

## MITIGATION MONITORING AND REPORTING PROGRAM

### INTRODUCTION

Section 15097 of the California Environmental Quality Act (CEQA) requires all State and local agencies to establish monitoring or reporting programs for projects approved by a public agency whenever approval involves the adoption of either a “mitigated negative declaration” or specified environmental findings related to environmental impact reports.

The following is the Mitigation Monitoring and Reporting Program (MMRP) for the Surrey Farms Estates Subdivision Project (proposed project). The intent of the MMRP is to ensure implementation of the mitigation measures identified within the Initial Study/Mitigated Negative Declaration (IS/MND) for this project. Unless otherwise noted, the cost of implementing the mitigation measures as prescribed by this MMRP shall be funded by the applicant.

### COMPLIANCE CHECKLIST

The MMRP contained herein is intended to satisfy the requirements of CEQA as they relate to the IS/MND for the proposed project, prepared by the Town of Los Gatos. This MMRP is intended to be used by Town staff and mitigation monitoring personnel to ensure compliance with mitigation measures during project implementation. Mitigation measures identified in this MMRP were developed in the IS/MND that was prepared for the proposed project. The MMRP will provide for monitoring of construction activities as necessary and in-the-field identification and resolution of environmental concerns.

The proposed project IS/MND presents a detailed set of mitigation measures that will be implemented throughout the lifetime of the proposed project. Mitigation is defined by CEQA Guidelines, Section 15370, as a measure that:

- Avoids the impact altogether by not taking a certain action or parts of an action;
- Minimizes impacts by limiting the degree or magnitude of the action and its implementation;
- Rectifies the impact by repairing, rehabilitating, or restoring the impacted environment;
- Reduces or eliminates the impact over time by preservation and maintenance operations during the life of the project; or
- Compensates for the impact by replacing or providing substitute resources or environments.

Monitoring and documenting the implementation of mitigation measures will be coordinated by the Town of Los Gatos. The applicant will be responsible for fully understanding and effectively implementing the mitigation measures contained within the MMRP. The Town will be responsible for monitoring compliance.

### MITIGATION MONITORING AND REPORTING PROGRAM

The following table indicates the item number, the checklist questions the measure is designed to address, the measure text, the monitoring agency, implementation schedule, and an area for sign-off indicating compliance.

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Item Number	Checklist Question	Mitigation Measure		Monitoring Agency	Implementation Schedule	Sign-Off
III. Air Quality						
III-a; III-b	Conflict with or obstruct implementation of the applicable air quality plan; or result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	III-1	<p><i>The project applicant shall show on Improvement Plans via notation that the project contractor shall restrict the construction of the off-site sidewalk improvements along the north side of Blossom Hill Road between Regent Drive and Union Avenue and along the north side of Fisher Avenue between Mitchell Avenue and Roberts Road from occurring simultaneously with the on-site construction of the proposed project.</i></p> <p><i>Alternatively, if simultaneous construction of the on-site and off-site components of the proposed project cannot be avoided, prior to the initiation of ground disturbance associated with the off-site sidewalk improvements, the project applicant shall show on project improvement plans via notation the following requirements:</i></p> <ul style="list-style-type: none"><li><i>The contractor shall ensure that all construction equipment greater than 50 horsepower to be used in the construction of the off-site sidewalk improvements, including owned, leased, and subcontractor vehicles, shall be Tier 4 final off-road construction equipment. In addition, all off-road equipment operating at the off-site construction site must be maintained in proper working condition according to manufacturer's specifications.</i></li><li><i>Idling shall be limited to five minutes or less in accordance with the In-Use Off-</i></li></ul>	Town of Los Gatos Parks and Public Works Department	Prior to improvement plans approval or prior to the initiation of ground disturbance associated with the off-site sidewalk improvements	

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		<p><i>Road Diesel Vehicle Regulation as required by CARB. Clear signage regarding idling restrictions shall be placed at the entrances to the construction site.</i></p> <ul style="list-style-type: none"> <li>• <i>Portable equipment over 50 horsepower must have either a valid BAAQMD Permit to Operate (PTO) or a valid statewide Portable Equipment Registration Program (PERP) placard and sticker issued by CARB.</i></li> </ul> <p><i>Conformance with the foregoing requirements shall be confirmed through review and approval of plans by the Town of Los Gatos Parks and Public Works Department.</i></p>			
IV. Biological Resources					
IV-a	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<p><b>California Red-Legged Frog</b></p> <p><i>IV-1 Within 48 hours prior to any ground disturbing activities or vegetation clearing within 50 feet of Ross Creek, a pre-construction survey for California red-legged frog shall be conducted by a qualified biologist. Survey results shall be submitted to the Town of Los Gatos Community Development Department.</i></p> <p><i>IV-2 If California red-legged frog is encountered, activities shall cease until the animal moves out of any proposed work area on its own or is relocated by a permitted qualified biologist. Proof of compliance with this mitigation measure shall be provided to the Town of Los Gatos Community Development Department.</i></p>	<p>Town of Los Gatos Planning Division</p> <p>Town of Los Gatos Planning Division</p>	<p>Within 48 hours prior to any ground disturbing activities or vegetation clearing within 50 feet of Ross Creek</p> <p>If California red-legged frog is encountered</p>	

