

Appendix I
DTSC/City Voluntary Cleanup
Agreement (VCA) (Final
Agreement, but not yet
executed), July 2011





Linda S. Adams
Acting Secretary for
Environmental Protection



Department of Toxic Substances Control

Deborah O. Raphael, Director
700 Heinz Avenue
Berkeley, California 94710-2721



Edmund G. Brown Jr.
Governor

July 5, 2011

Mr. Chuck Neumayer
City of Sunnyvale Department of Public Works
456 W. Olive Ave
PO Box 3707
Sunnyvale, CA 94088-3707

FINAL VOLUNTARY CLEANUP AGREEMENT FOR MORSE PARK SITE, SUNNYVALE, CALIFORNIA

Dear Mr. Neumayer:

The Department of Toxic Substances Control (DTSC) has finalized the Voluntary Cleanup Agreement (VCA) with the City of Sunnyvale, and we look forward to working with the City on the cleanup of the Morse Park Site. Enclosed is unsigned VCA and its exhibits. Please sign page 6 of the VCA, then mail back to DTSC at this address:

Alex Lee
700 Heinz Avenue
Berkeley, California 94710

If you have any questions, please contact me at (510) 540-3844 or alee@dtsc.ca.gov.

Sincerely,

Alex Lee
Project Manager
Brownfields and Environmental Restoration Program

Enclosure

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Morse Park

Proponent:

**City of Sunnyvale
656 W. Olive Avenue,
Sunnyvale, CA 94086**

Docket No. HSA-VCA 11/12-001

Voluntary Cleanup Agreement

Health and Safety Code
Section 25355.5(a)(1)(C)

The California Department of Toxic Substances Control (DTSC) and City of Sunnyvale (Proponent) enter into this Voluntary Cleanup Agreement (Agreement) and agree as follows:

1. Site. This Agreement applies to the property located at 1010 to 1024 Morse Avenue, Sunnyvale, in Santa Clara County, California 94086 (Site), identified by Santa Clara County Assessor's Parcel Numbers 110-14-202. The Site is approximately 5.3 acres in size and is bordered by Morse Avenue to the west, the Hetch-Hetchy aqueduct to the south, and residences to the east and north. Residential housing is located across Morse Avenue to the west. The John W. Christian Greenbelt park and parking is located to the south, overlying the Hetch-Hetchy aqueduct. Two churches and associated parking are located to the south of the Hetch-Hetchy pipeline. A Site diagram and a Site location map are attached as Exhibits A and B.

2. Jurisdiction. This Agreement is entered into by DTSC and Proponent pursuant to Health and Safety Code section 25355.5(a)(1)(C) which authorizes DTSC to enter into an enforceable agreement to oversee the investigation and/or remediation of a release or threatened release of any hazardous substance at or from the Site.

3. Purpose. The purpose of this Agreement is for Proponent to investigate and/or remediate a release or threatened release of any hazardous substance at or from the Site under the oversight of DTSC. The purpose of this Agreement is also for DTSC to obtain reimbursement from Proponent for DTSC's oversight costs incurred pursuant to this Agreement.

4. Ownership. The Site is owned by the City of Sunnyvale.

5. Substances Found at the Site. Based on the information available to DTSC and Proponent, the Site is or may be contaminated with hazardous substances, including arsenic and lead in soil. Low levels of chlorinated pesticides are also present in soil.

6. Scope of Work and DTSC Oversight. DTSC shall review and provide Proponent with written comments on all Proponent's deliverables as described in Exhibit C (Scope of Work) and other documents applicable to the scope of the project. DTSC shall provide oversight of field activities, including sampling and remedial activities, as appropriate. Proponent agrees to perform all the work required by this Agreement. Proponent shall perform the work in accordance with applicable local, state and federal statutes, regulations, ordinances, rules and guidance documents, in particular, Health and Safety Code section 25300 et seq., as amended.

7. Additional Activities. DTSC and Proponent may amend this Agreement to include additional activities in accordance with Paragraph 17 of this Agreement. If DTSC expects to incur additional oversight costs for these additional activities, it will provide an estimate of the additional oversight costs to Proponent.

8. Endangerment During Implementation.

8.1. Proponent shall notify DTSC's Project Manager immediately upon learning of any condition that may pose an immediate threat to public health or safety or the environment. Within seven days of the onset of such a condition, Proponent shall furnish a report to DTSC, signed by Proponent's Project Manager, setting forth the conditions and events that occurred and the measures taken in response thereto.

8.2. In the event DTSC determines that any activity (whether or not pursued in compliance with this Agreement) may pose an imminent or substantial endangerment to the health or safety of people on the Site or in the surrounding area or to the environment, DTSC may order Proponent to conduct additional activities in accordance with Paragraph 7 of this Agreement or to stop further implementation of this Agreement for such period of time as may be needed to abate the endangerment. DTSC may request that Proponent implement interim measures to address any immediate threat or imminent or substantial endangerment.

9. Access. Proponent shall provide, and/or obtain access to the Site and take all reasonable efforts to obtain access to offsite areas to which access is necessary to implement the Agreement. Such access shall be provided to DTSC's employees, contractors, and consultants at all reasonable times. Nothing in this paragraph is intended or shall be construed to limit in any way the right of entry or inspection that DTSC or any other agency may otherwise have by operation of law.

10. Sampling, Data and Document Availability. When requested by DTSC, Proponent shall make available for DTSC's inspection, and shall provide copies of, all data and information concerning contamination at or from the Site, including technical records and contractual documents, sampling and monitoring information and photographs and maps, whether or not such data and information was developed pursuant to this Agreement. For all final reports, Proponent shall submit one hard (paper) copy and one electronic copy with all applicable signatures and certification stamps as a text-readable Portable Document Formatted (pdf) file Adobe Acrobat or

Microsoft Word formatted file.

11. Record Preservation. Proponent shall retain, during the implementation of this Agreement and for a minimum of six years after its termination, all data, reports, and other documents that relate to the performance of this Agreement. If DTSC requests that some or all of these documents be preserved for a longer period of time, Proponent shall either comply with the request, deliver the documents to DTSC, or permit DTSC to copy the documents at Proponent's expense prior to destruction.

12. Notification of Field Activities. Proponent shall inform DTSC at least seven days in advance of all field activities pursuant to this Agreement and shall allow DTSC and its authorized representatives to take duplicates of any samples collected by Proponent pursuant to this Agreement.

13. Project Managers. Within 14 days of the effective date of this Agreement, DTSC and Proponent shall each designate a Project Manager and shall notify each other in writing of the Project Manager selected. Each Project Manager shall be responsible for overseeing the implementation of this Agreement and for designating a person to act in his/her absence. All communications between DTSC and Proponent, and all notices, documents and correspondence concerning the activities performed pursuant to this Agreement shall be directed through the Project Managers. Each party may change its Project Manager with at least seven days prior written notice.

14. Proponent's Consultant and Contractor. All work performed pursuant to this Agreement shall be under the direction and supervision of a professional engineer or professional geologist, licensed in California, with expertise in hazardous substance site cleanup. Proponent's Project Manager, contractor or consultant shall have the technical expertise sufficient to fulfill his or her responsibilities. Within 14 days of the effective date of this Agreement, Proponent shall notify DTSC's Project Manager in writing of the name, title, and qualifications of the professional engineer or professional geologist and of any contractors or consultants and their personnel to be used in carrying out the work under this Agreement in conformance with applicable state law, including but not limited to, Business and Professions Code sections 6735 and 7835.

