

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE TAMIEN STATION TRANSIT-ORIENTED DEVELOPMENT PROJECT MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM**

**WHEREAS**, prior to the adoption of this Resolution, the Director of Planning, Building and Code Enforcement of the City of San José prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for the Tamien Station Transit-Oriented Development Project under Planning File No. PDC18-025 (the “Initial Study/Mitigated Negative Declaration”), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively “CEQA”); and

**WHEREAS**, the Tamien Station Transit-Oriented Development Project (the “Project”) analyzed in the Initial Study/Mitigated Negative Declaration consists of a Planned Development Rezoning from the A(PD) Planned Development Zoning District to the R-M(PD) Planned Development Zoning District to allow up to 569 multi-family residential dwelling units (434 market-rate and 135 affordable units) and commercial or childcare facility up to 3,000 square feet on an approximately 6.96 gross-acre site located at 1197 Lick Avenue (Assessor’s Parcel Number 434-13-040), San José, California; and

**WHEREAS**, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in certain significant effects on the environment and identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

**WHEREAS**, in connection with the approval of a project involving the preparation of an initial study/mitigated negative declaration that identifies one or more significant environmental effects, CEQA requires the decision making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environmental effects to a less-than-significant level; and

**WHEREAS**, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during project implementation, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of San José as lead agency for the Project (the “Mitigation Monitoring and Reporting Program”); and

**WHEREAS**, the City of San José is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to undertake the Project; and

**WHEREAS**, the City Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project and intends to take actions on the Project in compliance with CEQA and State and local guidelines implementing CEQA; and

**WHEREAS**, the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project are on file in the Office of the Director of Planning, Building and Code Enforcement located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein;

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

**THAT THE CITY COUNCIL** does hereby make the following findings: (1) it has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with State and local guidelines implementing CEQA, and (3) the Initial Study/Mitigated Negative Declaration represents the independent judgment and analysis of the City of San José, as lead agency for the Project. The City Council designates the Director of Planning, Building and Code Enforcement at the Director's Office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

**THAT THE CITY COUNCIL** does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File No. PDC18-025). The Mitigation Monitoring and Reporting Program for the Project is attached hereto as Exhibit "A" and fully incorporated herein. The Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are: (1) on file in the Office of the Director of Planning, Building and Code Enforcement located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113 and (2) available for inspection by any interested person.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

---

SAM LICCARDO  
Mayor

ATTEST:

---

TONI J. TABER, CMC  
City Clerk

# **MITIGATION MONITORING AND REPORTING PROGRAM**

---

**Tamien Station Transit-Oriented Development Project**

**File No. PDC18-025**

**April 2020**

---



## 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 Initial Study prepared for the Tamien Station Transit-Oriented Development 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 IS concluded that the impacts from implementation of the project would be less than significant.

I, Michael R. Van Every, the applicant, on the behalf of Urban Co Tamien LLC, hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of an Initial Study for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature



Date

4-27-2020

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<b>AIR QUALITY</b>					
<b>Impact AIR-1:</b> The project would result in maximum residential cancer risks and PM <sub>2.5</sub> concentrations during construction activities that would exceed the BAAQMD significance thresholds, exposing sensitive receptors to substantial pollutant concentrations.					
<p><b>MM AIR-1.1:</b> Prior to issuance of any grading permits, the project applicant shall provide to the City's Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee the construction contractor's plan to ensure that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 85-percent reduction in DPM exhaust emissions or greater. The plan shall include, but not be limited to, the proposed schedule for the use of heavy construction equipment, the type and number of heavy construction equipment, the estimated frequency of use of the equipment, and the measures that would be used to achieve the necessary reduction in DPM exhaust emissions. One feasible method to achieve this reduction may include the following:</p> <ul style="list-style-type: none"> <li>All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 2 engines that include CARB-certified Level 3 Diesel Particulate Filters or equivalent. The following equipment adjustments will also meet this requirement: Diesel-powered equipment with</li> </ul>	<p>The applicant shall provide a plan ensuring that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 85-percent reduction in DPM exhaust emissions or greater.</p>	<p>Prior to obtaining any grading permits.</p>	<p>Director of the Department of Planning, Building and Code Enforcement, or Director's designee.</p>	<p>Review and approve construction operations plan.</p>	<p>Prior to the issuance of any grading permits.</p>



MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
Tier 3 engines and CARD-certified Level 3 Diesel Particulate filers, or equipment that meets U.S. EPA particulate matter emissions standards for Tier 4 engines.					

