EIR in support of a Conformance Review application also shall not be appealable to the City Council, or any other City decision-making body.

5. If the Director of PBCE determines that a Supplemental or Subsequent EIR is required pursuant to CEQA and identifies one or more new or substantially more severe significant environmental effects, following mitigation, than those identified in the Final EIR, the Planning Commission shall hold a public hearing on the Conformance Review application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent EIR. The City Council shall thereafter hold a public hearing to consider certification of the Supplemental or Subsequent EIR for the subject Conformance Review application.
6. The table below summarizes the decision-making authority for each of the potential CEQA determinations in connection with a Conformance Review approval or any other subsequent approval for Downtown West (Subsequent Approval), and whether each determination is appealable.

Decision / Approval	Decision Maker	Appealability
Determination regarding scope of CEQA compliance (whether Subsequent Approval may be approved in reliance on the Downtown West Final EIR, Addendum to the Final EIR, or Subsequent or Supplemental EIR)	Director of PBCE	No, pursuant to this Ordinance.
Determination that project proposed in Conformance Review or other Subsequent Approval	Director of PBCE	No, pursuant to this Ordinance.

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

SECTION 4: Exceptions to Section 13.05.050 of the City of San José's Municipal Code and the Complete Streets Design Standards and Guidelines (CSDSG)

- Chapter 13.05 of the City of San José's Municipal Code generally requires the implementation of the Complete Streets Design Standards and Guidelines ("CSDSG"). Section 13.05.050 establishes right-of-way widths for streets listed in Table 1 of Section 13.05.070. Section 13.05.040 provides for exceptions to compliance with the CSDSG in certain circumstances and the CSDSG itself authorizes deviations from CSDSG guidelines.

2. The GDP establishes the total right-of-way width for public streets within Downtown West notwithstanding anything to the contrary under Title 13 of the Municipal Code. Final street design for public streets will be described in improvement plans and approved as part of the final map and improvement plan process. The Downtown West PD Permit, including the DWDSG, provides that the development of streets within Downtown West is subject to the standards and guidelines in the CSDSG unless expressly superseded by the DWDSG. Superseded CSDSG standards and guidelines are identified in Appendix E (CSDSG Standards and Guidelines That Do Not Apply to Downtown West) of the DWDSG. As such, the City approves an exception to compliance with those CSDSG standards identified in Appendix E of the DWDSG including standards related to right-of-way widths, minimum widths of travel lanes, and sidewalk zones, pursuant to its authority under Section 13.05.040 and the CSDSG, for the reasons set forth in Appendix E of the DWDSG, which are herein incorporated by reference.

SECTION 5. CEQA Determination

1. The City, acting in its capacity as lead agency for the Project, has prepared a Final Environmental Impact Report ("FEIR") pursuant to and in accordance with the California Environmental Quality Act ("CEQA"). The FEIR is comprised of the Draft Environmental Impact Report for the Project ("Draft EIR") and all appendices thereto, comments and responses to comments on the Draft EIR, and the revisions to the Draft EIR. The FEIR analyzed the potential environmental impacts from all changes proposed as part of the Project, including the proposed rezoning of the subject area to the Downtown West Planned Development Zoning District.
2. On April 28, the Planning Commission of the City of San José reviewed the FEIR and recommended that the City Council certify the FEIR for the Project.

3. On ____, the City Council independently reviewed and analyzed the FEIR and other information in the record, and adopted Resolution No. ____, certifying the FEIR and adopting findings under CEQA, the Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations in connection with the Project, which resolution is on file with the Director of Planning, Building and Code Enforcement at the Director's office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and available on the Planning Department's website.

SECTION 6. PG&E Property and Subsequent Actions

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

The zoning for the PG&E Property shall remain Light Industrial until Google provides documentation to the Director of PBCE demonstrating that CPUC has provided the requested authorization. If Google fails to provide documentation of CPUC's consent within twenty-four (24) months of the effective date of this

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

B. Existing Uses and Structures. The City Council does not intend to prohibit any uses and/or structures the City is obligated to allow on Lots ABC pursuant to the Arena Management Agreement by and between the City of San José and San José Arena Management, LLC, as amended through December 4, 2018 (the "AMA"). The uses the City is required to allow on such property under the AMA, which include parking and supporting entertainment uses, are consistent with General Plan as amended through the effective date of this ordinance, including the applicable Downtown and Commercial Downtown land use designations. All uses and structures the City is required to allow on such property under the AMA, to the extent such uses or structures do not conform to the requirements of this ordinance, the applicable GDP and/or the applicable PD Permit, are deemed legal non-conforming uses or legal non-conforming structures. The ordinances applicable to legal nonconforming uses and legal nonconforming structures, which are in Chapter 20.150 of the Municipal Code, as that chapter may be amended, shall be applied to such legal nonconforming uses and structures in a manner that does not breach any obligation of the City under the AMA with respect to Lots ABC. Sections 20.150.030 and 20.150.300 through 20.150.320 of the Municipal Code shall not be applicable to such property. Further, the Manager identified in the AMA may obtain a reduction, adjustment, or complete waiver of the remaining requirements of Chapter 20.150 to the extent necessary to enable the City to

comply with its obligations under the AMA regarding use and operation of Lots ABC. Such reduction, adjustment or complete waiver may be granted by the Director of PBCE or designee, in consultation with the City Attorney or designee, upon finding that such reduction, adjustment or complete waiver is required to enable the City to comply with its obligations under the AMA.

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

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

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

SECTION 7. Effective Date.

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

A. PD ZONING ORDINANCE

SECTION 6. PG&E Property and Subsequent Actions

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

The zoning for the PG&E Property shall remain Light Industrial until Google provides documentation to the Director of PBCE demonstrating that PG&E has authorized the inclusion of the PG&E Property within the boundary of the Downtown West PD Zoning District and CPUC has provided the requested authorization. If Google fails to provide the required documentation ~~of CPUC's consent~~ within twenty-four (24) months of the effective date of this Ordinance, Google's request ~~PG&E's authorization~~ to include the PG&E Property within the Downtown West PD Zoning District shall be deemed withdrawn. Upon a request from Google, and subject to the written consent of PG&E, the Director of PBCE may extend the twenty-four month period described in the preceding sentence for

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

B. PD PERMIT RESOLUTION

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.

C. VTM Resolution

17. **PG&E Property.** The subdivision depicted on this Vesting Tentative Map includes an approximately 0.18 acre-parcel, described as “Parcel #1” in the deed recorded November 25, 1926, in Book 797, page 336 of Santa Clara County Records, generally located at the intersection of Cahill Street and West San Fernando Street (“PG&E Property”), which is owned by Pacific Gas & Electric Company (“PG&E”) and which is subject to the jurisdiction of the California Public Utilities Commission (“CPUC”) under California Public Utilities Code Section 851. ~~PG&E authorized the inclusion of the PG&E Property within the boundary of the Vesting Tentative Map provided that CPUC subsequently confirms that the PG&E Property may be included within the proposed subdivision. As such,~~ Subdivider shall be required to provide documentation demonstrating that CPUC has provided the requested authorization to the Public Works Director. If Subdivider fails to provide this documentation within twenty-four months of the effective date of this Resolution, the PG&E Property shall be automatically deemed to be excluded from the boundary of the subdivision shown on this Vesting Tentative Map, and Subdivider shall not be permitted to file a phased final map that reflects the parcelization shown on Sheets _____. Upon a request of the Subdivider, and subject to the written consent of PG&E, the Public Works Director may extend the twenty-four month period described in the preceding sentence for an additional period not to exceed twelve months.

**TERM SHEET FOR
REIMBURSEMENT AGREEMENT
BY AND BETWEEN
THE CITY OF SAN JOSE AND GOOGLE LLC**

This TERM SHEET memorializes the proposed terms for a REIMBURSEMENT AGREEMENT (“Agreement”) by and between GOOGLE LLC, a Delaware limited liability company authorized to do business in the State of California (“Google” or “Project Sponsor”), and the CITY OF SAN JOSE, a municipal corporation (“City”). City and Google are sometimes referred to individually herein as a “Party” and collectively as the “Parties.” The Agreement will provide for Google’s reimbursement of the City for “City Costs” in connection with the City’s performance of Reimbursable Work (as defined below) for the Downtown West Mixed-Use Project (“Project” or “Downtown West”). This Term Sheet is intended to establish the framework and identify key terms for an Agreement. Nothing in this Term Sheet shall be construed as a binding obligation.

Key Terms	Summary of Term
<u>Section 1.</u> Purpose and Intent Agreement	<ul style="list-style-type: none">● The Agreement is intended to memorialize the Parties long-term understanding of Google’s reimbursement of the City for “City Costs” in connection with the City’s processing of Downtown West.● The Parties share the objectives of ensuring (i) full cost recovery for the City in connection with the City’s processing of Downtown West; and (ii) timely processing of Subsequent Approvals in connection with the Project in order to advance the Parties shared vision of transforming Downtown San Jose and the Diridon Station Area Plan into a vibrant, transit-oriented neighborhood with a diverse and complementary mix of land uses that will provide substantial public benefits to the City, including expansion of economic opportunity within the City and significant improvements and investments in the public realm through the Parties’ shared goal of timely implementation of the Project.
<u>Section 2.</u> Reimbursement Obligation	<ul style="list-style-type: none">● Google agrees to reimburse the City for City Costs associated with the City’s performance of “Reimbursable Work”.● “Reimbursable Work” consists of the processing of Subsequent Approvals required to implement the Project, including but not limited to any further environmental review, Conformance Review Applications, City

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	<p>Dedicated Open Space designs, permits for Interim Uses and Special Events and Limited Term Uses during the term of the Agreement, phased final subdivision maps, improvement plans, and grading permits.</p> <p><u>Unless otherwise agreed to by the parties</u>, processing of building permits shall not be considered "Reimbursable Work" under this Agreement and Project Sponsor shall pay any fees and charges incurred for building permits according to the City's standard process and rates, with the ability to elect an expedited review process.</p> <ul style="list-style-type: none">● Google's reimbursement obligations in this Agreement, which exceed City standard review and processing fees, are intended by the Parties to compensate the City for its expedited review of Conformance Review Applications as established in the Implementation Guide and other Project approvals and documents. Unless stated otherwise in the Project approvals and documents, City review of Subsequent Approvals following the Conformance Review process shall adhere to standard requirements of the Municipal Code and the Permit Streamlining Act.● Reimbursement related to litigation/challenges of the Project, legal costs for agreements associated with District Systems, public outreach/community engagement, and any other fees and costs mutually agreed upon between the parties will be covered in this same or a separate reimbursement agreement(s).
<u>Section 3. Consultants</u>	<ul style="list-style-type: none">● The City may select and retain Consultants to perform Reimbursable Work.● As determined by the City through the Work Plan process, Consultants will supplement certain Dedicated Staff and other City staff as needed to address intensification in development activity and/or provide technical or subject matter expertise. The City may allocate/reallocate, in its reasonable discretion, the specific tasks and services between Consultants and City staff and shall reasonably confer with Project Sponsor to ensure that Consultants are used in an efficient manner.
<u>Section 4. City Costs</u>	"City Costs" shall have the meaning set forth in Section 1.18 of the Development Agreement and include the following:

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1. City's "Fully Loaded Costs" shall mean the standard rate in effect at the time services are provided, as established by City for the full cost to employ such Dedicated Staff and which generally includes the salary, benefits, and other related costs for the "Dedicated Staff." Dedicated Staff shall include a certain number of new full-time equivalent staffing corresponding to City staff positions that represent the Parties' good faith estimate of the staffing levels required to perform the Reimbursable Work. (For the avoidance of doubt, it is intended that this funding for full-time equivalent staff would enable the City to hire additional personnel and thereby increase staffing capacity beyond existing levels for the purpose of expediting the review and approval of Conformance Review/Subsequent Approval applications and implementation of the Project.)
2. Actual costs of Consultants, if retained.
3. Actual costs of City staff time, based on standard fully loaded hourly rate in effect at the time services are provided, incurred in connection with the Reimbursable Work that cannot reasonably be performed by Dedicated Staff. The fully loaded hourly rates published for City staff time includes the City's standard overhead fee and may incorporate costs associated with Director and management -level staff time and coordination. There shall be no separate overhead cost charged to the Project Sponsor. The fully loaded hourly rate published for City staff time in City departments that are non-ratepayer funded incorporates costs associated with Director-level staff time and coordination; therefore, there shall be no separate costs associated with Director-level staff time charged to the Project Sponsor for non-ratepayer funded City departments. Project Sponsor understands and agrees that actual costs for any Director-level staff time incurred by ratepayer-funded City departments must be charged as a separate cost. The City shall identify Director-level staff time from ratepayer-funded City departments to be separately charged in each Budget. The Project Sponsor's reimbursement of actual costs of City staff time shall be in addition to the City's "Fully Loaded Costs" for Dedicated Staff.
4. The Parties will periodically review and adjust (e.g.

