

# **MITIGATION MONITORING AND REPORTING PROGRAM**

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## **Morgan Hill Devco Project**

**File Numbers: ZA2021-0001/SD2021-0003**

**August 2024**

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## PREFACE

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

The Environmental Impact Report (EIR) prepared for the Morgan Hill Devco Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This MMRP addresses those measures in terms of how and when they will be implemented.

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

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

Project Applicant's Signature \_\_\_\_\_

Date \_\_\_\_\_



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<b>AGRICULTURAL RESOURCES</b>			
<b>Impact AG-1:</b> Conversion of approximately 44 acres of Prime Farmland and approximately five acres of Farmland of Statewide Importance would constitute a significant impact to agricultural resources. <b>(Significant and Unavoidable Impact)</b>			
<b>MM AG-1.1:</b> A minimum of one acre of agricultural land (1:1 mitigation ratio) shall be preserved for each acre of agricultural land changed to a non-agricultural use. The required acreage of area to be protected through an agricultural conservation easement or agricultural preservation in-lieu fee will depend on the measurement of affected area. The area of land designated as Prime Farmland and Farmland of Statewide Importance shall be used for calculating the required mitigation.	To be implemented prior to issuance of building or grading permits, whichever occurs first.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.	Director of Development Services Department or Director's designee.
<b>MM AG-1.2:</b> Conversion of agricultural land shall require off-setting acquisition and/or dedication of agricultural conservation easements over approved agricultural mitigation land, or payment to the City of the agricultural preservation in-lieu fee, to support agricultural preservation activities. Developer acquisition/dedication of easements shall require the project to pay an agricultural lands preservation program stewardship fee to cover administrative costs and ongoing management and monitoring of the easements. Agricultural mitigation fees shall be required prior to the acceptance of a final parcel or subdivision map, or prior to issuance of building or grading permits. Easement dedication is required prior	To be implemented prior to issuance of building or grading permits, whichever occurs first.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.	Director of Development Services Department or Director's designee.

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to issuance of building permits. Agricultural mitigation fees shall be required prior to the acceptance of a final parcel or subdivision map, or prior to issuance of building or grading permits. Easement dedication is required prior to issuance of building permits.			
<b>AIR QUALITY</b>			
<b>Impact AIR-1:</b> Project construction would exceed the Bay Area Air Quality Management District (BAAQMD) significance threshold for reactive organic gases (ROGs). <b>(Less than Significant Impact with Mitigation Incorporated)</b>			
<b>MM AIR-1.1:</b> During project construction, the project applicant shall use “super-compliant” low volatile organic compound (i.e., VOC) coatings that have emissions lower than current BAAQMD requirements (i.e., Regulation 8, Rule 3: Architectural Coatings), for at least 50 percent of all residential interior paints and 50 percent of exterior paints. This includes all architectural coatings applied during both construction and reapplications throughout the project’s operational lifetime. At least 50 percent of coatings applied must meet a “super-compliant” VOC standard of less than 10 grams of VOC per liter of paint. For reapplication of coatings during the project’s operational lifetime, the Declaration of Covenants, Conditions, and Restrictions shall contain a stipulation for low VOC coatings to be used. Examples of “super-compliant” coatings are contained in the South Coast Air Quality Management District’s website.	The applicant is responsible for ensuring the use of super-compliant low VOC coatings during project construction, as described in MM AIR-1.1.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.	Director of Development Services Department or Director’s designee.
<b>Impact AIR-2:</b> The project would exceed the BAAQMD single-source significance threshold for cancer risks at the maximally exposed individuals (MEI) location during construction. <b>(Less than Significant Impact with Mitigation Incorporated)</b>			
<b>MM AIR-2.1:</b> Prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall submit a construction operations	To be implemented prior to issuance of demolition,	All measures will be required as part of the development permit. All measures will be	Director of Development Services Department or Director’s designee.

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<p>plan to the Development Services Director that reduces diesel particulate matter emissions by 50 percent such that increased cancer risk and annual PM<sub>2.5</sub> concentrations would be reduced below TAC significance levels. The plan shall include the following:</p> <ol style="list-style-type: none"> <li>1. 60 percent of all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards and the remaining 40 percent shall meet U.S. EPA Tier 3 emission standards, if feasible, otherwise, <ul style="list-style-type: none"> <li>• If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB verifiable diesel emission control devices that altogether achieve a 50 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment. Alternatively, or in combination,</li> <li>• Use of electrical or non-diesel equipment with lower particulate matter emissions that meet the PM reduction requirements above.</li> </ul> </li> <li>2. Alternatively, the applicant may develop another construction operations plan demonstrating that the construction equipment used on-site would achieve a reduction in construction diesel particulate matter emissions by 50 percent or greater. Elements of the plan could include a combination of some of the following measures:</li> </ol>	<p>grading, or building permits, whichever occurs first.</p> <p>The applicant is responsible for preparing a construction operations plan and submitting it to the City for review, as described in MM AIR-2.1.</p>	<p>printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.</p>	