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		IV-3 During construction activities, fiber netting such as silt fence or similar material shall be used for erosion control where appropriate throughout the project site and within 50 feet of Ross Creek to ensure that California red-legged frog does not get trapped. Proof of compliance with this mitigation measure shall be provided to the Town of Los Gatos Community Development Department.	Town of Los Gatos Planning Division	During construction activities	
		<u>White-Tailed Kite and Other Nesting Raptors and Migratory Birds</u>			
		IV-4 If tree removal or ground disturbing activities are scheduled to commence during the nesting season (February 1 <sup>st</sup> through August 31 <sup>st</sup> ), a pre-construction nesting bird survey shall be conducted by a qualified biologist within seven days prior to such activities to identify possible nesting activity. Survey results shall be submitted to the Town of Los Gatos Community Development Department. If active nests are not found further mitigation is not required. If one or more active nests are found, a construction-free buffer of suitable dimensions shall be established around any active raptor or migratory bird nest for the duration of the project, or until the qualified biologist has determined that the chicks have fledged and are foraging independently from their parents. The buffer shall be identified on the ground with flagging or fencing. The buffer distance shall be determined by the on-site qualified biologist based on the species, level of disturbance activity, location of the nest, and the topography between the nest and the	Town of Los Gatos Planning Division	Within seven days prior to tree removal or ground disturbing activities, if such activities are scheduled to commence during the nesting season (February 1 <sup>st</sup> through August 31 <sup>st</sup> )	

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		<p>construction activity; the construction-free buffer shall consist of a minimum starting distance of 250 feet for raptors and 25 feet for other birds. Proof of compliance with this mitigation measure shall be provided to the Town of Los Gatos Community Development Department.</p> <p><u>Pallid Bat and Townsend's Big-Eared Bat</u></p> <p>IV-5 Prior to the commencement of construction activities, a qualified biologist shall conduct a bat habitat assessment of all potential roosting habitat features, including trees within the proposed impact footprint within the project vicinity. The habitat assessment shall identify all potentially suitable roosting habitat and may be conducted up to one year prior to the start of construction. The results of the assessment shall be submitted to the Town of Los Gatos Community Development Department.</p> <p>IV-6 If potential roosting habitat is identified (cavities in trees or potential roosts within structures) within the areas proposed for impact, the biologist shall survey the potential roosting habitat during the active season (generally April through October or from January through March on days with temperatures in excess of 50 degrees Fahrenheit) within seven days prior to the start of construction activities to determine the presence of roosting bats. The surveys are recommended to be conducted utilizing methods that are considered acceptable by CDFW and bat experts. Methods may include evening emergence surveys, acoustic</p>	<p>Town of Los Gatos Planning Division</p> <p>Town of Los Gatos Planning Division</p>	<p>Up to one year prior to the commencement of construction activities</p> <p>Within seven days prior to the start of construction activities, if potential roosting habitat is identified (cavities in trees or potential roosts within structures) within the areas proposed for impact</p>	

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		<p>surveys, inspecting potential roosting habitat with fiberoptic cameras, or a combination thereof.</p> <p>If a non-breeding bat colony is discovered, the individuals shall be humanely evicted via two-step removal under the direction of a qualified biologist to ensure that harm or take would not occur to any bats as a result of tree removal. Two-step removal can only occur during March 1 to April 15 and September 1 to October 15 to avoid harm to maternity and overwintering colonies.</p> <p>If a maternity colony is detected, then a qualified biologist shall determine an appropriate size for a construction-free buffer to be established around the tree and remain in place until the qualified biologist has determined that the nursery is inactive. Tree removal shall preferably be done between March 1 and April 15 or August 15 and October 15 to avoid interfering with an active nursery.</p> <p>Proof of compliance with this mitigation measure shall be provided to the Town of Los Gatos Community Development Department.</p> <p><u>San Francisco Dusky-Footed Woodrat</u></p> <p>IV-7 A qualified biologist shall conduct a pre-construction survey for San Francisco dusky-footed woodrat nests between 30 and 14 days prior to the onset of construction activities. The survey shall encompass all construction zones within the woodland habitat and developed areas, and surrounding lands within 25 feet.</p>			
			Town of Los Gatos Planning Division	Between 30 and 14 days prior to the onset of construction activities	