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	<p>during Meet and Confer meetings as described below) Dedicated Staff and City staffing levels to ensure that appropriate levels of City resources are available to perform the Reimbursable Work.</p> <p>5. If Processing Fees are charged in connection with any Reimbursable Work, such Processing Fee shall be credited against Google's liability for reimbursement of City Costs; provided, however, that fees for building permits shall be charged according to the City's standard rates and process and are not Reimbursable Work <u>unless otherwise agreed to between the parties.</u></p> <p>City Costs shall not include any costs that are not identified any costs that are not identified on an Approved Budget (as any costs that are not identified on an Approved Budget (as defined in Section 8).</p>
<u>Section 5. Term</u>	The term of this Agreement shall be continuous with the term of the Development Agreement unless terminated earlier.
<u>Section 6. Budget Period</u>	Except for the Initial Budget Period (as defined below), each budget period "Budget Period" shall be from July 1 to June 30 consistent with the City's fiscal year.
<u>Section 7. Project Sponsor's Schedule and Work Plan</u>	<ul style="list-style-type: none">• To assist the City in preparing an annual budget for the upcoming Budget Period ("Annual Budget"), Google shall submit to the City by December 1st of each year, a proposed schedule and work plan ("Work Plan") that identifies Google's: (i) anticipated schedule for the submission of Conformance Review/Subsequent Approval applications, (ii) anticipated number of Conformance Review/Subsequent Approval applications, (iii) anticipated type of Conformance Review/Subsequent Approval applications; (iv) anticipated coordination meetings required of City staff and consultants; and (v) anticipated other efforts to be addressed over the course of the year, including but not limited to anticipated public outreach and community engagement to be conducted by or in coordination with the City in relation to the Project <u>Reimbursable Work</u>.• Google shall notify the City as promptly as possible if it determines that the Work Plan will significantly change including anticipated schedule for the submission of

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	Conformance Review/Subsequent Approval applications or the number of Conformance Review/Subsequent Approval applications will substantially deviate from the Work Plan previously submitted to the City.
Section 8. Annual Budget and Budgeted City Costs	<ul style="list-style-type: none">• Within forty-five (45) calendar days following Google's submittal of a Work Plan for an upcoming Budget Period, the City and Project Sponsor shall meet and confer in good faith to collectively prepare a proposed budget ("Budget") of estimated City Costs ("Budgeted City Costs") in-line with comparable projects for the upcoming Budget Period. The Parties shall prepare a mutually agreed upon Budget for the upcoming Budget Period by February 1st.• Each Budget shall include detailed information of the proposed Budgeted City Costs for the applicable Budget Period, including but not limited to: (i) identifying all City departments and Consultants anticipated to be required to review Reimbursable Work for the upcoming Budget Period; (ii) a description of the anticipated proposed scope of work to be carried out by each City department and/or Consultant; (iii) identifying proposed City staff in each City department anticipated to be required to perform the Reimbursable Work; (iv) the standard hourly rate for the proposed City staff; and (v) an estimated not-to-exceed amount for each City department and/or Consultant for each half of the Budget Period.• At least ten (10) fifteen (15) calendar days prior to March 1st of each year, the City shall provide an Annual Budget that is the agreed upon Budget established through the collective process to the Project Sponsor for review and approval ("Approved Budget"), which the Project Sponsor shall reasonably approve if substantially consistent with the proposed Budget that the parties collectively prepared.• Each Approved Budget shall be subject to the budget and appropriation process in Chapter 12 of the City Charter. Notwithstanding anything to the contrary herein, Project Sponsor shall have no obligation to deliver a Deposit to City for a particular Budget Period until the City Council has appropriated the monies relevant to and consistent with the applicable Approved Budget.

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Section 9. Commencement Date and Initial Budget	<p>●● Commencement Date. The commencement date of this Agreement shall be the later of (i) July 1, 2022; or (ii) termination of the [13-month Reimbursement Agreement] (“Commencement Date”).</p> <p>●● Initial Budget. The initial budget period (“Initial Budget Period”) shall commence on the Commencement Date and shall end on the next June 30th that occurs following the Commencement Date. Google shall submit to the City a Work Plan for the Initial Budget Period by December 1, 2021 and the parties shall coordinate and collectively develop a Budget for the Initial Budget Period pursuant to the timeframes and process in Section 8.</p>
Section 10. Budget Reporting, Modifications and Augmentations	<p>●● Budget Modifications and/or Augmentation. Google understands the City must be fully cost recovery in providing services under this Agreement. The agreed upon annual Work Plan and Approved Budget for any Budget Period are a good faith estimate based on the information provided by Google. The City and applicable City departments will use its reasonable efforts to work within the agreed upon annual Work Plan and Approved Budget for any Budget Period. However, Google understands additional and unanticipated coordination, meetings, reviews, and other issues may arise as part of processing the Conformance Review applications requiring modification to the annual Work Plan and Approved Budget for any Budget Period. The Budgeted City Costs in an Approved Budget for any Budget Period may be modified or increased from time to time by the City with the written consent of Google, which shall not be unreasonably withheld, conditioned, or delayed, provided the City has conferred with Google and furnished reasonable written justification for the modification or increase. Google shall approve or disapprove a request for modification or increase of the Budgeted City Costs in an Approved Budget within ten <u>(+0 twenty (20))</u> calendar days of receiving the City’s written request and supporting information. In the event Google provides written consent for an increase in the Budgeted City Costs during a Budget Period, Google shall increase the Deposit in the approved amount within five (5) <u>thirty (30)</u> calendar days after approving such increase.</p>

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	<ul style="list-style-type: none">• <u>Reporting</u>. The City shall deliver quarterly cost variance reports ("Quarterly Report") to Google that details City Costs incurred by the City in relation to the approved Budgeted City Costs, the percentage of work that has been completed by each City department, and how much remains available for billing for each City department under the then-approved Annual Budget.
<u>Section 11. Deposit and Payment</u>	<ul style="list-style-type: none">• <u>Initial Deposit</u>. Within thirty (30) calendar days after the Commencement Date and prior to City commencing any Reimbursable Work, Google shall deliver to the City a deposit in the amount of [fifty percent (50%)] of the Initial Budget ("Initial Deposit"). The remaining fifty percent (50%) shall be deposited no <u>later</u> than January 15, 2023.• <u>Subsequent Bi-Annual Deposits</u>. Annual Deposits. No less than five (5) calendar days prior to commencement of a Budget Period, the Project Sponsor shall deposit the approved amount for the first half of that Budget Period ("Deposit"). The Project Sponsor shall make an additional deposit no less than five (5) calendar days prior to January 15 of a Budget Period in the approved amount for that half of the Budget Period.
<u>Section 12. Cooperation</u>	<ul style="list-style-type: none">• <u>Expeditious Processing</u>. Provided Google has (i) provided all required notice, and (ii) fully made the payments to City as agreed upon, City agrees to make best efforts to expeditiously implement the Project and review and process Conformance Review Applications and other Subsequent Approvals in accordance with the Implementation Guide and other Project Approvals and Documents in an efficient manner to ensure timely delivery of the economic and community benefits associated with Project implementation.• <u>Project Manager</u>. The City agrees that it shall engage, at Google's sole cost and expense, a Dedicated Staff person who will act as a consistent liaison to the Project ("Project Manager") to assist in coordinating the review and approval of Subsequent Approvals and implementation of the Project. The Project Manager shall host every-other-week meetings among the City, Project Sponsor, and all Dedicated Staff to ensure that the applications are being timely processed and approved and Reimbursable Work is being performed efficiently and expeditiously. The Project Manager shall also be

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	<p>responsible for serving as a liaison between the Project Sponsor and City departments when reasonably requested by the Project Sponsor. As necessary, the Project Manager will engage Director-level support, whose time may not be charged as a separate City Cost under this Agreement, for the purpose of: (1) resolving disputes between the Project Sponsor and City departments; (2) facilitating Meet and Confer meetings as defined below; and (3) facilitating the referral of significant issues to the Director/Head of applicable City departments, and if necessary the City Manager. <u>[City Team: Last portion of sentence is removed because it conflicts with the concept above that the Project Manager position is a Dedicated Staff.]</u></p> <ul style="list-style-type: none">• <u>Director-Level Support. The City agrees that it shall identify a senior-level liaison (Director-level) that will provide ongoing support for the Project, including regular attendance at Project meetings among the City, Project Sponsor, and Dedicated Staff, generally keeping apprised of the status of the Project, and coordinating with the Project Manager and other Director/Head of City departments as needed to resolve issues between the Project Sponsor and City departments.</u>• <u>Meet and Confer.</u> The City and the Project Sponsor agree to meet and confer (“Meet and Confer”) a minimum of every six (6) months to discuss matters related to the successful implementation of the Parties’ rights and obligations under this Agreement and the parties’ goal of timely implementing the Project. During a Meet and Confer, the City and the Project Sponsor may discuss the City’s planned or anticipated allocation of Dedicated Staff, any anticipated slowdown or intensification of development activity relative to the then-current Work Plan, and any other matters of concern under this Agreement pertaining to timely and effective review and consideration of Conformance Review/Subsequent Approval applications. Either Party may request a Meet and Confer with the other Party and the Parties shall reasonably seek to Meet and Confer within seven (7) calendar days of such request.• <u>Coordination with the Building Division. The City and the Project Sponsor acknowledge that it is the parties’ shared objective to provide efficient and expeditious</u>
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	<u>processing of building permits. The Project Sponsor and the Director/Head of the Building Division or their designee shall coordinate to determine whether the existing City standard process advances the shared objective of efficient and expeditious processing of building permits for implementation of the Project, or whether it would be mutually beneficial to establish a framework and process that includes the retention of key personnel (e.g. Dedicated Staff) to achieve the parties' shared objective of processing permits in an expeditious manner to timely implement the Project. The parties may agree to incorporate expedited processing of building permits as a component of Reimbursable Work under this Agreement.</u>
<u>Section 13. Dispute Resolution</u>	Any dispute between the Parties shall be subject to the [meet and confer process set forth in Section 9.2 of the Development Agreement before a Party sends a notice of default].
<u>Section 14. Default</u>	<ul style="list-style-type: none">● Google shall be in default under this Agreement if it: (i) fails to timely fund or replenish the Deposit and does not cure such failure within sixty (60) calendar days after service of written notice from City; (ii) fails to timely submit a Work Plan or timely approve or disapprove a City request for Budget modification or increase; or (iii) <u>iii)</u> otherwise fails to perform any other obligation under this Agreement and does not cure such failure within sixty (60) calendar days after service of written notice from the City.● The City shall be in default under this Agreement if it: (i) fails to timely provide Quarterly Reports; (ii) fails to use best efforts to timely process Subsequent Approvals pursuant to the timelines set forth in the Project approvals and documents provided that Google is not in default of this Agreement; and (iii) otherwise fails to perform any obligation under this Agreement and does not cure such failure within sixty (60) calendar days after service of written notice from Google.
<u>Section 15. Termination</u>	<p>This Agreement may only be terminated as follows:</p> <ul style="list-style-type: none">● <u>Automatic Termination.</u> This Agreement shall automatically terminate upon the termination of the Development Agreement.