15. DTSC Review and Approval. All work performed pursuant to this Agreement is subject to DTSC's review and approval. If DTSC determines that any report, plan, schedule or other document submitted for approval pursuant to this Agreement fails to comply with this Agreement or fails to protect public health or safety or the environment, DTSC may (a) return comments to Proponent with recommended changes and a date by which the Proponent must submit to DTSC a revised document incorporating or addressing the recommended changes; or (b) modify the document in consultation with Proponent and approve the document as modified. All DTSC approvals and decisions made regarding submittals and notifications will be communicated to Proponent in writing by DTSC's Branch Chief or his/her designee. No informal advice, guidance, suggestions or comments by DTSC regarding reports, plans, specifications, schedules or any other writings by the Proponent shall be construed to relieve Proponent of the

obligation to obtain such written approvals.

16. Payment.

16.1. Proponent agrees to pay (1) all costs incurred by DTSC in association with preparation of this Agreement, and for oversight activities, including review of documents, conducted prior to the effective date of this Agreement, and (2) all costs incurred by DTSC in providing oversight pursuant to this Agreement, including review of the documents described in Exhibit C and associated documents, and oversight of field activities. Costs incurred include interest on unpaid amounts that are billed and outstanding more than 60 days from the date of the invoice. An estimate of DTSC's oversight costs is attached as Exhibit D. It is understood by the parties that Exhibit D is an estimate and cannot be relied upon as the final cost figure. DTSC may provide an updated or revised cost estimate as the work progresses. DTSC will bill Proponent quarterly. Proponent agrees to make payment within 60 days of receipt of DTSC's billing. Such billings will reflect any amounts that have been advanced to DTSC by Proponent.

16.2. In anticipation of oversight activities to be conducted, Proponent shall make an advance payment of \$20,770 to DTSC within 10 days of the effective date of this Agreement. It is expressly understood and agreed that DTSC's receipt of the entire advance payment as provided in this paragraph is a condition precedent to DTSC's obligation to provide oversight, review of or comment on documents. If the advance payment exceeds DTSC's final costs, DTSC will refund the difference within 120 days after the performance of this Agreement is completed or after this Agreement is terminated pursuant to Paragraph 18 of this Agreement.

16.3. All payments made by Proponent pursuant to this Agreement shall be by check payable to the "Department of Toxic Substances Control", and bearing on its face the project code for the Site (Site # 201901) and the docket number of this Agreement. Upon request by Proponent, DTSC may accept payments made by credit cards. Payments by check shall be sent to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st Floor
P.O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent concurrently to DTSC's Project Manager.

16.4. DTSC shall retain all cost records associated with the work performed under this Agreement as may be required by state law. DTSC will make all documents that support DTSC's cost determination available for inspection upon request in accordance with the Public Records Act, Government Code section 6250 et seq.

17. Amendments. This Agreement may be amended in writing by mutual agreement of DTSC and Proponent. Such amendment shall be effective the third business day following the day the last party signing the amendment sends its notification of signing to the other party. The parties may agree to a different effective date.

18. Termination for Convenience.

18.1. Except as otherwise provided in this paragraph, each party to this Agreement reserves the right to unilaterally terminate this Agreement for any reason. Termination may be accomplished by giving a 30-day advance written notice of the election to terminate this Agreement to the other party. In the event that this Agreement is terminated under Paragraph 18.1, Proponent shall be responsible for DTSC costs through the effective date of termination.

18.2. If operation and maintenance activities are required for the final remedy, Proponent may not terminate the Agreement under Paragraph 18.1 upon DTSC's approval of an Operation and Maintenance Plan as proposed by Proponent, unless an Operation and Maintenance Agreement is entered into between DTSC and Proponent or between DTSC and a party responsible for the required operation and maintenance activities.

19. Incorporation of Exhibits, Plans and Reports. All exhibits are incorporated into this Agreement by reference. All plans, schedules and reports that require DTSC's approval and are submitted by Proponent pursuant to this Agreement are incorporated in this Agreement upon DTSC's approval.

20. Reservation of Rights. DTSC reserves all of its statutory and regulatory powers, authorities, rights, and remedies under applicable laws to protect public health or the environment, including the right to recover its costs incurred therefor. Proponent reserves all of its statutory and regulatory rights, defenses and remedies available to Proponent under applicable laws.

21. Non-Admission of Liability. By entering into this Agreement, Proponent does not admit to any finding of fact or conclusion of law set forth in this Agreement or any fault or liability under applicable laws.

22. Proponent Liabilities. Nothing in this Agreement shall constitute or be considered a covenant not to sue, release or satisfaction from liability by DTSC for any condition or claim arising as a result of Proponent's past, current, or future operations or ownership of the Site.

23. Government Liabilities. The State of California or DTSC shall not be liable for any injuries or damages to persons or property resulting from acts or omissions by Proponent or by related parties in carrying out activities pursuant to this Agreement, nor shall the State of California or DTSC be held as a party to any contract entered into by Proponent or its agents in carrying out the activities pursuant to this Agreement.

24. Third Party Actions. In the event that Proponent is a party to any suit or claim for damages or contribution relating to the Site to which DTSC is not a party, Proponent shall notify DTSC in writing within 10 days after service of the complaint in the third-party action. Proponent shall pay all costs incurred by DTSC relating to such third-party actions, including but not limited to responding to subpoenas.

25. California Law. This Agreement shall be governed, performed and interpreted under the laws of the State of California.

26. Severability. If any portion of this Agreement is ultimately determined not to be enforceable, that portion will be severed from the Agreement and the severability shall not affect the enforceability of the remaining provisions of the Agreement.

27. Parties Bound. This Agreement applies to and is binding, jointly and severally, upon Proponent and its agents, receivers, trustees, successors and assignees, and upon DTSC and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement. Proponent shall ensure that its contractors, subcontractors and agents receive a copy of this Agreement and comply with this Agreement.

28. Effective Date. The effective date of this Agreement is the date of signature by DTSC's authorized representative after this Agreement is first signed by Proponent's authorized representative. Except as otherwise specified, "days" means calendar days.

29. Representative Authority. Each undersigned representative of the party to this Agreement certifies that she or he is fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind the party to this Agreement.

30. Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

_____ Date: _____

Mark E. Piros, Unit Chief
Cleanup Program
Department of Toxic Substances Control

_____ Date: _____

[Mark Rogge, P.E., Assistant Public Works Director/City Engineer]
Representing City of Sunnyvale

EXHIBITS

A - SITE LOCATION MAP

B - SITE DIAGRAM

C - SCOPE OF WORK

D - COST ESTIMATE



Reference: Google Earth Pro; Imagery date June 30, 2007.