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<ul style="list-style-type: none"> <li>• Implementation of No. 1 above to use 60 percent Tier 4 and 40 percent Tier 3 or alternatively fueled equipment,</li> <li>• Installation of electric power lines during early construction phases to avoid use of diesel generators and compressors,</li> <li>• Use of electrically-powered equipment,</li> <li>• Forklifts and aerial lifts used for exterior and interior building construction shall be electric or propane/natural gas powered,</li> <li>• Change in construction build-out plans to lengthen phases, and</li> <li>• Implementation of different building techniques that result in less diesel equipment usage.</li> </ul>			
<b>BIOLOGICAL RESOURCES</b>			
<b>Impact BIO-1:</b> The project could disturb nesting bird activity during construction. <b>(Less than Significant Impact with Mitigation Incorporated)</b>			
<p><b>MM BIO-1.1:</b> To the extent feasible, construction activities shall be scheduled to avoid the nesting season. If construction activities are scheduled to take place outside the nesting season, all impacts to nesting birds protected under the MBTA and California Fish and Game Code will be avoided. The nesting season for most birds in Santa Clara County extends from February 1 through August 31, inclusive.</p> <p>If construction activities and/or tree removal cannot be scheduled to occur between September 1 and January 31, preconstruction surveys for nesting birds shall be conducted by a qualified biologist or ornithologist to ensure that no nests will be disturbed during project</p>	<p>The applicant is responsible for ensuring construction activities avoid nesting birds.</p> <p>The applicant is responsible for having a qualified biologist perform a pre-construction survey prior to construction and implementing buffer zones, if required, as described in MM BIO-1.1.</p>	<p>All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.</p>	<p>Director of Development Services Department or Director's designee.</p>

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<p>implementation. These surveys shall be conducted no more than seven days prior to the initiation of demolition or construction activities including tree removal and pruning. During this survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g., trees, shrubs, ruderal grasslands, buildings) in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist will determine the extent of a construction-free buffer zone to be established around the nest (typically 300 feet for raptors and 100 feet for other species), to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during project implementation.</p> <p>The written report shall indicate the results of the survey, a map of identified active nests, and any designated buffer zones or other protective measures to be implemented with the project.</p>	<p>Prior to the onset of ground disturbance, a report summarizing the results of the survey and any protective measures shall be submitted by the applicant to the City.</p>		
<b>Impact BIO-2: The project could impact burrowing owl habitat or individuals during construction. (Less than Significant Impact with Mitigation Incorporated)</b>			
<p><b>MM BIO-2.1:</b> Preconstruction surveys for burrowing owls shall be conducted prior to the initiation of construction activities within suitable burrowing owl roosting habitat (i.e., ruderal grassland habitat or agricultural lands with burrows of California ground squirrels), or within 250 feet of this habitat. During the initial site visit, a qualified biologist shall survey the entire project site and areas within 250 feet by walking transects with centerlines no more than 50 feet apart to ensure complete visual coverage and look for suitable burrows that could be used by burrowing owls. If no suitable burrows are present, no additional surveys are required. If suitable burrows are determined to be present within 250 feet of</p>	<p>The applicant is responsible for ensuring construction activities avoid burrowing owls to the extent feasible.</p> <p>The applicant is responsible for ensuring pre-construction surveys are completed by a qualified biologist and ensuring any construction buffer zone is implemented</p>	<p>All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.</p>	<p>Director of Development Services Department or Director's designee.</p>