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	<ul style="list-style-type: none">• <u>Termination by City.</u> If Google is in default under this Agreement and fails to cure such default following written notice and expiration of the cure periods identified above, the City may terminate this Agreement by written notice to Google specifying the date of termination which shall not be less than ten (10) calendar days following the date of such notice.• <u>Termination by Google.</u> If the City is in default under this Agreement and fails to cure such default following written notice and expiration of the cure periods identified above, Google may terminate this Agreement by written notice to City specifying the effective date of termination which shall not be less than ten (10) calendar days following the date of such notice.• In the event of termination of the Agreement by Google or the City, the City's review of the Conformance Review/Subsequent Approval applications would be subject to the standard requirements of the Municipal Code and the Permit Streamlining <u>Act pursuant to the Conformance Review process authorized by the GDP and further set forth in the Implementation Guide (excluding expedited timeframes).</u>
<u>Section 16.</u> Recordkeeping and Audits	<ul style="list-style-type: none">• City shall maintain records with respect to services performed by City and its Consultants under this Agreement (the "Records") in accordance with the City's current procedures. No less than seven (7) calendar days after notice by Project Sponsor, City shall make available to Project Sponsor all Records for examination.• Nothing in this Agreement shall be construed to require the City to provide documents that are privileged, attorney work product, or attorney-client privileged.
<u>Section 17.</u> Assignment	<ul style="list-style-type: none">• <u>Assignment to Lendlease and Lendlease Affiliate.</u> If Google assigns, or partially assigns, its rights, duties, obligations or interests to Lendlease or any Lendlease Affiliate with respect to residential, hotel, limited-term corporate accommodations, or retail development pursuant to the terms of the Development Agreement, Google may assign or partially assign its obligations under this Agreement to Lendlease or any Lendlease Affiliate. Within thirty (30) calendar days of providing the City with an Assignment and Assumption Agreement as set forth under Section 12 of the Development

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	<p>Agreement, Lendlease or any Lendlease Affiliate shall prepare and submit to the City an anticipated Work Plan that identifies its (i) anticipated schedule for the submission of Conformance Review Applications and other Subsequent Approval applications, (ii) anticipated number of Conformance Review Applications and other Subsequent Approval applications, (iii) anticipated type of Conformance Review Applications and Subsequent Approval applications to be submitted, and (iv) other relevant information that may assist the City in preparing an Annual Budget and appropriate levels of City resources and staffing required to perform the Reimbursable Work for the upcoming Budget Period as it relates to its implementation of the Project. Within [fourteen (14) calendar days] of providing the City with its Work Plan, the City and Lendlease or Lendlease Affiliate shall meet and confer to establish a proposed budget pursuant to Sections 7 and 8 above as it relates to Reimbursable Work for Lendlease or any Lendlease Affiliate.</p> <ul style="list-style-type: none">• <u>Other Transfers/Assignments.</u> If Google assigns, or partially assigns its rights, duties, obligations to a third-party (“Assignee”) other than Lendlease or any Lendlease Affiliate pursuant to the terms of the Development Agreement, Google may request, and the City in its sole and reasonable discretion may determine whether to approve this Agreement be assigned or partially assigned to the Assignee. Alternatively, the Assignee may negotiate a separate reimbursement agreement with the City, subject to City approval, to address the Assignee’s reimbursement of the City for “City Costs” in connection with the City’s Reimbursable Work for Assignee to advance the objective of timely implementation of the Downtown West project.
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RESOLUTION NO. _____

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

FILE NO. PT20-027

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. **Site Description and Surrounding Uses.** The subject site, comprised of 136 lots, is generally bounded by Lenzen Avenue and the Union Pacific Railroad (UPRR) tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, Barack Obama Boulevard (formerly South Autumn Street and Bird Avenue), and Royal Avenue to the east; Auzerais Avenue to the south; and Diridon Station and the Caltrain rail tracks to the west, in San José. The approximately 84-acre site is comprised of manufacturing, light industrial, and business services uses with limited residential and commercial uses. The subject property is within the Diridon Station Area Plan.

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

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

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

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

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

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

The project is consistent with the following key DSAP goals:

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

The Project consists of a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood and destination. The development program optimizes development density, which consists of up to 7.3 million gsf of commercial office space; up to 5,900 residential units; up to 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community spaces, institutional, childcare and education, maker spaces, non-profit, and small-format office space); up to 300 hotel rooms; up to 800 limited-term corporate accommodations; up to 100,000 gsf of event and conference center space; 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, Auzerai Avenue and new street extensions such as West St. John Street and West Post Street.

The Vesting Tentative Map directly promotes the DSAP policy, as the Subdivider will complete both publicly-dedicated and privately-owned street and other public realm improvements as contemplated by the DSAP within each phased final map area as part of Subdivider's completion of horizontal improvements to serve the subdivision.

c) Prioritize pedestrian circulation and transit.

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

The Vesting Tentative Map directly promotes the DSAP policy, as the Subdivider will complete both publicly-dedicated and privately-owned improvements to enhance pedestrian circulation and transit as contemplated by the DSAP within

each phased final map area as part of Subdivider's completion of horizontal improvements to serve the subdivision.

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 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.

As further described herein, the Vesting Tentative Map is conditioned to require Subdivider to provide publicly-dedicated and private open space consistent with the Development Agreement and the Parkland Agreement.

- 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 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 includes the rezoning of the subject property from Light Industrial, Heavy Industrial, Industrial Park, Commercial Neighborhood, Commercial General, Downtown Primary Commercial, Public Combined Industrial / Commercial and Planned Development zoning to the Downtown West Planned Development (PD) 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.

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 PD Permit's Conformance Review 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 PD Permit's Conformance Review 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.

The Vesting Tentative Map is consistent with the Downtown West PD Zoning District and the Downtown West PD Permit, and facilitates the development of the Project site consistent with these zoning requirements. The Vesting Tentative Map proposes commercial, residential, mixed-use, open space and other land uses contemplated in the Downtown West PD Zoning District. The Vesting Tentative Map also proposes development lots, lot configurations, public and private street

network and alignment, and open space areas consistent with the block plan, open space plan, and circulation plan in the Downtown West PD Zoning District.

6. **Environmental Review.** The City of San José, as the lead agency for the proposed Project, prepared a Final Environmental Impact Report for the Project pursuant to and in accordance with CEQA. The Final Environmental Impact Report is comprised of the Draft Environmental Impact Report for the Project and all appendices thereto (the “Draft EIR”), the comments and responses to comments, and the revisions to the Draft EIR (collectively, all of said documents are referred to herein as the “FEIR”). On April 28, 2021, the Planning Commission of the City of San José reviewed the FEIR prepared for the Downtown West Mixed-Use Plan and recommended to the City Council that it 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 the substantial public benefits as described in the Statement of Overriding Considerations adopted in Resolution No. ____:

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

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

7. **Government Code Section 66412.3.** In approving this Vesting Tentative Map, the City has considered the housing needs of the region. Approval of the Vesting Tentative Map will facilitate the ability to develop up to 5,900 residential units, which will significantly enhance the City's supply of housing. The FEIR documents that the proposed residential development will be sufficiently serviced by infrastructure, including new infrastructure to be installed by Subdivider, and that public services are also sufficiently available. The proposed development will not adversely impact the City's fiscal resources, as documented by the Fiscal Impact Memorandum prepared for the Project and on file with the City. Finally,

environmental resources will be protected through application of required mitigation measures described in the FEIR's Mitigation Monitoring and Reporting Program, approved by the City Council in Resolution No. _____, and which are applicable to the Vesting Tentative Map as a condition of approval.

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

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


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

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

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

- ii. The City Council has considered the proposed subdivision shown on the Vesting Tentative Map, with the imposed conditions, to determine whether to make any of the findings set forth in the subsections of Section 66474 of the Government Code which states "A legislative body of a city or county shall deny approval of a vesting tentative map, or a parcel map for which a vesting tentative map was not required, if it makes any of the following findings:"

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



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

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

Analysis: As detailed above, the design and improvement of the subdivision is consistent with the General Plan and the applicable specific plan (both as amended), and conformance of design will be

further assured through satisfaction of the Conformance Review Procedures mandated by the PD Permit.

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

Analysis: The site is physically suited for the type of development. The FEIR evaluated potential environmental impacts associated with the development. All required mitigation measures in the FEIR's Mitigation Monitoring and Reporting Program apply to the Vesting Tentative Map as a condition of approval. The FEIR and corresponding mitigation measures address, among other issues, geotechnical and soils considerations, flooding, hazards, and hazardous materials. The site is in an area of Downtown San José that accommodates manufacturing, light industrial, and business service land uses mixed with limited residential and commercial uses. Located adjacent to Diridon Station, development of the Project will enhance connections to nature, surrounding neighborhoods, and the greater Bay Area region, strengthening links to Downtown and surrounding neighborhoods.


Development of the site, which is primarily vacant, will revitalize the site with a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood.

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

Analysis: The site is physically suited for the density of development, including up to 5,900 residential condominium units and the anticipated commercial development. Potential impacts associated with density and development intensity were evaluated in the FEIR, and as described above, compliance with all applicable mitigation measures is a condition

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

5. Government Code Section 66474(e) - That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.




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

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

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

7. Government Code Section 66474(g) - That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.



Analysis: Neither the design of the subdivision nor of the types of improvements will conflict with easements acquired by the public at large for access through, or use of, property within the subdivision. Easements will be abandoned pursuant to Government Code Section 66434(g) where indicated on the Vesting Tentative Map pursuant to statutory procedures. Other easements will be relocated to avoid conflicts as shown on the Vesting Tentative Map. Subdivider will be required to dedicate new public easements for access through and use of portions of the subject property.

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

Analysis: As described above, design or improvement of the proposed subdivision is not consistent with the General Plan and the site is physically suitable for the proposed type of development and density of development. The design and improvement of the proposed site will provide adequate access, water supply, fire protection, and sewage or drainage facilities to serve the subdivision. As set forth above, the Vesting Tentative Map is consistent with the Downtown West PD Zoning Ordinance.

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

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

A. That he is the owner of the property proposed for subdivision; or

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

The subdivision includes areas (e.g., certain public streets) which, as of the effective date of this Resolution, are subject to fractionalized ownership interests, and for which it is impracticable for Subdivider to provide the statement contemplated by Section 19.12.020. As such, the City Council approves a waiver of Section 19.12.020 as applied to any properties included within the subdivision and for which Subdivider has not provided the statement contemplated by Section 19.12.020, pursuant to its authority under Section 19.04.050, subject to the following:

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

with the Project approvals. This waiver will not be detrimental to the public welfare based on the considerations otherwise described in this finding.

12. Waiver of Section 19.16.110(G) of the San José Municipal Code. SJMC

Section 19.16.110(G) generally requires the subdivider to show the location, name, width, and purpose proposed “pedestrian ways” on the face of a final map. The Project Approvals, including the Development Agreement, PD Permit (including the DWDSG) and the Parkland Agreement include detailed procedures for the identification and final design of pedestrian ways, including such pedestrian ways that may be located within private streets or privately-owned publicly accessible open space areas. The precise location of pedestrian ways may not be practicably capable of being fixed at the time of approval of a phased final map. As such, the City Council approves a waiver of Section 19.16.110(G) for privately-owned pedestrian ways, pursuant to its authority under Section 19.04.050, subject to the following:

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

- c. This waiver is reasonably necessary and expedient for the preservation and enjoyment of a substantial property right, that being the Subdivider's ability to develop the Project in a manner consistent with the Project approvals, and this waiver will not be detrimental to the public welfare, based on the considerations otherwise described in this finding.