Notes:

1. All locations are approximate.

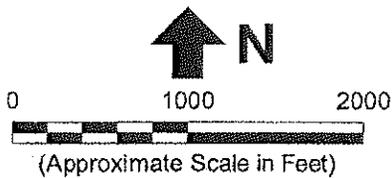
**Erler &
Kalinowski, Inc.**

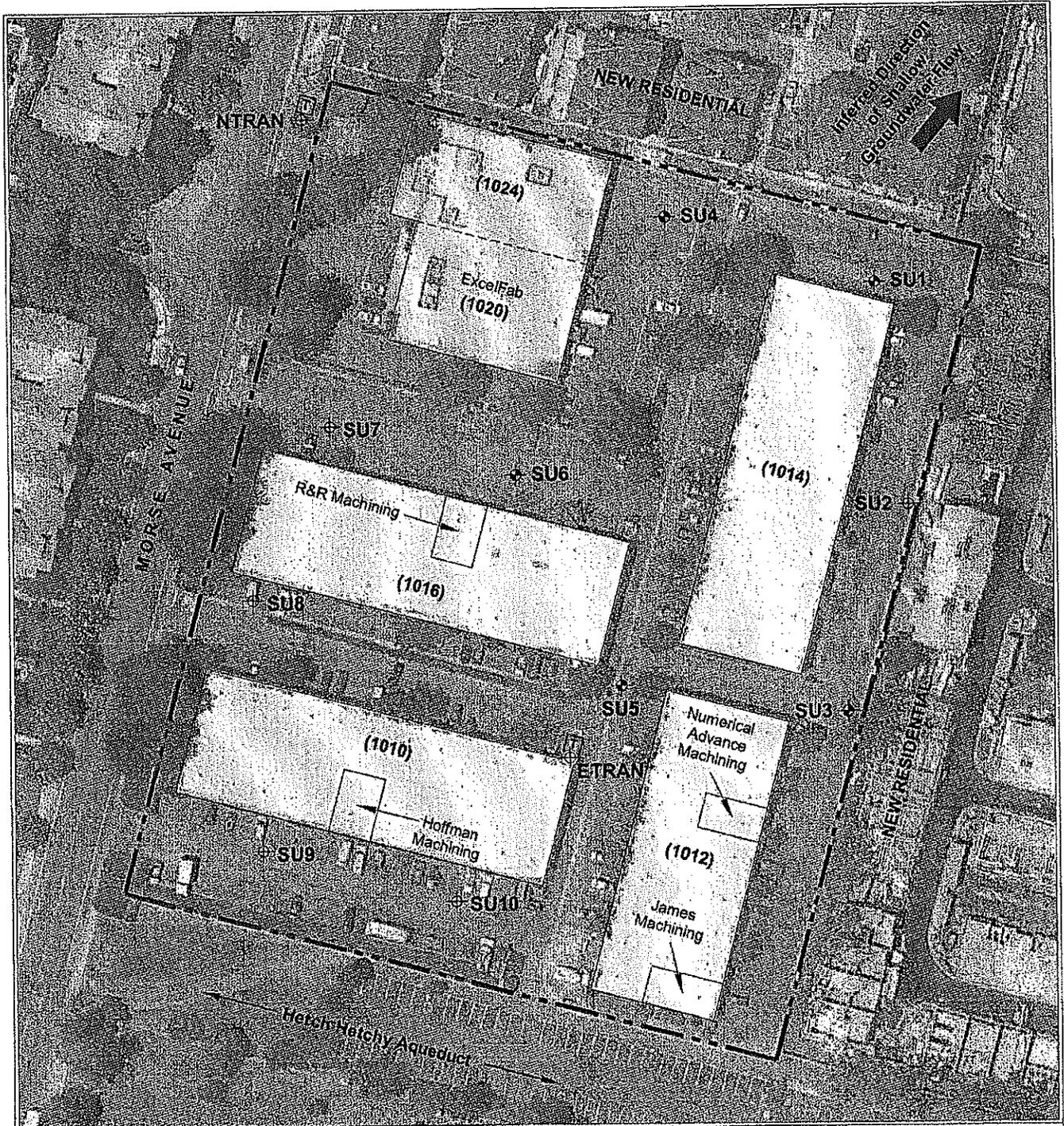
Site Location Map

1010 - 1024 Morse Avenue
Sunnyvale, CA

June 2011
EKI B10004.00

Exhibit A





Reference: Google Earth Pro; Imagery date June 30, 2007.

Legend:

- Approximate Site Boundary
- ⊕ Soil and Grab Groundwater Sample Borehole
- ⊕ Soil Sample Borehole
- ⊠ Pad-Mounted Transformer
- (1010) Building Street Address

Notes:

1. All locations are approximate.

Erler & Kalinowski, Inc.

Approximate Soil and Grab Groundwater Sample Locations

1010 - 1024 Morse Avenue
Sunnyvale, CA

June 2011
EKI B10004.00

Exhibit B

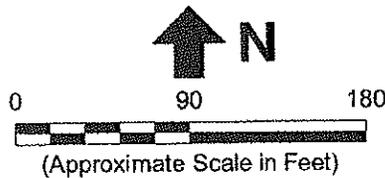


EXHIBIT C SCOPE OF WORK

The following Tasks will be completed as part of this Agreement.

TASK 1.

Submittal of Existing Data and Scoping Meeting. The Proponent will submit to DTSC all background information, sample analysis results, environmental assessment reports, and any other information pertinent to the hazardous substance management and/or release, characterization and cleanup of the Site. DTSC will review the information to identify areas and media of concern, and to determine the additional work, if any, required to complete the investigation/remediation of the Site. Following DTSC's initial review, a scoping meeting may be held to discuss further site characterization if it is determined to be necessary, and, if so, how the site characterization will be conducted.

TASK 2

Additional Site Characterization.

2.1 Site Characterization Workplan. If DTSC finds after reviewing the documents submitted under Task 1 that further Site characterization is warranted, the Proponent will submit a workplan that describes the activities proposed to further characterize soil, soil gas, surface water and/or groundwater. The workplan should also include a Site health and safety plan, quality assurance/quality control plan, sampling plan, and implementation schedule.

2.2 The Proponent will implement the approved Site Characterization Workplan in accordance with the approved implementation schedule. DTSC may provide oversight of workplan implementation.

2.3 Site Characterization Report.

The Proponent will submit a Site Characterization Report that, at a minimum, presents the data, summarizes the findings of the investigation, validates the data, and includes recommendations and conclusions.

TASK 3.

Removal Action Workplan. The Proponent will prepare a Removal Action Workplan (RAW) in accordance with Health and Safety Code sections 25323.1 and 25356.1. The RAW will include:

- (a) a description of the onsite contamination;
- (b) an evaluation that identifies the chemicals of concern, identifies potential routes of exposure, and characterizes the potential risk to human and environmental receptors;
- (b) the goals and cleanup levels to be achieved by the removal action based upon the projected future land uses;
- (c) an analysis of the removal action alternatives considered and rejected and the basis for that rejection. This should include a discussion for each alternative

- (d) which covers its effectiveness, implementability and cost;
- (d) a description of the recommended alternative (including any required land use covenants, financial assurance, and operation and maintenance plan and agreement requirements).
- (e) administrative record list;
- (f) Sampling and Analysis Plan with corresponding Quality Assurance Plan to confirm the effectiveness of the RAW, if applicable; and
- (g) an overall description of methods that will be employed during the removal action.

If the proposed removal action does not meet the requirements of Health and Safety Code section 25356.1(h), the Proponent will prepare a Remedial Action Plan (RAP) in accordance with Health and Safety Code section 25356.1(c) for DTSC review and approval.

TASK 4.

California Environmental Quality Act (CEQA). In order to meet its CEQA obligation, DTSC will prepare the necessary CEQA documents. If required, the Proponent shall submit the information necessary for DTSC to prepare these documents.

TASK 5.