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		<p><i>Results of the assessment shall be submitted to the Town of Los Gatos Community Development Department.</i></p> <p><i>Identified nests shall be avoided, where possible, and buffered by a minimum of 20 feet. If avoidance is not possible, the nest(s) shall be manually deconstructed by a qualified biologist when helpless young are not present, typically during the non-breeding season (October through January). If the qualified biologist has determined that young may be present during the nest deconstruction, a suitable buffer of a minimum of 20 feet shall be established around the nest until a qualified biologist determines that the young are independent enough to successfully move from the deconstructed nest. Approximate age of the juveniles shall be recorded when observed and appropriate time shall be extrapolated out to when they would be independent from their parents; then the deconstruction can continue after the biologist confirms that the young are not present in the nest at the time. Proof of compliance with this mitigation measure shall be provided to the Town of Los Gatos Community Development Department.</i></p> <p><u>American Badger</u></p> <p>IV-8 <i>During the course of the pre-construction surveys for other species, a qualified biologist shall also determine the presence or absence of badgers prior to the start of construction. If badgers are found to be absent, other</i></p>			
			Town of Los Gatos Planning Division	During the course of the pre-construction surveys for other species	



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		<p><i>mitigations for the protection of badgers shall not be warranted.</i></p> <p><i>If an active badger den is identified during pre-construction surveys within or immediately adjacent to an area subject to construction, a construction-free buffer of up to 300 feet shall be established around the den. Once a qualified biologist has determined that badger has vacated the burrow, the burrow can be collapsed or excavated, and ground disturbance can proceed. Should the burrow be determined to be a natal or reproductive den, and because badgers are known to use multiple burrows in a breeding burrow complex, a biological monitor shall be present on-site during construction activities in the vicinity of the burrows to ensure the buffer is adequate to avoid direct impacts to individuals or natal/reproductive den abandonment. The monitor shall be present until is the qualified biologist has determined that young are of an independent age and construction activities would not harm individual badgers.</i></p> <p><i>Additionally, all workers shall attend a "tailgate" training that includes a description of the species, a brief summary of the species' biology, and minimization measures and instructions on what to do if American badger is observed.</i></p> <p><i>Proof of compliance with this mitigation measure shall be provided to the Town of Los Gatos Community Development Department.</i></p>			



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		<p><u>Burrowing Owl</u></p> <p>IV-9 A qualified biologist shall conduct a preconstruction survey for burrowing owl following the 2012 CDFW Guidelines, or the most recent guidelines, which includes two surveys, one within 14 days prior to the start of construction and the second within 24 hours prior to the start of construction. If a lapse in project-related work of 15 calendar days or longer occurs, an additional survey shall be required prior to reinitiation. A written summary of the survey results shall be submitted to the Town of Los Gatos Community Development Department before any construction permits are issued. If burrowing owls or active burrows/refugia are not found, then further mitigation measures are not necessary.</p> <p>Identified burrowing owls shall be avoided and active burrowing owl burrows shall be avoided with a 250-foot non-disturbance buffer until the burrow is abandoned. The project biologist shall conduct a weekly check-in to confirm the buffer is still intact and confirm the current activity of that burrow. Proof of compliance with this mitigation measure shall be provided to the Town of Los Gatos Community Development Department.</p>	Town of Los Gatos Planning Division	Within 14 days prior to the start of construction and within 24 hours prior to the start of construction	
IV-e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<p>IV-10 Prior to the start of construction activities, the applicant shall comply with the Town of Los Gatos Tree Protection Ordinance and a tree removal permit shall be obtained from the Town for the removal of any on-site trees that qualify as a protected tree. If the trees proposed for removal are found to be in good condition, and the tree removal permit is</p>	Town of Los Gatos Planning Division	Prior to the start of construction activities	