## BIOLOGICAL RESOURCES

**Impact BIO-1:** Demolition, grading, and construction activities and tree removal during nesting season could impact nearby migratory birds.

<p><b>MM BIO-1.1: Avoidance:</b> The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive), as amended.</p>	Schedule demolition and construction activities to avoid the nesting season.	Prior to the start of the nesting season (February 1 through August 31, inclusive).	Director of the Department of Planning, Building and Code Enforcement, or Director's designee.	Confirm that demolition and construction activities are scheduled outside of the nesting season.	Prior to any construction and/or tree removal/pruning activities.
	A qualified ornithologist shall conduct a preconstruction survey for nesting raptors and other migratory birds to identify active bird nests that may be disturbed during project construction.	Survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 1st through April	Director of the Department of Planning, Building and Code Enforcement, or Director's designee.	Ensure nesting bird surveys are completed.	Prior to any construction and/or tree removal/pruning activities.



MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<p>late part of the breeding season (May 1st through August 31st, inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.</p> <p><b>MM BIO-1.3: Buffer Zones:</b> If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.</p>	<p>In consultation with the California Department of Fish and Wildlife, the ornithologist shall determine the extent of a construction-free buffer zone to be established around any discovered active nest.</p>	<p>30th, inclusive), or no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive).</p> <p>If an active nest is found, a construction -free buffer zone shall remain in place until a qualified ornithologist has determined that the nest is no longer active.</p>	<p>Director of the Department of Planning, Building and Code Enforcement, or Director's designee, and California Department of Fish and Wildlife.</p>	<p>Review and approve designated buffer zones. Ensure the California Department of Fish and Wildlife is consulted.</p>	<p>Prior to and during any construction and/or tree removal/ pruning activities.</p>

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<b>MM BIO-1.4: Reporting:</b> Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee.	Submit a report indicating the results of the survey and any designated buffer zones.	Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first).	Director of the Department of Planning, Building and Code Enforcement, or Director's designee.	Review and approve report indicating the results of the nesting bird survey.	Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first).
<b>CULTURAL RESOURCES</b>					
<b>Impact CUL-1:</b> Excavation and grading for the proposed project could impact known and unknown subsurface Native American human remains and prehistoric resources.					
<b>MM CUL-1.1: Native American Consultation and Coordination:</b> The project applicant shall conduct all earthwork completed on the site, including any for the mitigation program detailed below, in consultation with Muwekma Ohlone Tribe representatives.	All earthwork completed on the site shall be conducted in consultation with Muwekma Ohlone Tribe representatives.	During all ground disturbing activities.	Director of the Department of Planning, Building and Code Enforcement, or Director's designee, and Muwekma Ohlone Tribe representatives	Ensure Muwekma Ohlone Tribe representatives are consulted during all ground disturbing activities on the project site.	During all ground disturbing activities.

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<p><b>MM CUL-1.2: <u>Treatment Plan</u>:</b> The project applicant shall continue to observe the requirements of the Cultural Resources Treatment Plan which was prepared by Far Western Anthropological Research Group, Inc. (Far Western), a qualified archaeologist, in 2015 and approved by the Director of Planning, Building and Code Enforcement as part of that project. The Plan reflects permit-level detail pertaining to depths and locations of all ground disturbing activities and is currently being implemented at the project site. The Treatment Plan contains:</p> <ul style="list-style-type: none"> <li>• Identification of the scope of work and range of subsurface effects (including location map and development plan).</li> <li>• Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).</li> <li>• Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).</li> <li>• Detailed field strategy used to record, recover, or avoid the finds and address research goals.</li> <li>• Analytical methods.</li> <li>• Report structure and outline of document contents.</li> <li>• Disposition of the artifacts.</li> </ul>	Continue implementation of the Cultural Resources Treatment Plan completed by Far Western in 2015 and approved by the Director of Planning, Building and Code Enforcement.	Prior to and during construction.	Director of the Department of Planning, Building and Code Enforcement, or Director's designee.	Ensure implementation of Cultural Resources Treatment Plan.	Prior to and during construction.



MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<ul style="list-style-type: none"> <li>Appendices: all site records, correspondence, consultation with Native Americans, etc.</li> </ul>					
<p><b>MM CUL-1.3: Investigation:</b> Prior to issuance of any project grading and excavation permits, the project applicant shall complete a field investigation program in conformance with the Cultural Resources Treatment Plan prepared for the project. The locations of subsurface testing and exploratory trenching shall be based on the Cultural Resources Treatment Plan recommendations. The investigation program shall be submitted to the Director of Planning, Building and Code Enforcement of the Director's designee for review and approval prior to issuance of any grading permits. The investigation program shall include, but not be limited to, the following:</p> <ul style="list-style-type: none"> <li>North-south trench across the area of the positive trenches identified in the San José Unified School District Investigation in 1998.</li> <li>Exploratory trenching at locations of proposed ground disturbance in excess of five (5) feet below ground surface.</li> </ul> <p>Results of the investigation shall be provided to the Director of Planning, Building, and Code Enforcement</p>	<p>Complete a field investigation program in conformance with the Cultural Resources Treatment Plan prepared for the project. The locations of subsurface testing and exploratory trenching shall be based on the Cultural Resources Treatment Plan recommendations. The investigation program shall be submitted to the Director of Planning, Building and Code Enforcement of the Director's designee for review and approval prior to issuance of a grading permit. Include all requirements listed in MM CUL-1.3 into the Cultural Resources Treatment Plan.</p>	<p>Prior to issuance of any project grading and excavation permits.</p>	<p>Director of the Department of Planning, Building and Code Enforcement, or Director's designee.</p>	<p>Review and approve the field investigation program.</p>	<p>Prior to issuance of any project grading and excavation permits.</p>

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
or the Director's designee prior to issuance of any grading or excavation permits.					
<p><b>MM CUL-1.4: Evaluation and Data Recovery:</b> Any prehistoric material identified in the project area during the field investigation in mitigation MM CUL-1.3 shall be evaluated for eligibility for listing in the National and California Register of Historic Resources. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation.</p> <p>If a deposit is identified and determined to be a contributing portion of the National Register site SCL-690 and project impacts to the deposit cannot be avoided, then data recovery shall be undertaken immediately. A comprehensive data recovery program may include salvaging artifacts, comprehensive research, and laboratory analyses. If human remains are identified, the Most Likely Descendent (identified in consultation with the Native American Heritage Commission) will determine the disposition of the remains if they cannot be avoided.</p> <p>The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.</p>	<p>Evaluate prehistoric material identified in the project area during the field investigation for eligibility for listing in the National and California Register of Historic Resources.</p> <p>If a deposit is identified and determined to be a contributing portion of the National Register site SCL-690 and project impacts to the deposit cannot be avoided, then data recovery shall be undertaken immediately.</p> <p>If human remains are identified, the Most Likely Descendent (identified in consultation with the Native American Heritage Commission) will determine the disposition of the remains if they cannot be avoided.</p> <p>The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of</p>	During the field investigation.	Director of the Department of Planning, Building and Code Enforcement, or Director's designee.	Confirm all evaluations and data recovery follow the requirements discussed in MM CUL-1.4.	During the field investigation.



MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
	features, field documentation, and recordation.				
<p><b>MM CUL-1.5: <u>Human Remains</u>:</b> Native American coordination shall follow the protocols established under Assembly Bill 52, State of California Code, and applicable City of San José procedures. In addition, the following measures shall be implemented with regard to human remains:</p> <ul style="list-style-type: none"> <li>a) If any human remains are found during any field investigations, grading, or other construction activities, the activity must stop immediately and all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. The City of San José Director of Planning, Building and Code Enforcement or the Director's designee shall be notified along with the project's lead archaeologist. City personnel or the archaeologist shall contact the Santa Clara County Coroner immediately.</li> <li>b) If the remains are believed to be Native American, the Coroner must contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC must then designate a Most Likely Descendant</li> </ul>	Native American coordination shall follow the protocols established under Assembly Bill 52, State of California Code, and applicable City of San José procedures. Implement measures a – c as listed in MM CUL-1.5.	During any field investigation, grading, or other construction activities. If remains found are believed to be Native American, the NAHC must be contacted within 24 hours.	Director of the Department of Planning, Building and Code Enforcement, or Director's designee, and Native American Heritage Commission.	Confirm that all Native American coordination follows the protocols established under Assembly Bill 52, State of California Code, and applicable City of San José procedures. Confirm that measures a – c under MM CUL-1.5 are implemented.	During any field investigations, grading, or other construction activities. If remains found are believed to be Native American, the NAHC must be contacted within 24 hours.