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<p>the project impact areas, a qualified biologist shall conduct a second survey to determine whether owls are present in areas where they could be affected by proposed activities. The surveys shall last a minimum of three hours, beginning one hour before sunrise and continuing until two hours after sunrise, or beginning two hours before sunset and continuing until one hour after sunset. The first survey may occur up to 14 days prior to the start of construction activities in any given area, and the second survey shall be conducted within two days prior to the start of construction activities. The report indicating the result of the surveys and any designated buffer zones shall be submitted to the satisfaction of the Development Services Director or Director's designee prior to initiation of construction activities.</p> <ul style="list-style-type: none"> <li>• If burrowing owls are detected during the pre-activity survey, a 250-foot buffer, within which no newly initiated construction-related activities will be permissible, shall be maintained between construction activities and occupied burrows. Though highly unlikely, owls present between February 1 and September 8 will be assumed to be nesting, and the 250-foot protected areas shall remain in effect until September 8, or until the burrow is no longer occupied, whichever occurs first.</li> <li>• If maintaining a 250-foot buffer around active owl burrows is not feasible, the buffer may be reduced if (1) the individual or nest is not disturbed, and (2) the contractor develops an avoidance, minimization, and monitoring plan that shall be reviewed and approved by the CDFW and USFWS prior to project construction. The plan shall include the following measures:</li> </ul>	<p>and maintained during construction activities, as described in MM BIO-2.1.</p> <p>If burrowing owls are present during non-breeding season and passive relocation is unavoidable, the applicant is responsible for having a qualified biologist prepare and implement an avoidance, minimization, and monitoring plan, as described in MM BIO-2.1.</p> <p>Prior to the onset of ground disturbance, a report summarizing the results of the survey and any protective measures shall be submitted by the applicant to the City.</p>		



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<ul style="list-style-type: none"> <li>○ A qualified biologist shall monitor the owls for at least three days prior to construction as well as during construction.</li> <li>○ If the biologist observes no change in the owls' nesting or foraging behavior, construction activities may proceed.</li> <li>○ If changes in the owls' behavior as a result of work activities are observed, activities shall cease within 250 feet of the active burrow location(s). Work activities may resume when the burrows are no longer occupied.</li> <li>○ If monitoring indicates that the burrow is no longer in use by owls, the disturbance-free buffer may be removed.</li> </ul>			
<b>Impact BIO-3:</b> The project could impact roosting bats during construction. <b>(Less than Significant Impact with Mitigation Incorporated)</b>			
<p><b>MM BIO-3.1:</b> A pre-activity survey for day-roosting bats shall be conducted prior to the onset of demolition of existing buildings or ground-disturbing activities within 100 feet of existing buildings. A qualified biologist will conduct a survey for evidence of bat use within suitable habitat. If evidence of use is observed, but the biologist is unable to determine whether or not the roost is occupied at that time, a dusk acoustic survey may be necessary to determine if bats are present and to identify the specific location of any bat colony. If no active bat day roost is located, no further measures are necessary. The report indicating the result of the survey shall be submitted to the satisfaction of the Development Services Director or Director's designee prior to initiation of construction activities (demolition or ground-disturbing activities).</p> <p>If an active day roost is located during the maternity season (March 15 to July 31), the biologist will attempt to determine whether the roost is occupied by nonbreeding</p>	<p>The applicant is responsible for ensuring construction activities avoid roosting bats to the extent feasible.</p> <p>The applicant is responsible for ensuring pre-activity surveys are completed by a qualified biologist and ensuring any construction buffer zone is implemented and maintained during construction activities, as described in MM BIO-3.1.</p> <p>If burrowing owls are present during non-breeding season</p>	<p>All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.</p>	<p>Director of Development Services Department or Director's designee.</p>

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<p>bats (e.g., a bachelor roost consisting of males) or whether the roost is occupied by females with young. If females with young are present, a disturbance-free buffer zone (determined by a qualified bat biologist) shall be implemented until July 31, or until the young are able to fly independently (whichever occurs first).</p> <p>If a non-maternity roost is present during the maternity season, or during the nonmaternity season, the individuals shall be safely evicted between August 1 and October 15 or between February 15 and March 16 under the supervision of, and following eviction methods developed by, a qualified biologist. Demolition or construction can begin after the bats have been evicted.</p>	<p>and passive relocation is unavoidable, the applicant is responsible for having a qualified biologist evict the bats, as described in MM BIO-3.1</p> <p>Prior to the onset of ground disturbance, a report summarizing the results of the survey and any protective measures shall be submitted by the applicant to the City.</p>		
<b>Impact BIO-4:</b> The project could impact monarch butterfly eggs, larvae, or pupae during construction. <b>(Less than Significant Impact with Mitigation Incorporated)</b>			
<p><b>MM BIO-4.1:</b> In the San Francisco Bay area, monarch butterflies may begin laying eggs as early as March, and the last generation of the year hatches in September and October. Therefore, if milkweed plants are impacted from November through February, they are not expected to support eggs, larvae, or pupae, and no measures are necessary for project activities during the period November 1 through the end of February.</p> <ul style="list-style-type: none"> <li>Prior to disturbance of any vegetated habitat that could support milkweed during the period March 1 through October 31, surveys shall be performed for the species' larval host plants. This survey shall occur within 2 weeks prior to the start of construction. A qualified biologist will survey the project impact areas, as well as surrounding areas within 50 feet (to the extent access allows), to</li> </ul>	<p>The applicant is responsible for ensuring construction activities avoid monarch butterflies to the extent feasible.</p> <p>The applicant is responsible for ensuring surveys are completed by a qualified biologist and ensuring any construction buffer zone is implemented and maintained during construction activities, as described in MM BIO-4.1.</p>	<p>All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.</p>	<p>Director of Development Services Department or Director's designee.</p>