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		<i>granted primarily for the convenience of the applicant, then the full cost and responsibility of such removal shall be borne by the applicant, including planting of replacement trees. According to the Tree Mitigation and Protection Plan prepared for the proposed project, the project would not meet the required on-site tree replacement requirement; thus, the project applicant shall pay the appropriate in-lieu fees, pursuant to the requirements of Division II of Chapter 29.10 of the Town's Municipal Code. The above noted requirements shall be completed to the satisfaction of the Town of Los Gatos Planning Division.</i>			
V. Cultural Resources					
V-b; V-c	Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to Section 15064.5; or disturb any human remains, including those interred outside of dedicated cemeteries?	V-1 <i>If historic, archaeological, or paleontological resources are encountered during subsurface excavation activities, all construction activities within a 100-foot radius of the resource shall cease until a qualified archaeologist determines whether the resource requires further study. The Town shall require that the applicant include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. Any previously undiscovered resources found during construction shall be recorded on appropriate California Department of Parks and Recreation forms and evaluated for significance in terms of California Environmental Quality Act (CEQA) criteria by a qualified archaeologist. Potentially significant cultural resources consist of, but are not limited to, stone, bone, fossils, wood, or shell</i>	The Town of Los Gatos Community Development Department	During construction, if historic, archaeological, or paleontological resources are encountered during subsurface excavation activities	

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		<p><i>artifacts or features, including hearths, structural remains, or historic dumpsites.</i></p> <p><i>If the resource is determined to be significant under CEQA, the Town and a qualified archaeologist shall determine whether preservation in place is feasible. Such preservation in place is the preferred mitigation. If such preservation is infeasible, the qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan for the resource. The archaeologist shall also conduct appropriate technical analyses, prepare a comprehensive written report and file the report with the appropriate information center (California Historical Resources Information System), and provide for the permanent curation of the recovered materials.</i></p>			
		<p>V-2 <i>If human remains, or remains that are potentially human, are found during construction, all work shall be halted immediately within 100 feet, and a professional archeologist shall ensure reasonable protection measures are taken to protect the discovery from disturbance. The archaeologist shall notify the Santa Clara County Coroner (pursuant to Section 7050.5 of the State Health and Safety Code). The provisions of Section 7050.5 of the California Health and Safety Code, Section 5097.98 of the California Public Resources Code, and Assembly Bill (AB) 2641 will be implemented. If the Coroner determines the remains are Native American and not the result of a crime scene, then the Coroner will</i></p>	<p>Town of Los Gatos Community Development Department</p> <p>Santa Clara County Coroner</p> <p>NAHC, if the Santa Clara County Coroner determines remains are Native American</p>	<p>During construction, if human remains, or other remains that are potentially human, are found</p>	

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		<i>notify the Native American Heritage Commission (NAHC), which then will designate a Native American Most Likely Descendant (MLD) for the project (Section 5097.98 of the Public Resources Code). The designated MLD will have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If the applicant does not agree with the recommendations of the MLD, the NAHC can mediate (Section 5097.94 of the Public Resources Code). If an agreement is not reached, the qualified archaeologist or MLD must rebury the remains where they will not be further disturbed (Section 5097.98 of the Public Resources Code). This will also include either recording the site with the NAHC or the appropriate Information Center, using an open space or conservation zoning designation or easement, or recording a reinternment document with the county in which the property is located (AB 2641). Work cannot resume within the no-work radius until the lead agency, through consultation as appropriate, determines that the treatment measures have been completed to the Town's satisfaction.</i>			
<b>VII. Geology and Soils</b>					
VII-aii; VII-aiii; VII-c; VII-d	Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: strong seismic ground shaking; or seismic-related ground failure, including	VII-1 <i>Prior to approval of any grading or improvement plans for the project, a licensed engineer shall review the plans to ensure the engineering recommendations set forth in the site-specific Geotechnical and Geologic Hazard Investigation prepared for the proposed project by Cornerstone Earth Group are adequately incorporated, including all relevant CBSC standards, to the satisfaction of</i>	Town of Los Gatos  Town Engineer	Prior to approval of any grading or improvement plans for the project	

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	liquefaction; or be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse; or be located on expansive soil, as defined in Table 18-1B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<i>the Town's Engineer. All grading and improvement plans shall be reviewed and approved by the Town of Los Gatos Community Development Department and the Town's Engineer.</i>			
<b>X. Hydrology and Water Quality</b>					
X-a	Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	X-1 <i>Prior to any ground-disturbing activities, the project applicant shall prepare and submit a final erosion and sediment control plan for review and approval by the Town of Los Gatos Engineering Division of the Parks and Public Works Department. A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the San Francisco Bay Regional Water Quality Control Board. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed during the rainy season. Prior to any ground disturbance, the on-site aquatic features (i.e., the ephemeral drainage/drainage swale and Ross Creek) shall be flagged by a qualified biologist with</i>	Town of Los Gatos Engineering Division  Town of Los Gatos Building Department	Prior to any ground-disturbing activities	