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<p>(MLD). The MLD will contact the City of San José Director of Planning, Building and Code Enforcement or the Director’s designee within 24 hours of being notified, to inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. In the event human remains need to be left uncovered overnight, a guard shall be put on duty until the next working day, unless the designated Most Likely Descendant requests otherwise (e.g., that they be left unmarked or collected).</p> <p>c) The project applicant shall explore all feasible options to redesign the project to avoid human remains. If this is not possible, alternative treatment scenarios should be considered, such as reburial of human remains in a secure place, as close as possible to the site. Initially, no photographs shall be taken of any human remains. They will be recorded, along with any grave-associated artifacts, and left in place until the designated Most Likely Descendant can make a decision on their reburial. Upon reburial, a GPS point shall be recorded at that location and identified on a Sacred Lands Form, which shall be submitted to the Native American Heritage Commission.</p>					



MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<p><b>MM CUL-1.6: Safety and Site Security:</b> Historic industrial uses on the site used hazardous materials, including metals and petroleum products. Based on the initial evaluation of hazardous contamination conducted in 2015, there is no health threat to construction workers from exposure to on-site soils. Results of any additional site characterization conducted under a Voluntary Cleanup Program required under MM HAZ-1.2 shall be reviewed by the project archaeologist for safety implications prior to archaeological ground investigations.</p> <p>At the discretion of the qualified archaeologist responsible for the data recovery (i.e., the Field Director), site fencing shall be installed on-site during the investigation to avoid destruction and/or theft of archaeological material. A security guard shall also be hired during non-excavation hours to provide additional site security if any human remains are left exposed overnight. The responsible qualified archaeologist shall advise the City's Director of Planning, Building and Code Enforcement or the Director's designee as to the necessity for a guard. Final authority to determine the need for a guard rests with the Director of Planning, Building and Code Enforcement or the Director's designee.</p>	<p>Results of any additional site characterization conducted under a Voluntary Cleanup Program required under MM HAZ-1.2 shall be reviewed by the project archaeologist for safety implications prior to archaeological ground investigations.</p> <p>Install site fencing during the investigation to avoid destruction and/or theft of archaeological material. A security guard shall also be hired during non-excavation hours to provide additional site security if any human remains are left exposed overnight. The responsible qualified archaeologist shall advise the City's Director of Planning, Building and Code Enforcement or the Director's designee as to the necessity for a guard. Final authority to determine the need for a guard rests with the Director of Planning, Building and Code Enforcement or the Director's designee.</p>	<p>Prior to and during any archaeological ground investigations.</p>	<p>Director of the Department of Planning, Building and Code Enforcement, or Director's designee.</p>	<p>Confirm project archaeologist reviews results of any additional site characterization conducted under a Voluntary Cleanup Program.</p> <p>Confirm site fencing is installed on-site during the investigation.</p> <p>Determine if a guard is needed during non-excavation hours to provide additional site security if human remains are left exposed overnight.</p>	<p>Prior to and during any archaeological ground investigations.</p>