Removal Action Design and Implementation Plan. Proponent will either (a) prepare and submit a Removal Action Design and Implementation Plan in accordance with the agreed upon schedule contained in the approved RAW; or (2) incorporate the following factors that would be addressed in the Removal Action Design and Implementation Plan into the RAW:

- (a) technical and operational plans and engineering designs for implementation of the approved remedial or removal action alternative(s);
- (b) a schedule for implementing the construction phase;
- (c) a description of the construction equipment to be employed;
- (d) a site-specific hazardous waste transportation plan (if necessary);
- (e) any required registration requirements for contractors, transporters and other persons conducting the removal and remedial activities for the Site;
- (f) post-remedial sampling and monitoring procedures for air, soil, surface water and groundwater;
- (g) operation and maintenance procedures and schedules, if applicable;
- (h) a community air monitoring plan, if required by DTSC.

TASK 6.

Implementation of Final Removal Action Workplan. Upon DTSC approval of the final RAW, the Proponent shall implement the removal action, as approved.

TASK 7.

Implementation Report. Within thirty (30) days of completion of field activities,

the Proponent shall submit an Implementation Report documenting the implementation of the final RAW and noting any deviations from the approved plan.

TASK 8.

Changes During Implementation of the Final RAW. During implementation of the final RAW, DTSC may specify such additions, modifications and revisions to the RAW as deemed necessary to protect human health and safety or the environment or to implement the RAW.

TASK 9.

Public Participation.

9.1 The Proponent shall conduct appropriate public participation activities given the nature of the community surrounding the Site and the level of community interest. The Proponent shall work cooperatively with DTSC to ensure that the affected and interested public and community are involved in DTSC's decision-making process. Any such public participation activities shall be conducted in accordance with Health and Safety Code sections 25358.7, the DTSC Public Participation Policy and Procedures Manual, and with DTSC's review and approval.

9.2 A scoping meeting may be held to determine the appropriate activities that will be conducted to address public participation.

9.3 The Proponent shall prepare a community profile to examine the level of the community's knowledge of the Site; the types of community concerns; the proximity of the Site to homes and/or schools, day care facilities, churches, etc.; the current and proposed use of the Site; media interest; and involvement of community groups and elected officials. The community profile also includes a mailing list for the Site.

9.4 The Proponent shall develop and submit fact sheets to DTSC for review and approval when specifically requested by DTSC. The Proponent shall be responsible for printing and distribution of fact sheets upon DTSC approval using the approved community mailing list. The Proponent shall publish, in a major local newspaper(s), a public notice announcing the availability of the RAW for public review and comment. The public comment period shall last a minimum of thirty (30) days.

9.5 DTSC may require that the Proponent hold at least one public meeting to inform the public of the proposed activities and to receive public comments on the RAW.

9.6 Within four (4) weeks of the close of the public comment period, DTSC will prepare a response to the public comments received. If required, the Proponent shall submit the information necessary for DTSC to prepare this document.

9.7 If appropriate, the Proponent will revise the RAW on the basis of comments received from the public, and submit the revised RAW to DTSC for review and approval. If significant or fundamental changes are required, additional public participation activities, including an additional review and comment period, may be required. The Proponent will also notify the public of any significant changes from the action proposed in the RAW.

TASK 10.

Land Use Covenant. The parties agree that a land use covenant (LUC) pursuant

to California Code of Regulations, title 22, section 67391.1 may be necessary to ensure full protection of the environment and human health. DTSC may require such LUC in the Final RAW. The Proponent agrees to sign and record the LUC approved by DTSC within ten (10) days of receipt of a fully executed original.

TASK 11.

Operation and Maintenance (O&M). The Proponent shall comply with any and all operation and maintenance requirements in accordance with the final RAW or a DTSC-approved O&M Plan. If deemed necessary, DTSC may require Proponent to enter into an O&M Agreement with DTSC.

TASK 12.

Quality Assurance/Quality Control (QA/QC) Plan. All sampling and analysis conducted by the Proponent under this Agreement shall be performed in accordance with a QA/QC Plan submitted by the Proponent and approved by DTSC. The QA/QC Plan will describe:

- (a) the procedures for the collection, identification, preservation and transport of samples;
- (b) the calibration and maintenance of instruments;
- (c) the processing, verification, storage and reporting of data, including chain of custody procedures and identification of qualified person(s) conducting the sampling and of a laboratory certified or approved by DTSC pursuant to Health and Safety Code section 25198; and
- (d) how the data obtained pursuant to this Agreement will be managed and preserved in accordance with the Preservation of Documentation section of this Agreement.

TASK 13.

Health and Safety Plan. The Proponent will submit a Site Health and Safety Plan in accordance with California Code of Regulations, Title 8, section 5192. This plan should include, at a minimum the following elements:

- (a) Site Background/History/Workplan;
- (b) Key Personnel and Responsibilities
- (c) Job Hazard Analysis/Summary;
- (d) Employee Training;
- (e) Personal Protection;
- (f) Medical Surveillance;
- (g) Air Surveillance;
- (h) Site Control;
- (i) Decontamination;
- (j) Contingency Planning;
- (k) Confined Space Operations;
- (l) Spill Containment;
- (m) Sanitation;
- (n) Illumination; and

(o) Other applicable requirements based on the work to be performed.

DTSC's *Interim Draft Site Specific Health and Safety Plan Guidance Document for Site Assessment/Investigation, Site Mitigation Projects, Hazardous Waste Site Work Closure, Post Closure, and Operation and Maintenance Activities* (DTSC, December 2000) can be used as a reference tool. The Health and Safety Plan should cover all measures, including contingency plans, which will be taken during field activities to protect the health and safety of the workers at the Site and the general public from exposure to hazardous waste, substances or materials. The Health and Safety Plan should describe the specific personnel, procedures and equipment to be utilized.

All contractors and all subcontractors shall be given a copy of the Health and Safety Plan prior to entering the Site. Any supplemental health and safety plans prepared by any subcontractor shall also be prepared in accordance with the regulations and guidance identified above. The prime contractor responsible for this subcontractor will be responsible for ensuring that all subcontractor supplemental health and safety plans follow these regulations and guidelines.

Appendix

Notice of Intent to Adopt a
Mitigated Negative Declaration





NOTICE OF INTENT (NOI) TO ADOPT A MITIGATED NEGATIVE DECLARATION

PUBLIC REVIEW PERIOD: July 29, 2011 and end at 5:00 p.m. on August 29, 2011

Based on an Initial Study, the staff of the City of Sunnyvale Department of Public Works has determined that the project described below, with incorporated mitigation measures, would not have significant adverse impacts on the environment. An Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the project.

PROJECT TITLE: Morse Park

PROJECT DESCRIPTION AND LOCATION: The project site is located at 1010 to 1024 Morse Avenue (APN 110-14-202) in Sunnyvale, California. The proposed project would create an approximately 5.3 acres neighborhood park on a portion of the former Fair Oaks Industrial Park. The project includes (1) demolition of five existing structures and site improvements, (2) soil remediation which will be covered under a separate CEQA document, with the State Department of Toxic Substance Control (DTSC) as lead agency, (3) temporary grading and drainage as necessary to prepare the site after remediation; and (4) park construction. The park would include features, such as: playgrounds, play fields, picnic areas, walkways, trees, lighting and associated amenities. The project would also amend the General Plan and rezone the site for park use to Public Facility/Park and Public Facility (PF), respectively.