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<p>identify any larval host plants. Any detected host plants shall be checked for eggs, larvae, or pupae. If no host plants are detected, or if no monarch eggs, larvae, or pupae are detected on those plants, no further action will be necessary. The report indicating the result of the survey shall be submitted to the satisfaction of the Development Services Director or Director's designee prior to initiation of construction activities.</p> <ul style="list-style-type: none"> <li>• If monarch eggs, larvae, or pupae are detected, one of the following measures will be implemented: <ul style="list-style-type: none"> <li>○ They will be protected by establishing a buffer zone around individual plants or populations. The buffer zone will be determined by a qualified biologist to avoid direct and indirect impacts (such as dust mobilization onto plants) on the monarchs and the plants on which eggs, larvae, or pupae occur. Project personnel and equipment shall not operate within such areas. All avoided larval host plants shall be clearly marked in the field with fencing or flagging. The buffer zone shall remain in place until monarchs are no longer present on those plants.</li> <li>○ If larvae are detected within the survey area and impacts to the plants supporting those individuals cannot be delayed until the emergence of individual butterflies as adults, a qualified biologist may relocate larvae to milkweed plants more than 50 feet outside the impact area, if those milkweeds are not already occupied by monarch eggs or larvae.</li> </ul> </li> </ul>	<p>If larvae are present and host plants are unavoidable during construction, the applicant is responsible for having a qualified biologist relocate the larvae, as described in MM BIO-4.1.</p> <p>Prior to the onset of ground disturbance, a report summarizing the results of the survey and any protective measures shall be submitted by the applicant to the City.</p>		

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<p>Alternatively, raising monarch butterflies in captivity is feasible, and eggs, larvae, or pupae that cannot be avoided could be raised to maturity in captivity and then released into habitat having suitable nectar sources. Only a qualified biologist shall handle or raise monarchs. If the monarch butterfly is listed (e.g., under FESA) prior to implementation of these measures, appropriate approval from the USFWS would be necessary to handle or relocate monarchs, or to raise them in captivity.</p>			
<b>Impact BIO-5:</b> The project would result in riparian encroachment that would constitute a significant impact. <b>(Less than Significant Impact with Mitigation Incorporated)</b>			
<p><b>MM BIO-5.1:</b> Compensate for new urban development within setback. If a riparian setback exception is granted to the project, the project will introduce 0.18-acre of new urban development encroaching into the riparian setback. To compensate for this degradation of setback functions in the area, the project shall restore native riparian habitat at a 2:1 (restored area to impacted area) ratio, on an acreage basis, within other planned open space areas in the riparian setbacks. Native herbaceous plant species appropriate to the local area such as deergrass and narrow leaf milkweed shall be planted within the creek bottom and slopes. Native trees and shrubs appropriate to the local area such as coast live oak and coyote brush shall be planted and maintained to provide additional wildlife habitat adjacent to Tennant Creek. Coordinate with Valley Water to determine whether any woody vegetation can be planted within the banks of the creek or whether it would need to be installed above the top of bank, in order to ensure flood flows are not impeded by vegetation in the channel. A</p>	<p>To be implemented prior to the onset of ground disturbing activities.</p> <p>The applicant is responsible for coordinating with Valley Water to and working with a qualified restoration ecologist to develop a riparian setback enhancement and monitoring plan.</p> <p>The plan shall be submitted by the applicant to the City and Santa Clara Valley Habitat Agency.</p>	<p>All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.</p>	<p>Director of Development Services Department or Director's designee, Valley Water, and Santa Clara Valley Habitat Agency.</p>

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<p>qualified restoration ecologist shall develop a riparian setback enhancement and monitoring plan, which will contain the following components:</p> <ul style="list-style-type: none"> <li>• Goal of the restoration to achieve no net loss of habitat functions and values;</li> <li>• Restoration design (planting plan, soil amendments and other site preparation elements as appropriate, maintenance plan, and remedial measures/adaptive management);</li> <li>• Monitoring plan (including final and performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule, etc.). At a minimum, success criteria will include elimination of non-native woody species from within the enhancement area and establishment of native trees and shrubs; and</li> <li>• Contingency plan for mitigation elements that do not meet performance or final success criteria.</li> </ul> <p>The plan shall be approved by the City of Morgan Hill and the Santa Clara Valley Habitat Agency prior to initiation of impacts to currently undeveloped habitat within the riparian setback.</p>			
<b>CULTURAL RESOURCES</b>			
<b>Impact CUL-1:</b> Ground-disturbing construction activities could result in impacts to archaeological resources. <b>(Less than Significant Impact with Mitigation Incorporated)</b>			
<b>MM CUL-1.1:</b> A moderate potential exists for unrecorded historic-period archaeological resources to be within the project area. The developer shall enter into written contracts with an archaeologist and the Tamien Nation Tribe, and pay all fees associated with the activities required by this Mitigation Measure. The following policies and procedures for treatment and disposition of	To be implemented by a qualified archaeologist prior to the onset of ground disturbance and during project demolition, grading, and construction activities	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance	Director of Development Services Department or Director's designee.