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<b>MM CUL-1.7: <u>Technical Reporting:</u></b> Once all analyses and studies required by the project-specific Cultural Resources Treatment Plan have been completed, a technical report summarizing the results of the field investigation and data recovery shall be prepared. The report shall document the results of field and laboratory investigations and shall meet the Secretary of the Interior's Standards for Archaeological Documentation. The contents of the report shall be consistent with the protocol included in the project-specific Cultural Resources Treatment Plan. The report shall be submitted to the City of San José Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of any Certificates of Occupancy (temporary or final). Once approved by the City, the final documentation shall be submitted to the Northwest Information Center at Sonoma State University.	Prepare a technical report summarizing the results of the field investigation and data recovery.	Prior to issuance of any Certificates of Occupancy (temporary or final).	Director of the Department of Planning, Building and Code Enforcement, or Director's designee.	Review and approve the technical report summarizing the results of the field investigation and data recovery.	Prior to issuance of any Certificates of Occupancy (temporary or final).
<b>MM CUL-1.8: <u>Curation:</u></b> Upon completion of the final technical report required by the project-specific Cultural Resources Treatment Plan, all recovered archaeological materials shall be transferred by the qualified archaeologist to a long-term curation facility, such as the David A. Frederickson Archaeological Collections Facility at the Anthropological Studies Center, Sonoma State University. Any curation facility	Transfer all recovered archaeological materials to a long-term curation facility. Any curation facility used shall meet the standards outlined in the National Park Services' Curation of Federally Owned and Administered Archaeological Collections (36 CFR 79).	Upon completion of the final technical report required by the project-specific Cultural Resources Treatment Plan.	Director of the Department of Planning, Building and Code Enforcement, or Director's designee.	Confirm all recovered archaeological materials are transferred to a long-term curation facility.	Upon completion of the final technical report required by the project-specific



MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<p>used shall meet the standards outlined in the National Park Services' Curation of Federally Owned and Administered Archaeological Collections (36 CFR 79).</p> <p>Treatment of materials to be curated shall be consistent with the protocols included in the project-specific Cultural Resources Treatment Plan.</p>	<p>Treatment of materials to be curated shall be consistent with the protocols included in the project-specific Cultural Resources Treatment Plan.</p>				<p>Cultural Resources Treatment Plan.</p>
<p><b>MM CUL-1.9: Construction Monitoring and Protection Measures:</b> Although the data recovery and treatment program is expected to recover all potentially significant materials and information from the areas impacted by the project, it is possible that additional resources could remain on-site. Therefore, all ground-disturbing activities (e.g. grading and excavation) shall be completed under the observation of an archaeological monitor. In addition to monitoring uncovered soils for indications of archaeological materials, the monitor shall also ensure that no equipment use or earthwork occurs on top of the reburial area.</p> <p>Protective fencing shall be placed around the reburial area for the duration of construction. Heavy diesel equipment shall not be used on the reburial area. Any work required over the reburial area must be conducted manually or with handheld equipment to the extent feasible. If ground disturbance above the reburial is necessary, it shall be conducted only in consultation</p>	<p>Complete all ground-disturbing activities under the observation of an archaeological monitor.</p> <p>Place protective fencing around the reburial area for the duration of construction. Heavy diesel equipment shall not be used on the reburial area. Any work required over the reburial area must be conducted manually or with handheld equipment to the extent feasible. If ground disturbance above the reburial</p>	<p>During all ground-disturbing activities.</p> <p>Protective fencing shall be placed around the reburial area for the duration of construction.</p>	<p>Director of the Department of Planning, Building and Code Enforcement, or Director's designee.</p>	<p>Confirm all ground-disturbing activities are completed under the observation of an archaeological monitor.</p> <p>Confirm that protective fencing is placed around reburial areas and that no heavy diesel equipment is used on reburial areas. Ensure that</p>	<p>During all ground-disturbing activities and the duration of construction.</p>



MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<p>with appropriate Native American representatives and a qualified archaeologist.</p> <p>The archaeological monitor shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find or within the vicinity of the reburial area. If a monitor is not present but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet of the find until a qualified professional archaeologist has been contacted to determine the proper course of action. Any human remains encountered during construction shall be treated according to the protocol identified in MM CUL-1.5.</p>	<p>is necessary, it shall be conducted only in consultation with appropriate Native American representatives and a qualified archaeologist.</p> <p>The archaeological monitor shall halt construction activities temporarily in the immediate vicinity of an unanticipated find or if the monitor is not present, all work shall stop temporarily within 50 feet of the find until a qualified professional archaeologist has been contacted. Any human remains encountered during construction shall be treated according to the protocol identified in MM CUL-1.5.</p>			<p>an appropriate Native American representative and qualified archaeologist are consulted if ground disturbance is to be conducted above reburial area.</p>	
<b>HAZARDS AND HAZARDOUS MATERIALS</b>					
<b>Impact HAZ-1:</b> Project implementation (e.g., excavation) could release known and as yet undetected residual hazardous waste which could expose construction workers, future residents, and/or the environment to a significant health risk during earthwork activities.					
<p><b>MM HAZ-1.1:</b> A Site Management Plan (SMP) and Health and Safety Plan (HSP) shall be developed to establish management practices for handling contaminated soil or other materials encountered during construction activities. The sampling results shall be compared to appropriate risk-based screening levels in the SMP. The SMP and HSP shall identify potential health, safety, and environmental exposure considerations associated with redevelopment activities</p>	<p>A Site Management Plan (SMP) and Health and Safety Plan (HSP) shall be developed to establish management practices for handling contaminated soil or other materials encountered during construction activities.</p>	<p>Prior to any ground disturbing activities.</p>	<p>Director of the Department of Planning, Building and Code Enforcement, or Director's designee.</p>	<p>Review and approve the Site Management Plan and Health and Safety Plan.</p>	<p>Prior to any ground disturbing activities.</p>

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<p>and shall identify appropriate mitigation measures. The SMP shall include the following:</p> <ul style="list-style-type: none"> <li>• Proper mitigation as needed for demolition of existing structures;</li> <li>• Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;</li> <li>• Management of underground structures encountered, including utilities and/or underground storage tanks;</li> <li>• Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, PCBs, other contamination, etc.) is discovered during excavation or demolition activities;</li> <li>• Traffic control during site improvements;</li> <li>• Noise, work hours, and other relevant City regulations;</li> <li>• Mitigation of soil vapors (if required);</li> <li>• Procedures for proper disposal of contaminated materials (if required); and</li> <li>• Monitoring, reporting, and regulatory oversight arrangements.</li> </ul> <p>The SMP shall be submitted to the Santa Clara County Department of Environmental Health (SCCDEH) (or equivalent agency) for review and approval. A copy of</p>					



MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
the approved SMP shall be submitted to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee and the Municipal Compliance Officer of the City of San José Environmental Services Department prior to the issuance of any grading permits.					
<b>MM HAZ-1.2:</b> The project applicant shall enter into a Voluntary Cleanup Program with the California Department of Toxic Substances Control, Santa Clara County Department of Environmental Health, or other appropriate oversight agency, to address residual metals contamination and naphthalene vapors prior to issuance of any Planned Development permit. The SCCDEH will determine the next appropriate steps in determining if more investigation is needed, remediation is required, or if the development of a SMP/HSP is sufficient to address contamination during site redevelopment. Documentation of the SCCDEH determination shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the Municipal Compliance Officer of the City of San José Environmental Services Department prior to the issuance of any grading permits.	Enter a Voluntary Cleanup Program with the California Department of Toxic Substances Control, Santa Clara County Department of Environmental Health, or other appropriate oversight agency, to address residual metals contamination and naphthalene vapors prior to issuance of any Planned Development permit.  Documentation of the SCCDEH determination shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Municipal Compliance Office prior to the issuance of any grading permit.	Prior to issuance of any Planned Development permit.  Prior to issuance of any grading permit.	Director of the Department of Planning, Building and Code Enforcement, or Director's designee, and the Santa Clara County Department of Environmental Health.	Confirm the project applicant enters a Voluntary Cleanup Program with the California Department of Toxic Substances Control, Santa Clara County Department of Environmental Health, or other appropriate oversight agency.	Prior to issuance of any Planned Development permit.
<b>NOISE AND VIBRATION</b>					
<b>Impact NOI-1:</b> Mechanical equipment noise generated by the proposed project could impact nearby sensitive receptors					
<b>MM NOI-1.1: Mechanical Equipment Selection:</b> The project applicant shall select and design mechanical equipment that will reduce impacts on surrounding	Use mechanical equipment that will reduce impacts on surrounding uses to comply with the City's 55 dBA DNL	Prior to issuance of any building permits.	Director of the Department of Planning,	Ensure proper mechanical equipment is	Prior to issuance of