WHERE TO VIEW THIS DOCUMENT: The Mitigated Negative Declaration, its supporting documentation, and details relating to the project are on-file, on the City's website and available for review and comment at:

**Sunnyvale City Hall
One Stop Permit Center
456 West Olive Ave.
Sunnyvale, CA 94086**

**Sunnyvale City Library
Reference Desk
665 West Olive Ave.
Sunnyvale, CA 94086**

**Sunnyvale Community Center
Front Counter – Recreation Ctr.
550 E. Remington Dr.
Sunnyvale, CA 94087**

PUBLIC COMMENT INVITED: Notice is hereby given that a public meeting will be held on August 17, 2011, at 7:00 PM, at the Columbia Middle School, 739 Morse Ave., 94085, in the Staff Room. A presentation on the project will be made, and there will be an opportunity to receive public comments and recommendations on the Initial Study/Mitigated Negative Declaration that has been prepared pursuant to the guidelines and procedures of the California Environmental Quality Act. The required 30-day public review period shall begin on **July 29, 2011** and end at **5:00 p.m. on August 29, 2011**. All comments regarding the IS/MND must be received by this ending date/time.

You are encouraged to submit written comments and recommendations prior to the public meeting. Comments and recommendations may be directed to:

**Nasser Fakh, Assistant City Engineer, Department of Public Works, City of Sunnyvale, P.O. Box 3707, Sunnyvale, CA 94088, fax 408.730-7619, or email: NFakh@ci.sunnyvale.ca.us.
Please specify "Morse Park Public Review" in the subject line.**

A public hearing before the City Council will be scheduled after the public review period to review responses to comments made, to adopt or modify the Mitigated Negative Declaration and to conceptually approve the project.

**ADDRESS ALL MAIL TO: P.O. BOX 3707 SUNNYVALE, CALIFORNIA 94088-3707
TDD (408) 730-7501**

Printed on Recycled Paper

Appendix K

Response to Comments on
the Draft Initial Study/Mitigated
Negative Declaration





350 Frank H. Ogawa Plaza
Suite 300
Oakland, CA 94612
510.839.5066 phone
510.839.5825 fax

www.esassoc.com

memorandum

date September 21, 2011

to City of Sunnyvale, Public Works Department, Engineering Division

from Lesley Lowe, AICP - ESA Project Manager
Darcey Rosenblatt – ESA Project Director

subject **Morse Park: Response to Comments on the Draft Initial Study
(ESA No. 210070)**

On July 29, 2011 the City of Sunnyvale (Lead Agency) released for public review a Draft Initial Study/Mitigated Negative Declaration for Morse Park (SCH# 2011072062). The 30-day public review and comment period began on July 29, 2011 and closed at 5:00 p.m. on August 29, 2011. A public hearing on the project was held on August 17, 2011, at Columbia Middle School, 739 Morse Avenue, 94085, in the Staff Room.

This memorandum summarizes and responds generally to the public comments and questions on the Draft Initial Study/Mitigated Negative Declaration for Morse Park. Following circulation of the Draft Initial Study/Mitigated Negative Declaration, minor changes were made in response to comments to add specifics to noise mitigation measures presented in the document (see Response to Comments below). A Final Initial Study/Mitigated Negative has been prepared which includes the final edits.

No comments on the Draft Initial Study/Mitigated Negative Declaration were made at the public hearing on August 17, 2011. One member of the community attended the public hearing and had no comment on the CEQA document.¹ No comments were received from public agencies during the comment period (see **Attachment A**). However, one comment letter was received from a project site neighbor and is attached as **Attachment B**. The comment is responded to below.

Responses to Comments

Adam Berkan Comment

I live adjacent to the Morse Park site so I have great deal of interest in this project. I've read the Mitigated Negative Declaration and I generally think it is great. It looks like the city is really trying to do everything right to avoid problems. I can hardly wait for the park to be completed.

¹ Vivek Nadkharni, a member of the community, attended the public hearing for the Morse Park IS/MND on August 17, 2011 at Columbia Middle School. His interest in the project was related to anticipated project completion.

I have one concern regarding noise mitigation. In the report it assumes that all noise generated on the site is attenuated by the masonry wall on the edge of the site. This wall helps reduce the sound on the main floor of my house, but my bedroom is on the third story. I can look down over the wall and see virtually the whole site, so the wall won't have much impact at that level.

This concern combines with another, that the contractor is free to start making noise at 7:00 am. This is quite early for a lot of families, and we're likely to be upstairs in our bedrooms. If noisy equipment is running near my house it could be as close as 30 ft to my bedroom (10 horiz, 20 vert), and will go over the wall.

I would suggest that the city consider what the sound will be 20 ft above the site, where the wall won't have much impact. I would also ask that the contractor keep very loud noise to a minimum early in the morning, until maybe 9:00 am when we're less likely to be upstairs.

Thank you for the efforts that are being put into this project. Again I can hardly wait for the park to be constructed.

Response: Noise mitigation measures presented in the Morse Park Draft Initial Study/Mitigated Negative Declaration have attempted to limit the effects of construction noise to the extent allowable as determined by the local ordinances. However, to be sensitive to the adjacent residential land uses, the City shall require its contractor(s) to limit loud construction activities until after 7:30 a.m., one-half hour later than the ordinance allows. **Mitigation Measure NOI-1** is revised as follows:

Mitigation Measure NOI-1: The project sponsor shall require construction contractors to implement the following mitigation measures:

- Consistent with Section 16.08.030 of the Municipal Code, all noise generating construction activities shall be limited to the hours of ~~7:00~~ 7:30 a.m. to 6:00 p.m., Monday through Friday and between 8:00 a.m. and 5:00 p.m. on Saturday. There shall be no construction activity on Sunday or national holidays when city offices are closed.
- All construction vehicles and equipment, fixed and mobile, shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).
- Construction staging areas shall be located as far as practicable from dwellings and existing recreational uses so as to cause minimal disruption to these activities.
- Route all construction traffic to and from the project site via designated truck routes where possible. Prohibit construction related heavy truck traffic in residential areas where feasible.
- Prohibit unnecessary idling of internal combustion engines.
- Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City in the event of problems.

It should be noted that 7:00 a.m. is used by many jurisdictions as a standard start-time for construction., This start time also helps avoid other environmental impacts related to traffic congestion (avoids

construction vehicles conflicting with the commute period) and allows for standard construction hours, in order to complete projects in a timely manner.

As construction is a temporary phase of a project, construction noise is short term. More importantly, the time that heavy machinery would be operating close to the perimeter of site, adjacent to the sound wall would be a very small fraction of the duration of construction activities. As reinforced by **Mitigation Measure NOI-2**, the Sunnyvale Noise Ordinance provides that “No loud environmentally disruptive noises, such as air compressors without mufflers, continuously running motors or generators, loud playing musical instruments, radios, etc., will be allowed where such noises may be a nuisance to adjacent residential neighborhoods.” This would leave only larger construction equipment such as loaders and backhoes to operate close to the perimeter of the project. This type of equipment would not likely be focused directly adjacent to the perimeter, rather it would be moving around, pushing dirt or digging. Further, this type of equipment does not operate in one location for extended periods of time.