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<p>inadvertently discovered human remains or archaeological materials shall apply:</p> <p>(a) Prior to the start of grading or earthmoving activity on the “first day of construction,” the archaeologist and Tribal Monitor shall hold a pre-construction meeting for the purposes of “cultural sensitivity training” with the general contractor or subcontractors.</p> <p>(b) A Tamien Nation Tribal Monitor shall be present on-site to monitor all ground-disturbing activities and an archaeologist shall be on-call. Where historical or archaeological artifacts are found, work in areas where remains or artifacts are found will be restricted or stopped until proper protocols are met, as described below:</p> <ol style="list-style-type: none"> <li>1. Work at the location of the find shall halt immediately within 50 feet of the find. If an archaeologist is not present at the time of the discovery, the applicant shall contact an archaeologist for evaluation of the find to determine whether it qualifies as a unique archaeological resource as defined by this chapter;</li> <li>2. If the find is determined not to be a Unique Archaeological resource, construction can continue. The archaeologist shall prepare a brief informal memo/letter in collaboration with a tribal representative that describes and assesses the significance of the resource, including a</li> </ol>		<p>of any grading and/or building permits.</p>	

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<p>discussion of the methods used to determine significance for the find;</p> <p>3. If the find appears significant and to qualify as a unique archaeological resource, the archaeologist shall determine if the resource can be avoided and shall detail avoidance procedures in a formal memo/letter; and</p> <p>4. If the resource cannot be avoided, the archaeologist in collaboration with a tribal representative shall develop within forty-eight hours an action plan to avoid or minimize impacts. The field crew shall not proceed until the action plan is approved by the City's Development Services Director or Director's designee. The action plan shall be in conformance with California Public Resources Code 21083.2. An archaeologist shall be on-call during ground disturbing activities. Where historical or archaeological artifacts are found, work in areas where remains or artifacts are found will be restricted or stopped until proper protocols are met, as described below.</p> <p>(c) The following policies and procedures for treatment and disposition of inadvertently discovered human remains or archaeological materials shall apply. If human remains are discovered, it is probable they are the remains of Native Americans.</p> <p>1. If human remains are encountered, they shall be treated with dignity and respect as due to</p>			

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<p>them. Discovery of Native American remains is a very sensitive issue and serious concern. Information about such a discovery shall be held in confidence by all project personnel on a need-to-know basis. The rights of Native Americans to practice ceremonial observances on sites, in labs, and around artifacts shall be upheld.</p> <p>2. Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled.</p> <p>3. Surgical masks should also be worn to prevent exposure to pathogens that may be associated with the remains.</p> <p>(d) In the event that known or suspected Native American remains are encountered, or significant historic or archaeological materials are discovered, ground-disturbing activities shall be immediately stopped. Examples of significant historic or archaeological materials include, but are not limited to, concentrations of historic artifacts (e.g., bottles, ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, ground stone mortars and pestles), culturally altered ash stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials and historic structure remains such as stone lined building foundations, wells, or privy pits. Ground-disturbing project activities may continue in other areas that are outside the exclusion zone as defined below.</p>			



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<p>(e) An “exclusion zone” where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area plus a reasonable buffer zone by the contractor foreman or authorized representative, or party who made the discovery and initiated these protocols, or if on-site at the time of discovery, by the monitoring archaeologist and tribal representative (typically 25 to 50 feet for single burial or archaeological finds).</p> <p>(f) The discovery locale shall be secured (e.g., 24-hour surveillance) as directed by the City or County if considered prudent to avoid further disturbances.</p> <p>(g) The contractor foreman or authorized representative, or party who made the discovery and initiated these protocols shall be responsible for immediately contacting by telephone the parties listed below to report the find and initiate the consultation process for treatment and disposition:</p> <ul style="list-style-type: none"> <li>• The City of Morgan Hill Development Services Director (408) 779-7247</li> <li>• The Contractor’s Point(s) of Contact</li> <li>• The Coroner of the County of Santa Clara (if human remains found) (408) 793-1900</li> <li>• The Native American Heritage Commission (NAHC) in Sacramento (916) 653-4082</li> <li>• The Amah Mutsun Tribal Band (916) 481-5785 (H) or (916) 743-5833 (C)</li> <li>• The Tamien Nation (707) 295-4011 (office) and (925) 336-5359 (THPO)</li> </ul>			