13. Waiver of Section 19.36.030 of the San José Municipal Code. Section 19.36.030 generally requires that streets must be consistent with the Complete Streets requirements as described in Section 13.05. However, the City Council has determined, pursuant to the Project Approvals, that certain modifications to the Complete Streets requirements shall apply as to street designs within the Downtown West PD Zone, including as are described in the DWDSG and the DWIS. As such, the City Council approves a waiver of Section 19.36.030, pursuant to its authority under Section 19.04.050, subject to the following:

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

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

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

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

16. Abandonment of Public Streets and Easements.

a. Certain existing public streets and public easements are indicated on the Vesting Tentative Map as being subject to abandonment pursuant to the Subdivision Map Act. At the time of approval of phased final maps including such streets and easements, and provided that the requirements of the Subdivision Map Act and the conditions of approval in this Resolution are satisfied, these streets and easements shall be unnecessary for the present or prospective public use. The City Council further finds that incorporation of the underlying properties into the adjacent parcels, as described in the Vesting Tentative Map, free of public street interest and identified public easements, is assumed as part of the Project and is essential for the City and the public to realize the full measure of the Project's public benefits.

b. Subdivider may reduce the size of or reconfigure proposed lots, easements and improvements on phased final maps to account for the exclusion of those areas that are shown on the Vesting Tentative Map as public streets to be abandoned and which are assumed to be merged into adjacent lots. In the event that such lots, easements or improvements are modified as described in the preceding sentence, the phased final map shall be deemed to substantially comply with the Vesting Tentative Map notwithstanding such modifications.

c. In the event that a portion of Park Avenue at the northeast corner of the intersection of Park Avenue and South Montgomery Street together with an

adjacent portion of South Montgomery Street, South Montgomery between Park Avenue and West San Fernando Street, Cinnabar Avenue between North Autumn Street and the Peninsula Corridor Joint Powers Board rail tracks, or Otterson Street east of Cahill (each a "Potential Ped/Bike Street") is not abandoned and merged into one or more adjacent parcels as described on the Vesting Tentative Map, then the Subdivider shall be authorized to effectuate vacation of the vehicular traffic function of such street pursuant to Resolution Nos. _____ provided:

- The Subdivider shall install and/or construct pedestrian and bicycle improvements within such Potential Ped/Bike Street sufficient to maintain the pedestrian and bicycle circulation functions of the reserved pedestrian and bicycle street rights, including minimum dimensions of 12 feet in width for a bikeway and 8 feet in width for a pedestrian throughway, subject to other dimensional requirements applicable to Shared-Use Paths in Section 4.10.
- If requested by Subdivider, City shall allow for Subdivider to construct improvements within the Potential Ped/Bike Street to eliminate curbs and create a continuously graded surface and consistent with DWDSG standards and guidelines regarding materials in Section 6.14 and other improvements consistent with the DWDSG to the maximum extent compatible with the reserved pedestrian and bicycle rights, and subject to any required deviations authorized pursuant to the DWDSG.
- In no event shall the Subdivider be obligated to construct improvements beyond what is specified in the Development Agreement.

Improvements described in the preceding bullets are authorized in the public right of way pursuant to Resolution No. _____ [Major Encroachment]. Maintenance of

improvements installed on Potential Ped/Bike Streets and the funding of such maintenance, shall be as provided in the Development Agreement.

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

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

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS

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

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

4. **Compliance with Subdivision Ordinance.** Subject to any modifications or waivers therefrom approved pursuant to the Project Approvals or this Resolution, or as may be subsequently authorized pursuant to Title 19 of the San José Municipal Code, all final maps shall comply with the requirements for final maps in Section 19.16.
5. **Conformance with Other Permits.** The subject Vesting Tentative Map shall conform to and comply in all respects with the PD Permit upon which such Vesting Tentative Map is based. Approval of said Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a final map has not yet been recorded if, prior to recordation of a final map thereon, the PD Permit for such lands ceases to be operative for any reason and the Subdivider either fails to timely appeal, or any appeal is not resolved in favor of the Subdivider.
6. **Minimum Square Footage of Nonresidential Condominium.** The minimum size of any nonresidential condominium shall not be at least seven hundred fifty square feet.
7. **Public Works Clearance:** 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 Subdivider will be required to have satisfied all of the following Public Works conditions. The Project is intended to be developed in a series of phases and the following conditions shall apply, as applicable, to the incremental development within each subdivision as depicted on phased Final Maps, 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. Transportation:

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

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

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

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

- v. Each LTA Construction Contribution and LTA Financial Contribution shall be completed or paid, as applicable, in accordance with the Improvements Phasing set forth in the LTA Construction and Financial Contributions table below, which requires that each LTA Construction Contribution be completed in accordance with the corresponding Subdivision Improvement Agreement (SIA), such that the SIA will describe the terms for Developer to complete Improvements or remit contributions in accordance with the milestone established within the LTA Construction and Financial Contributions table associated with the phased Final Map. For LTA Improvement Projects that are constructed by Developer, such Improvements are complete upon acceptance by the City, provided, however, that the City adheres to the following timelines and obligations: City agrees to inspect and prepare a punchlist for the LTA Improvement Projects within ten (10) business days of notification by Developer that the Developer considers the construction of the Improvements to be substantially complete; City further agrees to perform its final inspection within ten (10) business days of notification by Developer that all punchlist work has been completed; City will process acceptance documentation (Notice of Completion and Acceptance) within ten (10) business days of the date of City's final inspection or the date upon which the Developer returns to City the appropriate signed acceptance documentation, whichever is later, provided that (a) City finds that all punchlist work has been satisfactorily completed, which determination shall not be unreasonably withheld, (b) Developer

has performed and satisfied any and all terms, conditions, and obligations required by any applicable Improvement Agreement prior to acceptance of the Improvements, and (c) Developer has provided the Director of PW with three (3) sets of the Plans ("record plans") corresponding copies of any and all warranties, and the like (such warranties shall be in the name of the City).

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

LTA Construction and Financial Contributions			
Improvement/Description	LTA Construction Contribution	LTA Financial Contribution	Improvements Phasing
Focused Local Transportation Analysis improvements such as intersection improvements, new signals, at-grade rail crossing modifications and complete street improvements. For Block E, this will include restriping Delmas between San Fernando Street and Park Avenue from one to two lanes.	\$10,000,000		As necessary based on Focused Local Transportation Analysis (FLTA) findings
Studies: <ul style="list-style-type: none"> Connector from the Airport to Stevens Creek Boulevard to Diridon Station Area Santa Clara dedicated public service lane within existing right-of-way from 17th Street to Interstate 880 Transit and light rail improvements within the project area, particularly at San Fernando Street and Delmas Avenue. 		\$1,100,000	Temporary Certificate of Occupancy for the earlier of either 1m gsf Office or 1,400 residential units
Feasibility study and concept design of the Bird Avenue/Interstate-280 bicycle and pedestrian multimodal connection from Diridon Station area to Garner community		\$500,000	Temporary Certificate of Occupancy for the earlier of either 1m gsf Office or 1,400 residential units
Protected bikeway improvement on Bird Avenue between I-280 and West San Carlos Avenue		\$1,860,000	Temporary Certificate of Occupancy for the earlier of either 1m gsf Office or 1,400 residential units
Bird Avenue/Interstate-280 bicycle and pedestrian multimodal connection from Diridon Station area to the Gardener community.		\$4,840,000	Temporary Certificate of Occupancy for 4m gsf Office
Taylor Street and State Route 87 improvements programmed by the City of San Jose and Caltrans.		\$220,000	Temporary Certificate of Occupancy with the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office)
Goodyear Street and First Street and First Street and Alma Street intersection improvements per the Story- Keyes Complete Streets Corridor and Better Bike Plan 2025.		\$490,000	Temporary Certificate of Occupancy with the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office)
Multimodal and neighborhood transportation management improvements and transit studies at the discretion of the City		\$3,680,000	50% will be paid at Temporary Certificate of Occupancy for 4m gsf Office, the remaining 50% at Temporary Certificate of Occupancy for the last Office building that with completion represents full build out

			(anticipated to be 7.3m gsf Office) unless otherwise mutually agreed upon by Developer and City
Footbridge over the Los Gatos Creek north of West San Fernando Street	\$3,000,000		Construction completion in accordance with PIA timing for the improvements serving E1
At-grade signalized-trail crossing at West Santa Clara Street and Diridon Station Area.	\$400,000		Construction completion in accordance with PIA timing for the improvements serving E1
Protected bikeway connection along Auzerai Avenue from Los Gatos Creek Trail to Bird Avenue. Does not include project frontage improvements or rail crossing modifications.	\$800,000		Construction completion in accordance with PIA timing for the improvements serving 4m gsf Office or if later, frontage improvements along H3/H4
Sidewalk extension under Highway 87 at Auzerai Avenue and Delmas Avenue. Improvements include a bulb-out at the north east quadrant.	\$1,110,000		Construction completion in accordance with PIA timing for the improvements coinciding with the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office)
Bicycle connection and removal of the pork-chop island at the southwest corner at Coleman Avenue and Taylors Street.	\$2,000,000		Construction completion in accordance with PIA timing for the improvements coinciding with the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office)
Subtotal	\$17,310,000	\$12,690,000	
Total	\$30,000,000		

B. Stormwater Runoff Pollution Control Measures:

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

C. 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. The base fee shall be \$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.

D. Street Improvements.

- 1. 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:
 - i) Cahill Street, from Park Avenue to West San Fernando Street.
 - ii) Cahill Street, from West Santa Clara Street to North Montgomery Street.
 - iii) West Post Street, from South Montgomery Street to Autumn Street.
 - iv) West St. John Street extension from project boundary to new Cahill

Street.

v) North Autumn Street extension from project boundary to Lenzen Avenue.

vi) West Julian Street, from North Montgomery Street to western project boundary.

vii) Park Avenue within project boundary.

viii) West San Carlos Avenue within project boundary.

ix) West Santa Clara Street, within project boundary.

x) Additional streets to be determined, as determined by subsequent Focused Local Transportation Analyses, prior to final map approval. In anticipation of the proposed abandonment of Delmas Avenue between West Santa Clara Street and West San Fernando Street, the Project Sponsor prepared and submitted the "Supplemental Analysis Supporting the Closure of Delmas" dated April 16, 2021, analyzing the proposed closure of Delmas Avenue and which was reviewed and approved by the Directors of PBCE and Public Works. The "Supplemental Analysis Supporting the Closure of Delmas" is on file with the [Department of PBCE].

2. 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 not been superseded by the DWDSG), and as shown 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.

3. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.

4. Proposed driveway width to be maximum 32', however wider driveways shall be permitted where identified under the Focused Local Transportation Analyses in coordination with the Department of Transportation.
 5. Close unused driveway cut(s).
 6. Developer shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 7. 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 Exhibit ___ to the Infrastructure Plan.
 8. Repair, overlay, or reconstruction of asphalt pavement will be required. The existing pavement will be evaluated with the street improvement plans and any improvement plans.
 9. Install new conduit, innerduct, and fiber along project public street frontages and between any signal improvements as described in the LTA within the project boundary as needed for the City to upgrade/complete their fiber network.
8. **Improvement Agreement.** In the event Subdivider has not completed the public improvements required for the proposed subdivision at the time the final map is presented for approval, Subdivider shall enter into a subdivision improvement agreement ("Improvement Agreement") with the City of San José in accordance with Section 19.32.130 of the San José Municipal Code and provide associated improvement security and insurance as required therein.
9. **Publicly-Dedicated Easements.** Subdivider shall dedicate public use easements on the phased final maps for public utilities, emergency access,

sanitary sewers, drainage, flood control channels, water systems, and any easements required for publicly-dedicated open space, streets, or pedestrian ways as contemplated by the Project Approvals.

10. Multiple Final Maps. As described above, Subdivider may file multiple phased final maps for the area included within the Vesting Tentative Map, provided that the following conditions are addressed prior to the filing of each final map:

- A. All fees associated with development and a part of this approval shall be apportioned and paid for each portion of this subdivision for which a Final Map is being filed, including but not limited to, undergrounding of utilities, drainage, area and sewer treatment plan.
- B. All property dedications, public improvements and fees required to be paid pursuant to the Development Agreement and/or the Parkland Agreement specifically, as applicable, have been satisfied or are addressed in the Improvement Agreement associated with the final map.
- C. All public streets on which each Final Map has frontage shall be improved or bonded to be improved to the satisfaction of the Director of Public Works.
- D. All grading, drainage, and easements for drainage, adequate to protect each lot for which a Final Map is requested, and surrounding parcels which could be impacted by such design or lack of design, shall be guaranteed.
- E. Any and all off-site improvements necessary for mitigation of impacts brought about by this project shall be apportioned to the degree possible to guarantee adequate mitigation for each area for which a Final Map is being filed, consistent with the FEIR and the Project Approvals.