For reference, it is anticipated that equipment operating 30 feet away at 89 decibels could result in an instantaneous level of approximately 68 dB (with additional attenuation provided that windows and doors are closed). This is a conservative analysis of construction noise since actual noise at any location only occurs for a few hours or days. Furthermore, as there are no permanent staging areas, no residence would be directly affected by noise every day of the construction period. The commenter’s concern is understood; however, the impact to neighboring residence from construction noise is temporary, and would be less than significant with implementation of the mitigation measures presented in the Morse Park Initial Study/Mitigated Negative Declaration (and as altered above).

ATTACHMENT A

State Clearinghouse Letter



Edmund G. Brown Jr.
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Ken Alex
Director

August 30, 2011

AUG 31 2011

Nasser Fakih
City of Sunnyvale
PO Box 3707
Sunnyvale, CA 94088

Subject: Morse Park
SCH#: 2011072062

Dear Nasser Fakih:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. The review period closed on August 29, 2011, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

**Document Details Report
State Clearinghouse Data Base**

SCH# 2011072062
Project Title Morse Park
Lead Agency Sunnyvale, City of

Type MND Mitigated Negative Declaration
Description The proposed project would redevelop approximately 5.3 acres as a neighborhood park. The project includes (1) demolition of five existing structures and improvements on the site, (2) soil remediation which will be covered under a separate CEQA document, with the DTSC as lead agency, (3) temporary grading and drainage as necessary to prepare the site after remediation, and (4) park construction. The project would amend the General Plan and rezone the site to Public Facility/Park.

Lead Agency Contact

Name Nasser Fakih
Agency City of Sunnyvale
Phone 408 730 7617 **Fax**
email
Address PO Box 3707
City Sunnyvale **State** CA **Zip** 94088

Project Location

County Santa Clara
City Sunnyvale
Region
Lat / Long
Cross Streets Morse Avenue and East Weddell Drive
Parcel No. 110-14-202
Township **Range** **Section** **Base**

Proximity to:

Highways US 101, SR 237
Airports Moffett Federal Airfield
Railways VTA, CalTrain
Waterways Stevens Creek, Calabazas Creek, El Camino Channel
Schools Columbia MS
Land Use Industrial and Service/ Industrial to Residential/Medium Density Residential/Planning Development(M-S/ITR/R-3/PD)

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Growth Inducing; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Fish and Game, Region 3; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 4; Regional Water Quality Control Board, Region 2; Department of Toxic Substances Control; Native American Heritage Commission; Public Utilities Commission

Date Received 07/29/2011 **Start of Review** 07/29/2011 **End of Review** 08/29/2011

ATTACHMENT B

Adam Berkan Comment

On 8/23/2011 at 10:59 PM, Adam Berkan <adam.berkan@gmail.com> wrote:

I live adjacent to the Morse Park site so I have great deal of interest in this project. I've read the Mitigated Negative Declaration and I generally think it is great. It looks like the city is really trying to do everything right to avoid problems. I can hardly wait for the park to be completed.

I have one concern regarding noise mitigation. In the report it assumes that all noise generated on the site is attenuated by the masonry wall on the edge of the site. This wall helps reduce the sound on the main floor of my house, but my bedroom is on the third story. I can look down over the wall and see virtually the whole site, so the wall won't have much impact at that level.

This concern combines with another, that the contractor is free to start making noise at 7:00 am. This is quite early for a lot of families, and we're likely to be upstairs in our bedrooms. If noisy equipment is running near my house it could be as close as 30 ft to my bedroom (10 horiz, 20 vert), and will go over the wall.

I would suggest that the city consider what the sound will be 20 ft above the site, where the wall won't have much impact. I would also ask that the contractor keep very loud noise to a minimum early in the morning, until maybe 9:00 am when we're less likely to be upstairs.

Thank you for the efforts that are being put into this project. Again I can hardly wait for the park to be constructed.

Thanks,
Adam

Appendix L

Mitigation Monitoring and Reporting Program



MORSE PARK

Mitigation Monitoring and Reporting Program

Introduction

When approving projects with mitigation measure that if implemented would avoid significant impacts, the California Environmental Quality Act (CEQA) requires public agencies to adopt monitoring and reporting programs or conditions of project approval to mitigate or avoid the identified significant effects (Public Resources Code Section 21081.6(a)(1)). A public agency adopting measures to mitigate or avoid the significant impacts of a proposed project is required to ensure that the measures are fully enforceable, through permit conditions, agreements, or other means (Public Resources Code Section 21081.6(b)). The mitigation measures required by a public agency to reduce or avoid significant project impacts not incorporated into the design or program for the project may be made conditions of project approval as set forth in a Mitigation Monitoring and Reporting Program (MMRP). The program must be designed to ensure project compliance with mitigation measures during project implementation.

The MMRP includes the mitigation measures identified in the Initial Study/Mitigated Negative Declaration (IS/MND) for Morse Park which are required to address the significant impacts associated with the proposed project. The required mitigation measures are summarized in this program; the full text of the impact analysis and mitigation measures are presented in the Initial Study/Mitigated Negative Declaration (September, 2011).

Format

The MMRP is organized in a table format (see Table 1), keyed to each significant impact and each mitigation measure. Only mitigation measures adopted to address significant impacts are included in this program. Each mitigation measure is set out in full, followed by a tabular summary of monitoring requirements. The column headings in the tables are defined as follows:

- **Mitigation Measures adopted as Conditions of Approval:** This column presents the mitigation measure identified in the IS/MND.
- **Implementation Procedures:** This column identifies the procedures associated with implementation of the migration measure.
- **Monitoring Responsibility:** This column contains an assignment of responsibility for the monitoring and reporting tasks.

- **Monitoring and Reporting Action:** This column refers to the outcome from implementing the mitigation measure.
- **Mitigation Schedule:** This column presents the general schedule for conducting each mitigation task, identifying where appropriate, both the timing and the frequency of the action.
- **Verification of Compliance:** This column will be used by the lead agency to document the person who verified the implementation of the mitigation measure and the date on which this verification occurred.

Enforcement

If the proposed project is approved, the MMRP would be incorporated as a condition of such approval. Therefore, all mitigation measures for significant impacts must be carried out in order to fulfill the requirements of approval. A number of the mitigation measures would be implemented during the course of the development review process. These measures would be checked on plans, in reports, and in the field prior to construction. Most of the remaining mitigation measures would be implemented during the construction or project implementation phase.

**TABLE 1
MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM**

Mitigation Measures Adopted as Conditions of Approval	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>Aesthetics</p> <p>Mitigation Measure AES-1: The project will be designed to reduce light and glare impacts to surrounding residential properties to a less than significant level, including use of cut-off light fixtures, and landscape elements to substantially reduce light and glare, and avoid light spillage onto adjacent residential properties.</p>	<p>City and its contractor(s) shall prepare construction plans that adhere to all specifications in this measure</p>	<p>City of Sunnyvale Public Works Department</p>	<p>Verify inclusion of light and glare reduction measures in applicable construction plans and specifications. The improvements associated with this measure shall be printed on all construction documents, contracts, and project plans; and be reviewed by the Director of Community Development prior to issuance of building permits.</p>	<p>Prior to issuance of building or grading permit(s)</p>	<p>Verified by: Date:</p>
<p>Air Quality</p> <p>Mitigation Measure AIR-1a: During active construction, the City shall require construction contractors to implement all the BAAQMD's Basic Construction Mitigation Measures, listed below:</p> <ol style="list-style-type: none"> 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. 4. All vehicle speeds on unpaved roads shall be limited to 15 mph. 5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. 6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. 	<p>City and its contractor(s) shall prepare a Construction Air Pollutant Control Plan that adheres to all specifications in this measure</p>	<p>City of Sunnyvale Public Works Department</p>	<p>Verify inclusion of Construction Air Pollutant Control Plan in applicable construction plans and specifications; field inspections Inspect construct site to verify compliance with Construction Air Pollutant Control Plan measures.</p>	<p>Prior to issuance of grading building permit(s). One inspection shall occur during each phase of construction.</p>	<p>Verified by: Date:</p>