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<p>(h) The Coroner has two working days to examine the remains after being notified of the discovery. If the remains are Native American, the Coroner has 24 hours to notify the NAHC.</p> <p>(i) The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD). (Note: NAHC policy holds that the Native American Monitor will not be designated as the MLD).</p> <p>(j) Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose.</p> <p>(k) Within 24 hours of their notification by the NAHC, the MLD may recommend to the City's Development Services Director or Director's designee, the recommended means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items associated with Native American burials. Only those osteological analyses or DNA analyses recommended by the appropriate tribe may be considered and carried out.</p> <p>(i) If the MLD recommendation is rejected by the City of Morgan Hill, the parties will attempt to mediate the disagreement with the NAHC. If mediation fails, then the remains and all associated grave offerings shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.</p>			

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<b>MM CUL-1.2:</b> The project applicant shall note on any plans that require ground disturbing excavation that there is a potential for exposing buried cultural resources including prehistoric Native American burials. Any archaeological site information supplied to the Contractor Foreman or authorized representative shall be considered confidential. Information on the project plans shall be verified by the City's Development Services Director or Director's designee prior to issuance of a grading permit or any building permit.	To be implemented by the project applicant prior to issuance of any grading and/or building permit, whichever occurs first.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.	Director of Development Services Department or Director's designee.
<b>GREENHOUSE GAS EMISSIONS</b>			
<b>Impact GHG-1:</b> T The project would exceed the BAAQMD annual emissions bright-line threshold and service population threshold for greenhouse gas (GHG) emissions. <b>(Less than Significant Impact with Mitigation Incorporated)</b>			
<b>MM GHG-1.1:</b> Prior to issuance of grading permits on the project, the project applicant shall submit and implement a GHG reduction plan to the Development Services Director or Director's designee that reduces the project's operational GHG emissions in 2028 by 841 MT CO <sub>2</sub> e/year. The GHG reduction plan shall be implemented until the City adopts its GHG reduction plan consistent with the State's interim 2030 GHG emissions reduction target of 40 percent below 1990 levels. All feasible project design and operational measures shall be implemented prior to the purchase of credits. The GHG reduction plan shall include a combination of the measures listed below to reduce project GHG impacts: <ul style="list-style-type: none"> <li>• Implementation of a transportation demand management (TDM) program to reduce mobile GHG emissions;</li> <li>• Installation of solar power systems or other renewable electric generating systems that provide electricity to power on-site equipment and possibly provide excess electric power;</li> </ul>	To be implemented prior to issuance of building or grading permits, whichever occurs first.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.	Director of Development Services Department or Director's designee.

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<ul style="list-style-type: none"> <li>• Provide infrastructure for electric vehicle charging in residential units and parking areas (i.e., provide 220 VAC power);</li> <li>• Increase water conservation above State average conditions for residential uses by installing low flow water utilities and irrigation; and</li> <li>• Purchase verifiable carbon emission offsets that meet all of the following standards: <ul style="list-style-type: none"> <li>○ Registry Performance Standards: The registry shall account for and quantify emission reductions using clear and defined standards and incorporating recognized principles of GHG emissions reduction accounting, including those set forth in the ISO 14064 and the WRI/WBCSD Greenhouse Gas Protocol for Project Accounting: <ul style="list-style-type: none"> <li>▪ The registry shall use clear information sufficient for reviewers to assess credibility of GHG emission reductions underlying the carbon offset credits. Upon request by the City's Development Services Director or his or her designee, any governmental entity, or any stakeholder,</li> <li>▪ The registry shall provide the following information within a reasonable time period in connection with any carbon offset credit retired by the applicant: (i) the applicable quantification protocol; and (ii) all third-party confirmation or</li> </ul> </li> </ul> </li> </ul>			

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<p>verification reports issued in connection with the carbon offset credits. Such information shall be sufficient to monitor compliance by the project applicant with this mitigation measure.</p> <ul style="list-style-type: none"> <li>Carbon Offset Credit Performance Standards: The carbon offset credits retired by the applicant for the purpose of mitigating GHG emissions shall represent GHG emission reductions that are real, permanent, additional, quantifiable, verifiable and enforceable. To demonstrate compliance with such requirements, the developer shall provide the following to the City's Development Services Director or his or her designee: (i) the protocol used to quantify and issue such carbon offset credits, (ii) the third-party verification report(s) pursuant to which such carbon offset credits were issued, and (iii) the unique serial numbers of the carbon offset credits to be retired to ensure that the offset cannot be further used in any manner. The Development Services Director or his or her designee shall reject any carbon offset credits that do</li> </ul>			