11. Sewage Treatment Demand. Pursuant to Section 15.12 of Title 15 of the San José Municipal Code, acceptance of this Vesting Tentative Map by Subdivider shall constitute acknowledgement of receipt of notice by Subdivider that (1) no vested right to a Building Permit shall accrue as the result of the granting of this

Vesting Tentative Map when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Vesting Tentative Map may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

12. **Parkland Dedication Ordinance.** The Project is subject to a Parkland Agreement for purposes of Subdivider's satisfaction of parkland dedication and fee payment obligations under Chapter 19.38 of the Municipal Code. Prior to the approval of any phased final map, Subdivider shall demonstrate that it has complied with any applicable requirements of the Parkland Agreement relating to the development contemplated for the phased final map area, including any required offers of dedication or payment of fees.

13. **Conformance to Mitigation Monitoring and Reporting Program.** The project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by Resolution No. _____, as such requirements may be applicable to any phased final map.

14. Procedure for Subsequent City Review of District Systems. The Project's Planned Development Permit, including the infrastructure Plan, the Downtown West Development Standards and Guidelines (DWDSG), the Conceptual Infrastructure Plan Sheets, and the Downtown West Improvement Standards (DWIS) contemplate that the Subdivider may pursue implementation of a privately-owned electric distribution system ("Microgrid"), privately-owned wastewater collection and treatment, recycled water distribution, and thermal systems, (with the Microgrid and each of the other systems each referred to individually as a "District System" and collectively as the "District Systems") to provide utility service to the Project. If the Subdivider seeks to implement any District System in lieu of municipal or regional public utility service otherwise available within any proposed phased final map area, the following procedures shall apply.

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

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

Criteria Check Point: The consistent and continuous service will be confirmed through the embedment of a Service Standard equivalent to comparable utility service available in San José. The Service Standard will be included in the District Systems Transactional Documents (as defined below).

- ii. Rate Control. Rates for service charged to residential tenants or owners (i.e., condominium) and retail tenants whether reflected in sales prices, utility charges, rent or other consideration, shall be consistent with any rate schedule, limits or mechanisms established by any governing state or federal agency, or, in the absence of an applicable control, rates shall not exceed rates for comparable service from other utility providers available to San Jose residents ("Rate Control") or comparable building level thermal service.

Criteria Check Point: Rate Control will be confirmed via a guarantee clause in District Systems Transactional Documents addressing supply arrangements. Rate Control, as with other applicable District Systems Criteria, will be made enforceable by residential tenants and owners through the District Systems Transactional Documents. Buildings shall be sub-metered for District System service.

- iii. Customer Service Administration / Resolution of Performance and Operational Procedures.

Criteria Check Point: The District Systems Transactional Documents will include terms to ensure that the operator will implement clear procedures for communication with customers to resolve customer service, billing, performance, and other issues, including with dispute resolution mechanisms and performance standards as appropriate. This may include, for example, a structure included in the District Systems Transactional Documents that requires the operator to respond to any questions or complaints concerning service or billing within an established time period (e.g., fifteen days), and to identify procedures for prompt resolution (and reimbursement where relevant) of customer service or billing issues.

- iv. Exclusivity and Tenure. The District Systems operator/owner will have the exclusive right and obligation to service the buildings that will ultimately be constructed within the subdivision boundary shown on the associated phased final map, and building owners and lessees will be required to exclusively contract with the District Systems operator/owner to procure available services. The private arrangement and enforcement between District Systems operator/owner and building owners and lessees would not limit the City's authority pursuant to its general police powers to address public health and safety, or to secure payment for any unpaid services provided by the City to the properties including a covenant to pay for City services.

Criteria Check Point: The District Systems Transactional Documents will include enforceable covenants that require the owners or lessees, including at both the building and unit or parcel level, as applicable, to contract with the District Systems operator/owner for electric service, sanitary sewer collection, recycled water, and thermal heating and cooling service if and when available from the District Systems operator/owner. The District Systems Transactional Documents will require the District Systems operator/owner to exclusively supply services within the Project boundary and to all owners or lessees within the Project boundary unless otherwise described in the Infrastructure Plan and identified prior to approval of the subject phased final map. Public Improvement Plans, as evaluated pursuant to the Preliminary Review Process, will confirm that the District Systems are routed to each applicable building and sized to provide the necessary service.

- v. Continuity of Utility Supply. The District System will be continuously operated notwithstanding the failure of any for-profit operator of the District System, including if the District System operates at a loss.

Criteria Check Point: The District Systems Transactional Documents will include an obligation for the owners of all commercial office buildings which are connected to District Systems ("Office Building Owners") to assume the obligations of the District Systems operator / owner and to provide continuous service on equivalent terms (including with respect to Rate Control and the Service Standard) to residential owners and tenants and retail tenants in the event of a failure of the District Systems operator or as applied to a given District System. A standard for "failure" giving rise to an obligation for the Office Building Owners to assume the obligations of the District Systems operator / owner will be described in the Draft District Systems Contractual Terms.

- vi. Safety. The District System will be operated safely and in accordance with applicable law and industry standards including, but not limited to, compliance with and maintenance of valid permits.

Criteria Check Point: Inclusion of a safety statement and accompanying safety plan to address applicable City, state and federal standards and guidelines relative to safe operation of the District Systems. The statement and plan will be included within the Transaction Documents.

- vii. Qualified Operator. Each District System will be operated by a professional operator with at least five (5) years technical experience and qualifications in safely operating the same utility in

urban communities and in accordance with applicable law and industry standards ("Qualified Operator"). This Criteria shall apply to Subdivider and to any successor operator or Subdivider assigns.

Criteria Check Point: Inclusion of clause confirming minimum experience and the confirmation that all applicable certifications and qualifications will be required prior to contracting the operator within the District Systems Transactional Documents.

- viii. **Capital Replacement.** The District Systems owner/operator will be obligated to ensure that the systems are replaced pursuant to appropriate capital replacement schedules to maintain the equipment for continuous operation.

Criteria Check Point - Inclusion of a clause within the District Systems Transactional Documents confirming the obligation of the District Systems operator to fund and replace the capital plant in a timely manner to ensure continuous operation of the systems.

- ix. Capital improvements. The right of the Office Building Owners to call on capital improvements to improve efficiency and performance of the District Systems from the District Systems owner/operator, subject to review on constraints and negotiations on funding and charges.

Criteria Check Point: Inclusion of a clause within the District Systems Transactional Documents confirming the right of the Office Building Owners to call on improvements to improve the efficiency and performance of the system.

- x. Obligations of Office Building Owners. As otherwise described in these conditions, the Office Building Owners will bear ultimate responsibility for assuring certain performance obligations of the District Systems relative to owners and tenants within the Project, including the Service Standard, Rate Control, continuity of supply, and the timely completion of capital replacement and improvements. These obligations will apply notwithstanding any Assignment of the District Systems.

Criteria Check Point: The District Systems Transactional Documents will obligate all the Office Building Owners (which may include one or more commercial owners' associations) to ensure that the District Systems owner / operator operates the subject District System(s) consistent with the Service Standard and Rate Control requirements, and that the owner / operator provides continuous service. The District Systems Transactional Documents will require the Office Building Owners to implement capital replacement and improvement obligations. Further, the District Systems Transactional Documents will include dispute resolution procedures and remedies for owners and tenants receiving service from District Systems to ensure that such residents and tenants have a means of addressing any noncompliance by the Office Building Owners. The District Systems Transactional Documents will document the extent to which the Office Building Owners will control major encroachment permits for District Systems. To the extent Subdivider proposes to assign major encroachment permits to an Office Building Owner or a commercial owners' association, Subdivider will document to the Director of Public Works' reasonable satisfaction that the proposed assignee is capable of implementing the terms of the major encroachment permit and has

the organizational capability and access to sufficient capital to perform the obligations of the permittee.

- xi. Limitations on Assignment. Subdivider's right to assign the District Systems infrastructure and associated rights and obligations ("each an "Assignment") will be consistent with the following, and which will be reflected in enforceable covenants that extend in perpetuity.

1. Assignment and Assumption Agreement: Any Assignment will require execution of an "Assignment and Assumption Agreement" which evidences that the assignee has assumed all rights and obligations of the assignor pertaining to the subject District Systems as required by these conditions of approval and the operative District Systems Transactional Documents. No Assignment shall be effective until the assignor or assignee provides an executed copy of the Assignment and Assumption Agreement to the Public Works Director.

2. Evidence of Qualified Operator: Concurrent with the submittal of the executed Assignment Assumption Agreement, the assignor or assignee shall provide documentation to the Public Works Director confirming that the assigned District System will continue to be operated by a Qualified Operator subsequent to the Assignment. No Assignment shall be effective until the assignor or assignee provides the documentation required pursuant to this condition.

3. Permitted Assignments: Google may assign to (i) Alphabet, Lendlease or any Google/Alphabet/Lendlease affiliates/related entities) or (ii) any third-party assignees if

the third-party is an owner/investor in the infrastructure sector, with appropriate operational and asset management capabilities, directly or via operating partner. Any such assignments would not require City's consent but would require prior sixty (60) days written notice to City except assignment of permits or other regulatory obligations under federal, state or local laws must be in compliance with these laws.

- xii. Private Systems – No City Obligations / Notice to Owners. By seeking permits for the construction of the District Systems and buildings that rely on District Systems, Subdivider is voluntarily electing to proceed with these systems to meet the objectives of the Project. Subdivider acknowledges that the District Systems are private, and that the City has no role in funding, constructing, operating, maintaining, or replacing the District Systems except as may be expressly agreed to by the City (i.e., with respect to a possible role in owning or operating the Microgrid as otherwise described in these conditions of approval and the Development Agreement). Subdivider shall be solely responsible for funding, construction, operating, maintaining, replacing, and assuring continuity of service via District Systems and for resolving disputes among the owner / operator and any entities receiving service from the owner / operator.

Criteria Check Point: Subdivider's agreement with these terms shall be manifested by Subdivider accepting the Vesting Tentative Map subject to this condition. Subdivider shall also be required to document to the Public Works Director's reasonable satisfaction, and as part of the Implementation Plan (as described below), that notice will be provided to future owners that includes the following:

(1) a description of any service that is provided to the subject building by a District System; (2) a statement that the District System is privately owned and operated, and that the City of San Jose has no responsibility for providing the service or to address disputes relating to the service; and (3) the identity of the District Systems owner / operator, the qualified Operator and all necessary information regarding terms for service and dispute resolution.

B. Implementation Plan Confirmation. Subdivider shall submit an "Implementation Plan" to the Public Works Director, including the components described below, concurrently with the Subdivider's submittal of a Vertical Improvement Conformance Review Application for a development phase. The Public Works Director will review the Implementation Plan for purposes of confirming that the Implementation Plan satisfies the Check Point Criteria and that it includes all components described below. The Public Works Director will notify the Subdivider in writing within thirty (30) days as to whether the Implementation Plan incorporates the Check Point Criteria and includes the components listed in this condition. Subdivider will not submit its first Preliminary Improvement Plans (35% plans) to the Public Works Director until the Public Works Director provides confirmation that the Implementation Plan satisfies the requirements of this condition.

i. Identification of Proposed District Systems. The Implementation Plan will identify any District System that the Subdivider proposes to implement as part of the development phase. For phases subsequent to the initial phase, the Implementation Plan will describe in concept form how the District System will interconnect with the same system as approved and/or constructed within prior phases.

ii. Summary of Regulatory Requirements, Status and Schedule.