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<p>uses to comply with the City's 55 dBA DNL noise level requirement at the property boundary of the nearby noise-sensitive land uses. A qualified acoustical consultant shall be retained to review mechanical equipment noise levels prior to their installation to determine specific noise reduction measures necessary to comply with the City's noise level requirements. The results of the review shall be submitted to the Director of Planning, Building, and Code Enforcement or the Director's designee along with the building plans and approved design, prior to issuance of any building permits. Noise reduction measures may include, but are not limited to, selection of equipment that emits low noise levels and/or installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. Alternate measures may include locating equipment in less noise-sensitive areas, such as the rooftop of the buildings away from the building's edge nearest the noise-sensitive receptors, where feasible. Alternate measures shall be reviewed by the Director of Planning, Building, and Code Enforcement or the Director's designee prior to issuance of any building permits.</p>	<p>noise level requirement at the property boundary of the nearby noise-sensitive land uses. Review mechanical equipment noise levels prior to their installation to determine specific noise reduction measures necessary to comply with the City's noise level requirements. Submit review to the Department of Planning, Building, and Code Enforcement along with the building plans and approved design.</p>		<p>Building and Code Enforcement, or Director's designee.</p>	<p>used. Review mechanical equipment noise levels.</p>	<p>any building permits.</p>
<p><b>Impact NOI-2:</b> Ambient levels at the surrounding uses would potentially be exceeded by five (5) dBA Leq or more at various times throughout construction. Since project construction would last for a period of more than one year (15 months), the City's General Plan would consider this temporary construction impact to be significant.</p>					



MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<p><b>MM NOI-2.1: Construction Noise and Vibration Plan:</b> The project applicant shall engage a qualified acoustical engineer to develop and implement a Construction Noise and Vibration Logistics Plan during all phases of construction on the project site. This plan may be prepared together with the plan for the use of heavy construction equipment as outlined in MM AIR-1.1. The Plan shall be included as part of the contracts for construction workers and applicable supervisors. All measures shall be printed on all approved construction documents, contracts, and/or project plans. The project applicant shall submit a copy of all approved plans, construction documents, contracts, and/or project plans to the Director of Planning, Building and Code Enforcement or the Director's designee prior to the issuance of any grading permit. The Plan shall include, but is not limited to, the following:</p> <ul style="list-style-type: none"> <li>• A list of all potential equipment (including specs) that will be used during all earthmoving activities.</li> <li>• A schedule of all earthmoving activities.</li> <li>• Responsibilities of personnel on the site.</li> <li>• Outreach strategies to inform nearby residences of construction hours and phase.</li> <li>• Description of construction staging areas and construction traffic routing plan.</li> </ul>	<p>Develop and implement a Construction Noise and Vibration Logistics Plan. Print measures on all approved construction documents, contracts, and/or project plans. Submit a copy of all approved plans, construction documents, contracts, and/or project plans to the City of San José Director of Planning, Building and Code Enforcement or the Director's designee prior to the issuance of any grading permit.</p>	<p>Prior to the issuance of any grading permits.</p>	<p>Director of the Department of Planning, Building and Code Enforcement, or Director's designee.</p>	<p>Review and approve Construction Noise and Vibration Logistics Plan and ensure it includes all requirements listed in MM NOI-2.1.</p>	<p>Prior to the issuance of any grading permits.</p>



MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<ul style="list-style-type: none"> <li>• Best management practices to reduce construction noise such as, but is not limited to, the following:               <ul style="list-style-type: none"> <li>○ Limit construction hours to between 7:00 a.m. and 7:00 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.</li> <li>○ Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.</li> <li>○ Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.</li> <li>○ Prohibit unnecessary idling of internal combustion engines.</li> <li>○ Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors.</li> <li>○ Construct temporary noise barriers to</li> </ul> </li> </ul>					

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
<p>screen stationary noise-generating equipment when located near adjoining sensitive land uses.</p> <ul style="list-style-type: none"> <li>○ Utilize “quiet” air compressors and other stationary noise sources where technology exists.</li> <li>○ Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.</li> <li>○ Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.</li> <li>○ 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.</li> <li>○ 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</li> </ul>					

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/ Reports	Monitoring Timing or Schedule
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.					

**Source:** City of San José. Tamien Station Transit-Oriented Development Project Initial Study. March 2020.