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<p>not comply with these requirements, and where reductions are not direct reductions within a confined project boundary or provide opportunities for reversal of the avoided emissions. The Development Services Director or his or her designee shall reject any credits for a project that includes technology or GHG abatement practices that are already widely used.</p> <ul style="list-style-type: none"> <li>▪ Geographic Limitations: The carbon offsets shall be from credit projects developed in the United States. Carbon offset credits resulting from international credit projects shall not be acceptable to satisfy this mitigation measure.</li> <li>○ Enforcement: The permits relating to the project shall be conditioned on achievement of GHG mitigation milestones. The purchase and retirement of carbon offset credits required to mitigate the GHG emissions resulting from the operation of the project shall be a condition of the issuance of a certificate of occupancy, temporary or permanent, for the project and as an issuance for continued operation. Should the City determine that the offset credits are non-compliant with the requirements in this mitigation measure, the City may issue a</li> </ul>			

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notice of non-consistency and cease permitting activities and/or stop project operations, until the City determines via an issued public notice that the offsets comply with the aforementioned standards.			
<b>HAZARDS AND HAZARDOUS MATERIALS</b>			
<b>Impact HAZ-1:</b> Contaminated soils have the potential to release chemicals to the environment that could expose construction workers and nearby land uses. <b>(Less than Significant Impact with Mitigation Incorporated)</b>			
<b>MM HAZ-1.1:</b> Prior to issuance of a site grading permit, a corrective action/risk management plan (e.g., remedial action plan, removal action workplan, or Site Management Plan) shall be prepared that reflects the results of the on-site investigations. The corrective action/risk management plan shall describe mitigation measures (e.g., removal of contaminated soil) necessary to protect the health and safety of construction workers, nearby residents, and the environment, and establish appropriate management practices for handling and monitoring of impacted soil that may be encountered during construction activities. The corrective action/risk management plan shall describe protocols for the profiling of soil, if any, planned for off-site disposal. The corrective action/risk management plan should be prepared by an environmental professional and be submitted to an appropriate overseeing regulatory agency (e.g., Water Board, California DTSC, or SCCDEH) for review. Regulatory agency approval shall be obtained prior to commencing earthwork activities in the vicinity of the identified impacted soil. This measure shall be completed under regulatory agency oversight and meet all applicable federal, state, and local laws, regulations, and requirements. Following completion, a report	<p>To be implemented by the project applicant prior to issuance of a grading permit.</p> <p>The applicant is responsible for ensuring a corrective action/risk management plan is prepared by a qualified environmental professional, as described in MM HAZ-1.1.</p> <p>The plan shall be submitted to the City and to the Water Board, California DTSC, or SCCDEH.</p>	<p>All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.</p>	<p>Director of Development Services Department or Director's designee, and Water Board, California DTSC, or SCCDEH.</p>

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documenting compliance with the provisions of the corrective action/risk management plan and describing the work completed shall be submitted to and approved by the overseeing regulatory agency.			
<b>Impact HAZ-2:</b> The project would demolish the existing buildings, which could release asbestos particles and expose construction workers and nearby residents to harmful levels of asbestos. <b>(Less than Significant Impact with Mitigation Incorporated)</b>			
<p><b>MM HAZ-2.1:</b> Prior to issuance of a demolition permit for on-site structures, the project applicant shall consult with certified Asbestos and/or Lead Risk Assessors to complete and submit for review to the Building Division an asbestos and lead survey. If asbestos-containing materials or lead-containing materials are not discovered during the survey, further mitigation related to asbestos-containing materials or lead-containing materials shall not be required. If asbestos-containing materials and/or lead-containing materials are discovered by the survey, the project applicant shall prepare a work plan to demonstrate how the on-site asbestos-containing materials and/or lead-containing materials shall be removed in accordance with current California Occupational Health and Safety (Cal-OSHA) Administration regulations and disposed of in accordance with all CalEPA regulations, prior to the demolition and/or removal of the on-site structures. The plan shall include the requirement that work shall be conducted by a Cal-OSHA registered asbestos and lead abatement contractor in accordance with Title 8 CCR1529 and Title 8 CCR 1532.1 regarding asbestos and lead training, engineering controls, and certifications. The applicant shall submit the work plan to the City for review and approval. The City has the right to defer the work plan to the Santa Clara County Department of Environmental Health for additional review. Materials containing more than one (1) percent asbestos that is friable are also</p>	<p>To be implemented by the project applicant prior to issuance of a demolition permit.</p> <p>The applicant is responsible for ensuring an asbestos and lead survey is completed by a certified assessor as described in MM HAZ-2.1.</p> <p>If asbestos-containing materials and/or lead-containing materials are determined to be present, the project applicant shall prepare a work plan for removal of the materials in accordance with Cal-OSHA, as described in MM HAZ-2.1.</p> <p>A report summarizing the results of the survey and the work plan shall be submitted by the applicant to the City.</p>	<p>All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of grading permits.</p>	<p>Santa Clara County Department of Environmental Health and Director of the Development Services Department.</p>