District Systems will be subject to all applicable federal, state and regional requirements applicable to the District Systems at the time of implementation. The Implementation Plan will include a summary of any required regulatory authorizations necessary to construct or operate any District System, along with the status of any regulatory authorizations. To the extent that any authorizations have not been obtained at the time of the Implementation Plan submittal, the summary will provide a schedule and any necessary supporting information to describe the timing of anticipated regulatory authorizations relative to Subdivider's schedule for completing improvement plans, filing a phased final map, and obtaining building permits.

iii. Index of "District Systems Transactional Documents". An index describing the draft documents that will govern the operation of the District System and its relationship to the commercial and residential properties comprising the development phase. This may include, for example, residential covenants, conditions and restrictions ("CC&Rs"), commercial CC&Rs, ground leases, licenses, supply contracts, and various deeds relating to real or personal property (collectively, the "District Systems Transactional Documents"). It is anticipated that parties to the District Systems Transactional Documents will include, but may not be limited to, Google, residential and commercial building owners, ground lessees, and the District Systems operator. The index will identify the specific documents that will implement the respective Check Point Criteria.

iv. "Draft District Systems Contractual Terms". A summary that includes a series of draft contractual terms to be reflected in the

District Systems Transactional Documents (“Draft District Systems Contractual Terms”). The Draft District Systems Contractual Terms will be evaluated for purposes of documenting satisfaction of the Check Point Criteria.

- v. Confirmation of District Systems Criteria through Horizontal Preliminary Review. Subdivider will provide the following to the Public Works Director prior to, or concurrent with, the submittal of 95% plans pursuant to the Horizontal Preliminary Review Process.
- vi. Proposed Final District Systems Transactional Documents. Subdivider will submit proposed forms of the District Systems Transactional Documents to the Public Works Director for the purpose of confirming that the proposed forms do not result in inconsistency with the District Systems Criteria. The forms may include redactions where necessary to avoid disclosure of nonpublic proprietary information.
- vii. Confirmation of Regulatory Authorizations. Subdivider will submit copies of any regional, state or federal authorizations, approvals or acknowledgements identified in the Implementation Plan, or to the extent not obtained by the time of the 95% plan submittal, documentation to establish that said authorizations, approvals or acknowledgments will be obtained before Subdivider provides service to any end users to the Public Works Director’s reasonable satisfaction.

C. Subdivision Improvement Agreement. The Subdivision Improvement Agreement for any phased final map will include an obligation for Subdivider to provide a copy of the final form of any District Systems Transactional Document that is required to be recorded to the Public Works Director for final confirmation that the relevant terms are included prior to recordation of the subject District Systems Transactional

Document. The forms may include specific redactions where necessary to avoid disclosure of nonpublic proprietary information. Each Subdivision Improvement Agreement for a phased final map also shall be conditional on the Subdivider having obtained an Encroachment Permit for the District Systems concurrently with the City's approval of the Improvement Agreement.

15. **Obligations Specific to Microgrid.** Subject to all other conditions of approval in this Resolution, Subdivider may pursue the following three alternatives for the Microgrid, as further described below. If Subdivider elects to proceed with the Microgrid, Subdivider will identify which of the following alternatives it seeks to implement as part of its Implementation Plan.

A. Municipally-Owned Microgrid. A local publicly-owned electric utility would operate the Microgrid pursuant to the operative provisions of State and local law ("Municipal Ownership"). If Subdivider wishes to pursue Municipal Ownership, the City will engage with Subdivider in good faith to evaluate the viability of this approach; provided however, that nothing in this Resolution shall be interpreted to commit the City to own or operate the Microgrid (or any component thereof) without future City and Subdivider review and approval. City acknowledges that as part of Municipal Ownership for the Microgrid, Subdivider would not be required to seek encroachment authorization or obtain franchise rights for Microgrid infrastructure to occupy public rights-of-way.

B. Pacific Gas & Electric Company ("PG&E") Integration. PG&E may own or operate components of the Microgrid, including particularly the distribution component, consistent with PG&E's status as a regulated public utility.

C. Privately-Owned Microgrid. Subdivider may pursue a privately-owned Microgrid, meaning that Subdivider would not transfer the Microgrid infrastructure to either PG&E or the City. Under this option, Subdivider will

own and operate the Microgrid. Prior to approval of a phased final map, Subdivider shall demonstrate to the Public Works Director's reasonable satisfaction that Subdivider's proposal for ownership and operation of the Microgrid is consistent with all applicable State, federal and City requirements. If, as a result of Subdivider's engagement with the California Public Utilities Commission ("CPUC"), CPUC determines that Subdivider may own and operate the Microgrid without any CPUC regulation or oversight provisions, then Subdivider will be required to seek City Council approval prior to proceeding with construction of the privately-owned Microgrid to address applicable regulations concerning the safe operation of the Microgrid and the distribution of electricity to owners and tenants.

16. Automatic Waste Collection System. Use of the proposed Automatic Waste Collection System ("AWCS"), as described in the Project's Infrastructure Plan and evaluated in the Final Environmental Impact Report, is not authorized as of the Effective Date of this Resolution. Should Subdivider wish to use the AWCS to provide solid waste collection and disposal services within the proposed subdivision, Subdivider shall be required to separately obtain any required State approvals as well as authorizations required for the operation of that system pursuant to the Municipal Code.

17. PG&E Property. The subdivision depicted on this Vesting Tentative Map includes an approximately 0.18 acre-parcel, described as "Parcel #1" in the deed recorded November 25, 1926, in Book 797, page 336 of Santa Clara County Records, generally located at the intersection of Cahill Street and West San Fernando Street ("PG&E Property"), which is owned by Pacific Gas & Electric Company ("PG&E") and which is subject to the jurisdiction of the California Public Utilities Commission ("CPUC") under California Public Utilities Code Section 851. PG&E authorized the inclusion of the PG&E Property within the boundary of the Vesting Tentative Map provided that CPUC subsequently confirms that the

PG&E Property may be included within the proposed subdivision. As such, Subdivider shall be required to provide documentation demonstrating that CPUC has provided the requested authorization to the Public Works Director. If Subdivider fails to provide this documentation within twenty-four months of the effective date of this Resolution, the PG&E Property shall be automatically deemed to be excluded from the boundary of the subdivision shown on this Vesting Tentative Map, and Subdivider shall not be permitted to file a phased final map that reflects the parcelization shown on Sheets _____. Upon a request of the Subdivider, and subject to the written consent of PG&E, the Public Works Director may extend the twenty-four month period described in the preceding sentence for an additional period not to exceed twelve months.

18. **Commercial and Industrial Common Interest Development Act / Municipal Code Chapters 20.100 and 20.175.** The Vesting Tentative Map authorizes up to twenty commercial condominiums to be identified on future phased final maps and created through condominium plans. As of the Effective Date of this Resolution, Subdivider has neither determined whether it will seek approval of any of these commercial condominiums on future phased final maps nor whether such condominiums will be subject to the Commercial and Industrial Common Interest Development Act or be Davis-Sterling Act regulated units in a mixed-use building (hereafter "CCID Units"). If the Subdivider elects to create CCID Units subject to the Commercial and Industrial Common Interest Development Act, the following shall apply.

- A. Subdivider, at its sole cost, shall submit for prior review and approval by the Planning Director, 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. To the extent that such documents are

not recorded concurrent with the associated final map, the City will require terms in the related Subdivision Improvement Agreement to ensure that the requisite documents are recorded after the recordation of the final map.

- B. Subdivider shall, at its sole cost, prepare grant deeds for all mutual or reciprocal easement rights, which will be reviewed by the Planning Director for compliance with the terms of Section 20.175 and Title 19. To the extent that such documents are not recorded concurrent with the associated final map, the City will require terms in the related Subdivision Improvement Agreement to ensure that the requisite documents are recorded after the recordation of the final map.

In accordance with the findings set forth above, a Vesting Tentative Map to use the subject property for said purpose specified above, subject to conditions, is hereby approved.

EFFECTIVE DATE

The effective date of this Vesting Tentative Map shall be the effective date of the Downtown West Planned Development Zoning Ordinance (Ordinance No. ____).



Exhibit A
(Legal Description)

DRAFT

Exhibit B

(General Notes from Vesting Tentative Map Sheet TM-1)

GENERAL NOTES

1. WATER POLLUTION CONTROL PLAN- PURSUANT TO CHAPTER 15.12 OF THE SAN JOSE MUNICIPAL CODE, NO VESTED RIGHT TO A BUILDING PERMIT SHALL ACCRUE AS A RESULT OF THE GRANTING OF ANY LAND DEVELOPMENT APPROVALS AND APPLICATIONS WHEN AND IF THE CITY MANAGER MAKES A DETERMINATION THAT THE CUMULATIVE SEWAGE TREATMENT DEMAND ON THE SAN JOSE-SANTA CLARA WATER POLLUTION CONTROL PLANT REPRESENTED BY APPROVED LAND USES IN THE AREA SERVED BY SAID PLANT WILL CAUSE THE TOTAL SEWAGE TREATMENT DEMAND TO MEET OR EXCEED THE CAPACITY OF THE SAN JOSE-SANTA CLARA WATER POLLUTION CONTROL PLANT TO TREAT SUCH SEWAGE ADEQUATELY AND WITHIN THE DISCHARGE STANDARDS IMPOSED ON THE CITY BY THE STATE OF CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD FOR THE SAN FRANCISCO BAY REGION. SUBSTANTIVE CONDITIONS DESIGNED TO DECREASE SANITARY SEWAGE ASSOCIATED WITH ANY LAND USE APPROVAL MAY BE IMPOSED BY THE APPROVING AUTHORITY.
2. THIS SUBDIVISION IS SUBJECT TO THE REQUIREMENTS OF THE PARKLAND DEDICATION ORDINANCE (CHAPTER 19.38 OF TITLE 19 OF THE SAN JOSE MUNICIPAL CODE), FOR THE DEDICATION OF LAND FOR PARKS PURPOSES, UNDER THE FORMULAE CONTAINED WITHIN THAT CHAPTER AND AS MORE PARTICULARLY DESCRIBED IN THE PARKLAND AGREEMENT INCLUDED AS EXHIBIT E TO THE DEVELOPMENT AGREEMENT FOR THE PROJECT.

3. THIS SUBDIVISION WILL CONFORM TO THE STREET TREE PLAN OF SECTION 6.12 OF THE DOWNTOWN WEST DESIGN STANDARDS AND GUIDELINES.
4. DEMOLITION PERMITS MAY BE ISSUED PRIOR TO ISSUANCE OF FINAL BUILDING PERMITS AND RECORDATION OF PHASED FINAL MAPS.
5. ALL DIMENSIONS DEPICTED HEREON ARE APPROXIMATE AND ARE SUBJECT TO REVISION AT FINAL MAP(S) STAGE.
6. NO WELLS EXIST ON THIS SITE.
7. NO NEW STREET NAMES HAVE BEEN APPROVED AT THIS TIME.
8. ALL EXISTING BUILDINGS WILL BE REMOVED, PRIOR TO SUBDIVISION OF PROPERTY, UNLESS OTHERWISE NOTED.
9. EXISTING INTERIOR LOT LINES TO BE REMOVED UNLESS OTHERWISE NOTED.
10. THE LOCATIONS OF PUBLICLY-DEDICATED EASEMENTS SHOWN HEREON ARE APPROXIMATE AND WILL BE FINALIZED ON PHASED FINAL MAPS.
11. PROPOSED PRIVATE ACCESS WAYS MAY ALSO INCLUDE PUBLIC ACCESS EASEMENTS (PAE), PUBLIC SERVICE EASEMENT (PSE), EMERGENCY VEHICLE ACCESS EASEMENTS (EVAE), AND ANY PRIVATE UTILITIES AND IMPROVEMENTS THAT DO NOT CONFLICT WITH ANY PUBLIC EASEMENTS.