**TABLE 1 (Continued)
MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM**

Mitigation Measures Adopted as Conditions of Approval	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</p> <p>8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.</p> <p>Mitigation Measure AIR-1b: During temporary gaps of inactivity between construction phases, such as between demolition and soil remediation and between soil remediation and park construction, the City shall require construction contractors to implement the following fugitive dust control measures¹:</p> <ol style="list-style-type: none"> 1. Restrict vehicular access to the area; and 2. Apply water or chemical/organic stabilizers/suppressants, sufficient to comply with the conditions of a stabilized surface (i.e., resistant to wind blown fugitive dust emissions), such as: <ol style="list-style-type: none"> i. A visible crust; or ii. A threshold friction velocity (TFV) for disturbed surface areas corrected for non-erodible elements of 100 centimeters per second or greater; or iii. A flat vegetative cover of at least 50 percent that is attached or rooted vegetation; or unattached vegetative debris lying on the surface with a predominant horizontal orientation that is not subject to movement by wind; or iv. A standing vegetative cover of at least 30 percent that is attached or rooted vegetation with a predominant vertical orientation; or v. A standing vegetative cover that is attached or rooted vegetation with a predominant vertical orientation that is at least 10 percent and where the TFV is at least 43 centimeters per second when corrected for non-erodible elements; or vi. A surface that is greater than or equal to 10 percent of non-erodible 					

¹ These measures are specified for the "Temporary Stabilization During Periods of Inactivity" in the San Joaquin Valley Air Pollution Control District Regulation VIII, Fugitive PM10 Prohibition. The BAAQMD has not established similar controls, and as such, it is recommended to incorporate best practice measures from another air district if available (BAAQMD, 2011).

**TABLE 1 (Continued)
MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM**

Mitigation Measures Adopted as Conditions of Approval	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
elements such as rocks, stones, or hard-packed clumps of soil.					
Biological Resources					
<p>Mitigation Measure BIO-1: Construction or vegetation removal during the months of March to August shall have pre-construction surveys conducted by a qualified biologist no more than 14 days prior to these activities, to locate any active nests. These surveys shall be performed in the project area and surrounding 500 feet, in coordination with the City. Vegetation removal and construction activities performed between September and February avoid the general nesting period for birds and therefore would not require pre-construction surveys.</p> <p>If active nests are observed on either the project site or the surrounding area, the project applicant shall establish buffer zones around the nests, with the size to be determined in consultation with California Department of Fish and Game (usually 100 feet for perching birds and 300 feet for raptors). No ground-disturbance activities shall occur within this buffer zone until young have fledged or the nest is otherwise abandoned.</p> <p>If work during the nesting season stops for 14 days or more and then resumes, then nesting bird surveys shall be repeated, to ensure that no new birds have begun nesting in the area.</p>	<p>City and its contractor(s) shall prepare construction plans that incorporate pre-construction surveys and buffer zones.</p> <p>The City shall identify a qualified biologist and its contractor(s) shall engage the qualified biologist to conduct pre-construction surveys.</p>	<p>City of Sunnyvale Public Works Department</p> <p>Contract Qualified Biologist for the City</p>	<p>Select qualified biologist. Review pre-construction survey reports.</p> <p>If active nests are found, inspect construction site to confirm buffer zones.</p>	<p>No more than 14 days before start or restart of construction during the months of March to August.</p>	<p>Verified by: Date:</p>
<p>Mitigation Measure BIO-2: The City shall require garbage cans to have secure lids and for litter to be removed regularly to avoid attracting pets or feral cats to the park.</p>	<p>City and its contractor(s) shall prepare construction plans that adhere to all specifications for trash cans and litter removal in this measure</p>	<p>City of Sunnyvale Public Works Department</p>	<p>Verify garbage cans with secure lids and litter removal in construction plans and specifications.</p> <p>Inspect construction site to confirm absence of open refuse containers and litter.</p>	<p>Prior to issuance of building or grading permit(s)</p>	<p>Verified by: Date:</p>
Cultural Resources					
<p>Mitigation Measure CUL-1a: Extended Phase I Archaeological Survey.</p> <p>Following final design plans, a qualified archaeologist with experience in geoarchaeology shall conduct an Extended Phase I excavation. A Native American monitor shall be invited to monitor the test excavations. This test excavation should be conducted within the areas of the ADI that will be disturbed to a depth of six feet or more (i.e. proposed utility trenches) during project implementation. Methods used for this Extended Phase I excavation should be based on the level and precise location of actual proposed project impacts. A plan shall be prepared that will focus on identifying testing</p>	<p>Archaeologist shall prepare plan for Extended Phase I excavation. Archaeologist shall conduct, and Native American representative shall be invited to monitor, the Extended Phase I excavation.</p> <p>Archaeologist shall prepare</p>	<p>City of Sunnyvale Public Works Department</p> <p>Contract Qualified Archaeologist for the City</p>	<p>This measure shall be printed on all construction documents, contracts, and project plans; and be reviewed by the Director of Community Development prior to issuance of building permits.</p> <p>Review and approve the</p>	<p>Review and approve the Archaeological plans (including extent and methodology) prior to approval of grading permit(s)</p>	<p>Verified by: Date:</p>

**TABLE 1 (Continued)
MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM**

Mitigation Measures Adopted as Conditions of Approval	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>locations, expected depth of testing, and expected cultural materials.</p> <p>If cultural materials are found during the Extended Phase I excavation, a qualified archaeologist shall prepare an Archaeological Evaluation Plan (AEP). The AEP shall create a program to determine the potential of the expected resource to meet the California Register criteria—particularly Criterion 4, the resource's potential to address important research questions identified in the AEP. The archaeologist shall then conduct an evaluation consistent with the AEP. The methods and findings of the evaluation shall be presented in an Archaeological Evaluation and Effects Report (AEER).</p> <p>Based on the conclusions of the AEER, it shall be determined if the project will adversely affect a CEQA-significant archaeological resource. If the project will have an adverse effect on such a resource, an Archaeological Research Design and Treatment Plan (ARDTP) shall be prepared by the archaeologist. A data-recovery investigation and/or other treatment consistent with the ARDTP shall be conducted by a qualified archaeologist.</p>	<p>Archaeological Evaluation Plan (AEP), if necessary. The archaeologist shall then conduct an evaluation consistent with the AEP, and present the methods and findings of the evaluation in an Archaeological Evaluation and Effects Report (AEER). The archaeologist shall prepare an Archaeological Research Design and Treatment Plan (ARDTP) if necessary. City or its contractor(s) shall implement treatment plan</p>		<p>following plans (including extent and methodology): Extended Phase I Excavations; Archaeological Evaluation Plan (AEP) if necessary; Archaeological Evaluation and Effects Report (AEER) if necessary; Archaeological Research Design and Treatment Plan (ARDTP).</p>		
<p>Mitigation Measure CUL-1b: Following the implementation of Mitigation Measure 1a, if prehistoric or historic-period cultural materials are unearthed during ground-disturbing activities, it is recommended that all work within 100 feet of the find halt until a qualified archaeologist and Native American representative can assess the significance of the find. Prehistoric materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks and artifacts; stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered-stone tools, such as hammerstones and pitted stones. Historic-period materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. If the find is determined to be potentially significant, the archaeologist, in consultation with the Native American representative, will develop a treatment plan that could include site avoidance, capping, or data recovery.</p>	<p>City and its contractor(s) shall train workers and monitor their activities</p> <p>City and its contractor(s) shall halt work and notify archaeologist and Native American representative if materials are discovered.</p> <p>City and its contractor(s) shall comply with treatment plan.</p>	<p>City of Sunnyvale Public Works Department</p> <p>Contract Qualified Archaeologist for the City</p>	<p>This measure shall be printed on all construction documents, contracts, and project plans; and be reviewed by the Director of Community Development prior to issuance of building permits.</p> <p>If resources are encountered, verify work is suspended and review and approve the treatment plan.</p>	<p>If resources encountered, review of treatment and monitoring plan prior to continuation of construction</p>	<p>Verified by: Date:</p>