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		<p>highly visible flagging tape, or similar, to clearly demarcate the limits of the aquatic features, and interim erosion control measures shall be installed around the aquatic features, at a minimum. The project applicant shall submit a letter to the Town prepared by the qualified biologist confirming completion of the flagging for review and approval prior to commencement of any ground disturbance. Interim erosion control methods shall include, but are not limited to: silt fences, fiber rolls (with locations and details), erosion control blankets, Town standard seeding specification, filter berms, check dams, retention basins, etc. The project contractor shall provide erosion control measures as needed to protect downstream water quality during winter months. The grading, drainage, erosion control plan and SWPPP shall be prepared in compliance with applicable measures contained in the amended provisions C.3 and C.14 of most current Santa Clara County National Pollutant Discharge Elimination System (NPDES) Municipal Regional Permit (MRP). Monitoring for erosion and sediment control is required and shall be performed by the Qualified SWPPP Developer (QSD) or Qualified SWPPP Practitioner (QSP) as required by the Construction General Permit. Stormwater samples are required for all discharge locations and projects may not exceed limits set forth by the Construction General Permit Numeric Action Levels and/or Numeric Effluent Levels. A Rain Event Action Plan (REAP) shall be developed 48 hours prior to any likely precipitation event, defined by a</p>			

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		50 percent or greater probability as determined by the National Oceanic and Atmospheric Administration (NOAA), and/or whenever rain is imminent. The QSD or QSP must print and save records of the precipitation forecast for the project location area from ( <a href="https://www.cpc.ncep.noaa.gov/">https://www.cpc.ncep.noaa.gov/</a> ) which shall accompany monitoring reports and sampling test data. A rain gauge is required on-site. The Town of Los Gatos Engineering Division shall conduct periodic NPDES inspections of the site throughout the recognized storm season to verify compliance with the Construction General Permit and Stormwater ordinances and regulations.			
<b>XIII. Noise</b>					
XIII-a	Generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	XIII-1 For any construction proposed within 25 feet of a noise-sensitive receptor, the proposed project shall implement construction equipment staging areas to create distance between construction-related noise sources and noise-sensitive receptors; use electric tools; use mobile construction equipment with smart back-up alarms; and implement additional noise attenuation techniques during the clearing, earth moving, grading, and foundation/conditioning phases of construction, such as temporary sound barriers between the construction site and the sensitive receptors. The foregoing requirements shall be included in the grading plan to the satisfaction of the Town's Engineer and shall be submitted for review and approval to the Town of Los Gatos Community Development Department.	Town Engineer  Town of Los Gatos Community Development Department	During any construction proposed within 25 feet of a noise-sensitive receptor	



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XIII-b	Generate excessive groundborne vibration or groundborne noise levels?	<p><i>XIII-2 Any compaction required within 26 feet of existing structures adjacent to the off-site improvement areas shall be accomplished by using static drum rollers, rather than vibratory compactors/rollers, which use weight instead of vibrations to achieve soil compaction. As an alternative, preconstruction crack documentation and construction vibration monitoring could be conducted to ensure that construction vibrations do not cause damage to any adjacent structures. The above requirements shall be included by way of notation on any future improvement plans approved for the off-site improvements to the satisfaction of the Town of Los Gatos Community Development Department.</i></p>	Town of Los Gatos Community Development Department	During any compaction required within 26 feet of existing structures adjacent to the off-site improvement areas	
<b>XVII. Transportation</b>					
XVII-b	Conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	<p><i>XVII-1 Concurrent with submittal of final project improvement plans, the project applicant shall also submit to the Town of Los Gatos Community Development Department for review and approval off-site improvement plans showing the construction of new sidewalks at the following intersections:</i></p> <ul style="list-style-type: none"> <li><i>Along the north side of Blossom Hill Road between Regent Drive and Union Avenue; and</i></li> <li><i>Along the north side of Fisher Avenue between Mitchell Avenue and Roberts Road.</i></li> </ul> <p><i>The improvement plans shall demonstrate, to the satisfaction of the Town Engineer, that the off-site sidewalk improvements would comply with all applicable design parameters and</i></p>	Town of Los Gatos  Town Engineer	Concurrent with submittal of final project improvement plans	

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		<i>requirements set forth by the Town of Los Gatos. The off-site improvements shall be constructed prior to the issuance of any certificate of occupancy for the project.</i>			
<b>XVIII. Tribal Cultural Resources</b>					
XVIII-a; XVIII-b	Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is: listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k); or a resource determined by the lead agency, in its discretion and supported by substantial	XVIII-1 <i>Implement Mitigation Measures V-1 and V-2.</i>	See Mitigation Measures V-1 and V-2	See Mitigation Measures V-1 and V-2	

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	evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.				