MISCELLANEOUS NOTES

1. THIS VESTING TENTATIVE MAP ("VESTING MAP") IS FILED IN ACCORDANCE WITH GOVERNMENT CODE SECTION 66452.

2. SUBDIVIDER RESERVES THE RIGHT TO FILE MULTIPLE FINAL MAPS (EACH A "PHASED" FINAL MAP") PURSUANT TO GOVERNMENT CODE SECTION 66456.1.
3. PURSUANT TO GOVERNMENT CODE SECTION 66498.3, THIS VESTING TENTATIVE MAP IS FILED CONCURRENT WITH AN APPLICATION TO CHANGE THE ZONING OF THE PROPERTY INCLUDED WITHIN THE PROPOSED SUBDIVISION TO A PLANNED DEVELOPMENT ZONING DISTRICT TOGETHER WITH A GENERAL DEVELOPMENT PLAN AND PLANNED DEVELOPMENT ("PD") PERMIT (COLLECTIVELY, THE "ZONING APPLICATION"). THE PD PERMIT INCLUDES THE DOWNTOWN WEST STREET STANDARDS AND GUIDELINES ("DWDSG"), THE DOWNTOWN WEST IMPROVEMENT STANDARDS ("DWIS"), CONCEPTUAL INFRASTRUCTURE PLAN SHEETS AND CONFORMANCE REVIEW IMPLEMENTATION GUIDE. APPROVAL OF THIS VESTING MAP SHALL CONFER A VESTED RIGHT TO PROCEED WITH DEVELOPMENT PURSUANT TO THE ZONING APPLICATION (PURSUANT TO TITLE 20 OF THE CITY OF SAN JOSE ["CITY"] MUNICIPAL CODE AS CONTEMPLATED BY GOVERNMENT CODE SECTION 66498.3(A) PROVIDED THAT THE ZONING APPLICATION IS APPROVED.

NOTES RELATING TO CONDOMINIUMS

1. THE PROPERTY COVERED BY THIS VESTING MAP HAS BEEN APPROVED BY THE CITY FOR CREATION OF CONDOMINIUMS CONSISTING OF UP TO 5,900 RESIDENTIAL UNITS ("TOTAL APPROVED RESIDENTIAL CONDOMINIUM UNITS") AND 20 COMMERCIAL UNITS ("TOTAL APPROVED COMMERCIAL CONDOMINIUM UNITS"). THE ESTABLISHMENT OF CONDOMINIUMS AND SEPARATION OF THREE-DIMENSIONAL PORTIONS OF THE PROPERTY FROM THE REMAINDER THEREOF SHALL NOT CONSTITUTE A FURTHER SUBDIVISION AS DEFINED IN GOVERNMENT CODE SECTION 66424 AND, PURSUANT TO THE AUTHORITY OF GOVERNMENT CODE SECTION 66427(E),

MAY OCCUR BY ONE OR MORE CONDOMINIUM PLANS WITHOUT FURTHER APPROVAL BY THE CITY COUNCIL.

2. SUBDIVIDER SHALL BE PERMITTED TO ASSIGN UNITS FROM THE TOTAL APPROVED RESIDENTIAL CONDOMINIUM UNITS AND THE TOTAL APPROVED COMMERCIAL CONDOMINIUM UNITS TO SPECIFIC LOTS AS SHOWN ON PHASED FINAL MAPS. UPON SUCH ASSIGNMENT AND RECORDATION OF THE ASSOCIATED PHASED FINAL MAP, ANY ASSIGNED UNITS SHALL BE DEBITED FROM THE TOTAL APPROVED RESIDENTIAL CONDOMINIUM UNITS AND TOTAL APPROVED COMMERCIAL CONDOMINIUM UNITS AS APPLICABLE. NO FURTHER CITY APPROVAL SHALL BE REQUIRED FOR SUBDIVIDER TO CONSTRUCT RESIDENTIAL OR COMMERCIAL UNITS THROUGH SUBSEQUENT CONDOMINIUM PLANS FOR THE SUBJECT LOTS PROVIDED THAT THE NUMBER OF RESIDENTIAL OR COMMERCIAL UNITS ASSIGNED TO ANY GIVEN LOT DOES NOT EXCEED THE NUMBER OF UNITS DEPICTED ON THE ASSOCIATED PHASED FINAL MAP. THE CUMULATIVE NUMBER OF RESIDENTIAL CONDOMINIUM UNITS AND COMMERCIAL CONDOMINIUM UNITS ASSIGNED TO LOTS ON PHASED FINAL MAPS MAY NOT AT ANY TIME EXCEED THE TOTAL APPROVED RESIDENTIAL UNITS AND TOTAL APPROVED COMMERCIAL UNITS.
3. PURSUANT TO THE DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF SAN JOSE AND GOOGLE LLC RELATIVE TO THE DEVELOPMENT OF PROPERTY LOCATED IN THE DIRIDON STATION AREA PLAN, APPROVED ON MAY 25, 2021 ("DA"), SUBDIVIDER IS AUTHORIZED TO CONSTRUCT VARIOUS COMMERCIAL USES WITHIN THE SUBDIVISION. THERE IS NO UNIT-BASED LIMITATION ON COMMERCIAL DEVELOPMENT. AS SUCH, "TOTAL APPROVED COMMERCIAL CONDOMINIUM UNITS," WHICH INCLUDE RETAIL, OFFICE AND RENTAL APARTMENT AND OTHER COMMERCIAL USES, ARE DESCRIBED HEREIN SOLELY FOR THE PURPOSE OF DESCRIBING APPROVED COMMERCIAL CONDOMINIUM UNITS.

4. IN THE EVENT THAT SUBDIVIDER ALLOCATES RESIDENTIAL OR COMMERCIAL CONDOMINIUM UNITS TO A LOT ON A PHASED FINAL MAP AND THOSE UNITS ARE NOT CONSTRUCTED, SUBDIVIDER MAY REQUEST A CERTIFICATE OF CORRECTION PURSUANT TO GOVERNMENT CODE SECTION 66469 TO RECONCILE THE NUMBER OF RESIDENTIAL OR COMMERCIAL CONDOMINIUM UNITS ASSIGNED TO THE LOT ON THE PHASED FINAL MAP WITH THE AS-BUILT CONSTRUCTION. ANY SUCH REDUCTION IN UNITS SHALL BE CREDITED TO THE TOTAL APPROVED RESIDENTIAL UNITS OR TOTAL APPROVED COMMERCIAL UNITS AS APPLICABLE.

NOTES RELATING TO ALTERNATIVE SHEETS AND OPEN SPACE DEDICATIONS

1. SHEETS 10A, 10B, 11A, 11B (EACH AN "ALTERNATIVE SHEET" AND COLLECTIVELY THE "ALTERNATIVE SHEETS") DEPICT ALTERNATIVE LOT CONFIGURATIONS PROPOSED FOR APPROVAL PURSUANT TO THIS VESTING MAP. THE ALTERNATIVE LOT SIZES AND CONFIGURATIONS DEPICTED ON THE ALTERNATIVE SHEETS ADDRESS FLEXIBILITY FOR OPEN SPACE AREAS (BOTH PRIVATELY-OWNED AND DEDICATED OPEN SPACE) CONTEMPLATED BY THE DWDSG. FOR EACH ASSOCIATED PHASED FINAL MAP, SUBDIVIDER SHALL DEMONSTRATE THAT LOTS DEPICTED ON THE PHASED FINAL MAP SUBSTANTIALLY CONFORM WITH A CORRESPONDING ALTERNATIVE SHEET.
2. LOTS A, B, E, F, H, I, P, Q, R AND A PORTION OF LOT 19 (A FUTURE AIRSPACE PARCEL), AS SHOWN ON THE ALTERNATIVE SHEETS, ARE PROPOSED FOR DEDICATION TO THE CITY PURSUANT TO CHAPTER 19.38 OF THE CITY CODE. THESE LOTS ARE APPROXIMATE AND WILL BE DIMENSIONED ON PHASED FINAL MAPS. SAID LOTS MAY BE ADJUSTED TO EXPAND OR CONTRACT TO ACCOUNT FOR FINAL OPEN SPACE PROGRAMMING, STREET OR UTILITY ENGINEERING, AND VERTICAL DESIGN, PROVIDED (1) THAT THE SUM TOTAL OF THE OPEN SPACE LOTS DEDICATED TO THE CITY CONCURRENT WITH

PHASED FINAL MAPS (AND SUBJECT TO ANY DELAYED DEDICATIONS AS PERMITTED IN AN AGREEMENT PURSUANT TO GOVERNMENT CODE SECTION 66462) SHALL NOT BE LESS THAN 4.8 ACRES AND (2) ANY RECONFIGURATION IS CONSISTENT WITH APPLICABLE STANDARDS IN THE DWDSG.

3. ALL PUBLIC OPEN SPACE DEDICATIONS PURSUANT TO THIS VESTING MAP ARE SUBJECT TO TERMS OF THE PARKLAND AGREEMENT FOR TENTATIVE MAP NO. PT20-027 BETWEEN THE CITY OF SAN JOSE AND GOOGLE LLC AND RESTRICTIONS AND COVENANTS RELATING TO PRIVATE RECREATIONAL IMPROVEMENTS ("PARKLAND AGREEMENT"). MODIFICATIONS TO LOTS SHOWN HEREON MAY BE REQUIRED TO IMPLEMENT THE PARKLAND AGREEMENT, OR, TO FACILITATE MODIFICATION OF OPEN SPACE LOTS AS REQUIRED OR PERMITTED BY THE DWDSG AND/OR THE DEVELOPMENT AGREEMENT. ANY SUCH MODIFICATIONS SHALL BE REFLECTED ON PHASED FINAL MAPS WHICH SHALL BE DEEMED TO SUBSTANTIALLY CONFORM WITH THIS VESTING MAP NOTWITHSTANDING ANY MODIFICATION TO LOTS FOR THE PURPOSES DESCRIBED IN THIS NOTE.

NOTES RELATING TO MID-BLOCK PASSAGES, PRIVATE STREETS AND ANY NON-DEDICATED OPEN SPACE AREAS

1. PRIVATELY-OWNED OPEN SPACES: OPEN SPACE AREAS OTHER THAN THOSE IDENTIFIED AS PUBLICLY-DEDICATED OPEN SPACES (I.E. LOTS A, B, E, F, H, I, P, Q, R AND A PORTION OF LOT 19) SHALL BE PRIVATELY OWNED UNLESS THE CITY COUNCIL, THROUGH A SUBSEQUENT PROCESS, AGREES TO ACCEPT THE DEDICATION OF THESE AREAS PURSUANT TO TITLE 19 OF THE MUNICIPAL CODE. ALL PRIVATELY-OWNED OPEN SPACES SHOWN HEREON AND SUBJECT TO SECTION 4.5 OF THE DWDSG ARE SUBJECT TO ADJUSTMENT PURSUANT TO DWDSG STANDARD S4.5.3 AND OTHER AUTHORIZED RELIEF UNDER THE GENERAL DEVELOPMENT PLAN WITHOUT

THE NEED TO AMEND THIS VESTING MAP OR TO FILE A NEW VESTING TENTATIVE MAP OR TENTATIVE MAP. FINAL LOCATIONS OF PRIVATELY-OWNED OPEN SPACE AREAS DEPICTED HEREON AND ANY RIGHTS OF PUBLIC ACCESS AS REQUIRED BY THE DWDSG OR THE CITY CODE SHALL BE ESTABLISHED PURSUANT TO COVENANTS, EASEMENTS OR RESTRICTIONS TO BE RECORDED PRIOR TO ISSUANCE OF CERTIFICATES OF OCCUPANCY FOR BUILDINGS ON LOTS THAT INCLUDE PRIVATELY-OWNED OPEN SPACES.