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subject to BAAQMD regulations. Removal of materials containing more than one (1) percent friable asbestos shall be completed in accordance with BAAQMD Section 11-2-303.			
<b>Impact HAZ-3:</b> Improper abandonment of wells and septic systems on-site could result in groundwater contamination. <b>(Less than Significant Impact with Mitigation Incorporated)</b>			
<b>MM HAZ-3.1:</b> Prior to issuance of a grading permit, the project applicant shall research well records from Valley Water and attempt to locate abandoned wells at the site. If a well is located on site, the project applicant or contractor shall contact Valley Water's Wells Hotline immediately to assist in the identification of abandoned/unregistered wells or structures and help determine the appropriate means of addressing them. If the wells are identified, or subsequently encountered during earthwork activities, the applicant shall obtain a well destruction permit from Valley Water, and the wells shall be properly destroyed in accordance with Valley Water Ordinance 90-1. If septic systems are encountered during earthwork activities, those systems shall be abandoned in accordance with SCCDEH requirements.	To be implemented by the project applicant prior to issuance of a grading permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of grading permits.	Director of Development Services Department or Director's designee, and Santa Clara County Department of Environmental Health.
<b>NOISE AND VIBRATION</b>			
<b>Impact NOI-1:</b> Project construction would generate vibration levels that could damage adjacent buildings. The project would not result in generation of excessive groundborne vibration or groundborne noise levels. <b>(Less than Significant Impact with Mitigation Incorporated)</b>			
<b>MM NOI-1.1:</b> To address potential impacts related to vibration, the project shall implement the following vibration controls: <ul style="list-style-type: none"> <li>Prohibit the use of heavy vibration-generating construction equipment within 25 feet of residences. Use a smaller vibratory roller, such as the Caterpillar model CP433E vibratory</li> </ul>	To be implemented by the project applicant during construction.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of grading permits.	Director of Development Services Department or Director's designee.

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<p>compactor, when compacting materials within 25 feet of residences to the north and east.</p> <ul style="list-style-type: none"> <li>• Avoid dropping heavy equipment within 25 feet of residences. Use alternative methods, where feasible.</li> <li>• Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.</li> <li>• Avoid using vibratory rollers or tampers within 25 feet of sensitive uses.</li> <li>• Modify/design or identify alternative construction methods to reduce vibration levels below the limits.</li> <li>• The contractor shall alert heavy equipment operators to the close proximity of the adjacent structures so they can exercise extra care.</li> </ul>			
<b>TRANSPORTATION</b>			
<b>Impact TRN-1:</b> The project would generate 33.25 vehicle miles traveled (VMT) daily per capita, exceeding the threshold of 20.94 VMT per capita. <b>(Significant and Unavoidable Impact)</b>			
<p><b>MM TRN-1.1:</b> The project applicant shall develop and implement a Transportation Demand Management (TDM) plan which targets a reduction in residential vehicle trips to and from the site. The TDM plan shall be prepared by a qualified traffic consultant and in coordination with the City of Morgan Hill Development Services Director or Designee. The TDM plan shall quantify the reduction in VMT. The TDM plan shall require the following measures:</p> <ul style="list-style-type: none"> <li>• Prior to project occupancy, the project applicant shall make a financial contribution to the City's on-site demand rideshare service (MoGo), as a</li> </ul>	To be implemented by the project applicant prior to issuance of an occupancy permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of grading permits.	Director of Development Services Department or Director's designee.

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<p>one-time or annual financial contribution based on City's approval; OR</p> <ul style="list-style-type: none"> <li>During project operations, the management entity/homeowners association shall provide fully (100 percent) subsidized annual VTA transit passes for all project homeowners (a maximum of one transit subsidy per residential unit, equivalent to 364 transit passes per year). This subsidized transit program shall be approved by the City of Morgan Hill's Public Services Director prior to issuance of occupancy.</li> </ul>			

**Source:** City of Morgan Hill. *Morgan Hill Devco Residential Project EIR*. November 2023.