2. STANDARDS 4.9.2, S5.5.5 , and S6.3.4 PROVIDES FOR THE RECONFIGURATION OF CERTAIN LOTS AND OPEN SPACE AREAS PURSUANT TO THE REQUIREMENTS OF SAID STANDARD. ANY LOTS, EASEMENTS OR PRIVATELY-OWNED OPEN SPACE AREAS SHOWN ON THIS VESTING MAP MAY BE ADJUSTED AS A RESULT OF THE IMPLEMENTATION OF DWDSG STANDARD S5.5.2 WITHOUT THE NEED TO AMEND THIS VESTING MAP OR TO FILE A NEW VESTING TENTATIVE MAP OR TENTATIVE MAP.
3. MID-BLOCK PASSAGES ("MBP"): MID-BLOCK PASSAGES ARE PRIVATELY-OWNED AREAS SUBJECT TO PUBLIC ACCESS AS DESCRIBED IN THE DWDSG. MID-BLOCK PASSAGES ARE SHOWN ON THIS VESTING MAP IN CONCEPTUAL LOCATIONS. FINAL LOCATIONS AND ACCESS CONTROLS WILL BE DESCRIBED IN COVENANTS, EASEMENTS OR RESTRICTIONS TO BE RECORDED PRIOR TO ISSUANCE OF CERTIFICATES OF OCCUPANCY FOR BUILDINGS ON LOTS SUBJECT TO MID-BLOCK PASSAGES.
4. PRIVATE STREETS: PRIVATE STREETS ARE PRIVATELY-OWNED AREAS INTENDED FOR VEHICULAR AND PEDESTRIAN TRAVEL, AND WHICH ARE INTENDED TO BE KEPT CLOSED FROM PUBLIC ACCESS (WITH THE EXCEPTION OF ANY PUBLICLY-DEDICATED EASEMENTS SHOWN HEREON), EITHER THROUGH PHYSICAL CLOSURE, SIGN POSTING, OR BOTH. DEPICTIONS OF PRIVATE STREETS ON THIS VESTING MAP ARE SHOWN IN APPROXIMATE LOCATIONS. FINAL LOCATIONS WILL BE DEPICTED ON

COVENANTS, EASEMENTS OR RESTRICTIONS RECORDED CONCURRENT WITH OR SUBSEQUENT TO PHASED FINAL MAPS.

5. ANY LOT SHOWN HEREON THAT INCLUDES A MID-BLOCK PASSAGE, PRIVATELY-OWNED SPACE OR PRIVATE STREET SHALL BE SUBJECT TO A CONDITION OF APPROVAL STATING THAT ANY VERTICAL CONSTRUCTION ON SUCH LOT SHALL BE LIMITED TO "BUILDABLE ZONES" AS DEFINED IN STANDARD S5.5.1 OF THE DWDSG.



NOTES RELATING TO AIR SPACE LOTS

1. THIS VESTING MAP AUTHORIZES PHASED FINAL MAPS THAT VERTICALLY SUBDIVIDE AIR SPACE INTO SEPARATE AIR SPACE LOTS FOR PURPOSES OF ACCOMMODATING SEPARATE OWNERSHIP OR USES. ANY SUCH AIR SPACE LOTS SHALL BE DIMENSIONED ON THE ASSOCIATED PHASED FINAL MAP.
2. THIS VESTING MAP AUTHORIZES SUBDIVIDER TO VERTICALLY SUBDIVIDE LOT 19 INTO AIR SPACE LOTS TO SEPARATE THE PROPOSED SURFACE-LEVEL PARK FROM THE SUBSURFACE, SUCH THAT SUBDIVIDER MAY OFFER THE RESULTING PARK AIR SPACE LOT TO THE CITY FOR DEDICATION WHILE RETAINING THE SUB-SURFACE AIR SPACE LOT. IN THE EVENT SUBDIVIDER ELECTS THIS OPTION, SUBDIVIDER SHALL EXECUTE AN AGREEMENT WITH THE CITY PURSUANT TO GOVERNMENT CODE SECTION 66462 TO ADDRESS (1) THE TIMING OF THE DELIVERY OF THE DEED FOR THE PARK AIR SPACE LOT; (2) RESERVATION OF EASEMENTS NECESSARY TO ENSURE COMPATIBILITY OF USES; AND (3) COMPLETION OF ANY REQUIRED IMPROVEMENTS TO SERVICE THE PARK AIR SPACE LOT.

NOTES RELATING TO STREETS

1. ALL STREETS DESCRIBED ON THIS MAP AND REPRESENTED BY A TYPICAL CROSS SECTION ON SHEETS TM-14 THROUGH TM-20 SHALL CONFORM TO THE CORRESPONDING CROSS SECTION SHOWN ON THIS VESTING MAP. TO THE EXTENT ANY STREET OR ANY STREET ELEMENT IS NOT SHOWN HEREON, SAID STREET OR ELEMENT SHALL COMPLY WITH THE MOBILITY CHAPTER OF THE DWDSG.
2. MINOR STREET ALIGNMENT ADJUSTMENTS MAY BE SHOWN ON PHASED FINAL MAPS.
3. ANY IMPROVEMENTS REQUIRED TO SERVICE THE SUBDIVISION DEPICTED HEREON SHALL CONFORM TO THE DWIS AND ANY RELATED ORDINANCES APPLICABLE TO IMPROVEMENTS WITHIN THE DOWNTOWN WEST PD ZONE.
4. SUBDIVIDER MAY BE REQUIRED TO COMPLETE FOCUSED LOCAL TRANSPORTATION ANALYSES (EACH AN "FLTA") PRIOR TO THE APPROVAL OF ANY PHASED FINAL MAP AND ASSOCIATED IMPROVEMENT PLANS. ANY MODIFICATION TO LOTS, PUBLIC EASEMENTS, OR IMPROVEMENTS SHOWN HEREON AS A RESULT OF ANY FOCUSED FLTA SHALL BE PERMITTED WITHOUT THE NEED TO AMEND THIS VESTING MAP OR APPROVAL OF A SEPARATE TENTATIVE MAP OR VESTING TENTATIVE MAP.
5. SUBDIVIDER SHALL IDENTIFY THE PROPERTY LINE CORNER RADIUS AT THE INTERSECTION OF ANY TWO STREETS ON PHASED FINAL MAPS. TO THE EXTENT THAT ANY CORNER RADIUS IS LESS THAN TWENTY-FOUR FEET, THE PUBLIC WORKS DIRECTOR, WILL, PURSUANT TO TITLE 19.36.070 OF THE MUNICIPAL CODE, AUTHORIZE THE PROPOSED RADIUS, BOTH AS APPLIED TO THE PHASED FINAL MAP AND TO ANY ASSOCIATED IMPROVEMENT PLANS, IF SUBDIVIDER DEMONSTRATES THE SAFE AND EFFICIENT MOVEMENT OF TRAFFIC THROUGH THE INTERSECTION, THROUGH AN FLTA OR SIMILAR ANALYSIS.

6. PROPOSED LOTS DEPICTED ON THIS VESTING MAP MAY BE REDUCED IN SIZE OR RECONFIGURED ON PHASED FINAL MAPS TO ACCOUNT FOR THE EXCLUSION FROM SUCH LOTS OF AREAS CURRENTLY DESIGNATED AS PUBLIC STREETS AND WHICH ARE SHOWN HEREON AS BEING SUBJECT TO ABANDONMENT AND INCLUSION WITHIN THE ADJACENT PROPOSED LOTS. THE RESULTING LOTS, AFTER ACCOUNTING FOR SUCH REDUCTION OR RECONFIGURATION, SHALL BE DEEMED TO SUBSTANTIALLY COMPLY WITH THIS VESTING MAP.

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7. IF THERE IS PROPOSED LOCATION OR RELOCATION OF PUBLIC UTILITIES THAT UTILIZES LESS THAN ALL OF A RESERVED PSE IN A POTENTIAL "PED/BIKE STREET" (AS DEFINED IN THE GENERAL DEVELOPMENT PLAN), ANY REQUEST TO VACATE THE REMAINING UNUSED PORTION OF THE PSE SHALL BE PROCESSED BY THE DIRECTOR OF PUBLIC WORKS TO FACILITATE THE INSTALLATION OF IMPROVEMENTS WITHIN THE POTENTIAL PED/BIKE STREETS CONSISTENT WITH THE DESIGN INTENT AND STANDARDS OF THE DWDSG FOR SUCH AREA TO THE MAXIMUM EXTENT POSSIBLE.

5.8. WHERE AN EMERGENCY VEHICLE ACCESS EASEMENT HAS BEEN RESERVED IN A POTENTIAL PED/BIKE STREET, THE CITY SHALL OPTIMIZE LOCATION OF THE EMERGENCY VEHICLE ROUTE OF TRAVEL TO FACILITATE THE INSTALLATION OF IMPROVEMENTS WITHIN THE POTENTIAL PED PIKE STREET CONSISTENT WITH THE DESIGN INTENT AND STANDARDS OF THE DWDSG FOR SUCH AREA TO THE MAXIMUM EXTENT POSSIBLE.

NOTE RELATING TO ABANDONMENTS

1. ALL PUBLIC STREETS AND PUBLIC EASEMENTS SHOWN HEREON AS BEING ABANDONED OR VACATED SHALL BE ABANDONED PURSUANT TO GOVERNMENT CODE SECTION 66434, SUBDIVISION (G), CONTINGENT UPON THE RECORDATION OF ASSOCIATED PHASED FINAL MAPS.

NOTE RELATING TO DISC PROCESS AND POTENTIAL CONDEMNATION

1. ANY MODIFICATION TO LOTS, PUBLIC EASEMENTS OR IMPROVEMENTS SHOWN HEREON AS A RESULT OF THE PROCEDURE DESCRIBED IN DWDSG STANDARDS S4.5.9, S4.9.2, S5.5.4, S5.5.5, S6.3.3 and S6.3.4 AND/OR SECTION 4.2.2 OF THE DEVELOPMENT AGREEMENT RELATING TO CONDEMNATIONS SHALL BE PERMITTED WITHOUT THE NEED TO AMEND THIS VESTING MAP OR APPROVAL OF A SEPARATE TENTATIVE MAP OR VESTING TENTATIVE MAP.
2. LOTS A & B SHALL BE OFFERED FOR DEDICATION TO THE CITY AS OPEN SPACE PURSUANT TO THE ASSOCIATED PHASED FINAL MAP. AS OF THE APPROVAL OF THE VESTING MAP, IT IS ANTICIPATED THAT THE ACREAGE OF LOTS A & B WILL BE 0.91 ACRES (TM4), AND THAT SUBDIVIDER WILL PROVIDE AN EXECUTED GRANT DEED TO THE CITY CONCURRENT WITH THE ASSOCIATED PHASED FINAL MAP AT THE TIME OF APPROVAL OF SAID MAP, AND SUCH GRANT DEED AND OFFER OF DEDICATION WILL BE RECORDED TO TRANSFER LOTS A & B TO CITY UPON ACCEPTANCE BY THE CITY IN ACCORDANCE WITH THE PARKLAND AGREEMENT FOR THE TENTATIVE MAP NO. PT20-027 BETWEEN THE CITY OF SAN JOSE AND GOOGLE LLC AND RESTRICTIONS AND COVENANTS RELATING TO PRIVATE RECREATIONAL IMPROVEMENTS.



- a. IN THE EVENT THAT ANY PORTION OF LOTS A & B ARE CONDEMNED PRIOR TO THE CITY'S ACCEPTANCE OF LOTS A & B, SUBDIVIDER SHALL DEDICATE THE NON-CONDEMNED PORTION OF THE AREA SHOWN HEREON AS LOTS A & B TO THE CITY, AND SHALL COOPERATE AS NECESSARY WITH THE CITY TO EFFECTUATE THE DEDICATION.

NOTE RELATING TO PUBLICLY-DEDICATED EASEMENTS

1. PROPOSED PUBLIC SERVICE EASEMENTS ("PSE") AND EMERGENCY VEHICLE ACCESS EASEMENTS ("EVAE") DEPICTED HEREON ARE APPROXIMATE AND WILL BE DIMENSIONED IN PROPOSED FINAL LOCATIONS ON ASSOCIATED PHASED FINAL MAPS. ADDITIONAL PSE, PUBLIC ACCESS EASEMENTS (PAES) AND EVAES MAY BE REFLECTED ON PHASED FINAL MAPS TO ACCOUNT FOR INFRASTRUCTURE DESCRIBED IN FINAL IMPROVEMENT PLANS.

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