**TABLE 1 (Continued)
MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM**

Mitigation Measures Adopted as Conditions of Approval	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>Mitigation Measure CUL-2: If human remains are encountered during ground disturbing activities, State Health and Safety Code Section 7050.5 requires that no further disturbance will occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to PRC Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission. The Native American Heritage Commission will then identify the person(s) thought to be the Most Likely Descendant of the deceased Native American, who will make recommendations for the treatment of any human remains.</p>	<p>City and its contractor(s) shall train workers and monitor their activities City and its contractor(s) shall halt work and notify the County Coroner, if necessary. If appropriate, Coroner shall notify NAHC. NAHC shall notify Most Likely Descendant.</p>	<p>City of Sunnyvale Public Works Department</p>	<p>This measure shall be printed on all construction documents, contracts, and project plans; and be reviewed by the Director of Community Development prior to issuance of building permits.</p>		
<p>Hazards and Hazardous Materials</p> <p>Mitigation Measure HAZ-1a: The City shall obtain a qualified environmental professional to prepare a health and safety plan based on the site conditions. The health and safety plan, in accordance with OSHA's Hazardous Waste Operations and Emergency Response Standard (HAZWOPER), shall identify the potential contaminants that may be encountered, appropriate personal protective equipment, and worker safety procedures.</p>	<p>The City shall retain a qualified environmental professional to prepare a health and safety plan. City and its contractor(s) shall incorporate specifications of health and safety plan into project specifications and grading and construction plans.</p>	<p>City of Sunnyvale Public Works Department</p>	<p>Review project specifications and grading and construction plans for inclusion of controls specified in the health and safety plan. Provide modifications to project specifications and grading and construction plans. Inspect construction site to ensure specifications of health and safety plan are being carried out.</p>	<p>Prior to issuance of construction and grading permit(s) One inspection shall occur during each phase of construction.</p>	<p>Verified by: Date:</p>
<p>Mitigation Measure HAZ-1b: The City shall retain a qualified environmental consulting firm to direct the remediation of surface soil contamination at the project site in accordance with any Department of Toxic Substances Control (DTSC) requirements as the overseeing regulatory agency. Upon completion of contaminated soil removal and confirmation soil sampling that demonstrates residual contaminant concentrations are less than the approved cleanup levels, the site shall be ready for unrestricted use. A final remediation completion report will then be submitted to DTSC within one to two months after the completion of excavation. The proposed park shall not be open to the public until final approval of the remediation report and DTSC certification that the site has been cleared for public use.</p>	<p>City and its contractor(s) shall incorporate the specifications of this measure into excavation, grading and construction plans. City and its contractor(s) shall submit a final remediation report to DTSC within two months after the completion of excavation.</p>	<p>City of Sunnyvale Public Works Department</p>	<p>Review excavation, grading and construction plans for inclusion of proper soil classification, handling, storage, transportation and sampling methods. Inspect construction site for proper storage and handling of hazardous and non-hazardous soils.</p>	<p>Prior to issuance of construction and grading permit(s). One inspection shall occur during each phase of construction. City and its contractor(s) shall submit a final remediation report to DTSC within two months after the completion of</p>	<p>Verified by: Date:</p>

**TABLE 1 (Continued)
MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM**

Mitigation Measures Adopted as Conditions of Approval	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>Noise</p> <p>Mitigation Measure NOI-1: The project sponsor shall require construction contractors to implement the following mitigation measures:</p> <ul style="list-style-type: none"> Consistent with Section 16.08.030 of the Municipal Code, all noise generating construction activities shall be limited to the hours of 7:30 a.m. to 6:00 p.m., Monday through Friday and between 8:00 a.m. and 5:00 p.m. on Saturday. There shall be no construction activity on Sunday or national holidays when city offices are closed. All construction vehicles and equipment, fixed and mobile, shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible). Construction staging areas shall be located as far as practicable from dwellings and existing recreational uses so as to cause minimal disruption to these activities. Route all construction traffic to and from the project site via designated truck routes where possible. Prohibit construction related heavy truck traffic in residential areas where feasible. Prohibit unnecessary idling of internal combustion engines. Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City in the event of problems. <p>Mitigation Measure NOI-2: Powered equipment as defined in the Sunnyvale Noise Ordinance shall be operated within daytime hours.</p>	<p>City and its contractor(s) shall incorporate the measure into project specifications and grading and construction plans.</p>	<p>City of Sunnyvale Public Works Department</p>	<p>Review project specifications and grading and construction plans for inclusion of specifications in this measure. Provide modifications to project specifications and grading and construction plans.</p> <p>Inspect construction site to confirm compliance with specifications in this measure.</p>	<p>excavation. Park shall not be open to the public until DTSC certification received.</p>	<p>Verified by: Date:</p>
<p>Mitigation Measure NOI-2: Powered equipment as defined in the Sunnyvale Noise Ordinance shall be operated within daytime hours.</p>	<p>City and its contractor(s) shall include allowable construction hours in excavation, grading and construction plans.</p>	<p>City of Sunnyvale Public Works Department</p>	<p>Review construction plans for inclusion of allowable construction hours.</p> <p>Inspect construction site to confirm compliance with specifications in this measure.</p>	<p>Prior to issuance of building or grading permit(s). One inspection shall occur during each phase of construction,</p>	<p>Verified by: Date:</p>

**TABLE 1 (Continued)
MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM**

Mitigation Measures Adopted as Conditions of Approval	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
Mitigation Measurement NOI-3: The City shall require the contractor to commit to a mitigation plan, developed and implemented during the final design and construction phases of the project. The objective of the plan shall be to minimize construction vibration damage using all reasonable and feasible means available. The plan shall provide a procedure for establishing appropriate threshold and limiting vibration values for potentially affected structures (adjacent walls and buildings) based on an assessment of each structure's ability to withstand construction vibrations. The plan shall minimize use of large equipment near adjacent walls and buildings.	City and its contractor(s) shall incorporate noise and vibration mitigation plan into excavation, grading and construction plans.	City of Sunnyvale Public Works Department	Review excavation, grading and construction plans for inclusion of noise and vibration mitigation plan. Inspect construction site to confirm compliance with noise and vibration mitigation plan.	between the hours of 7:01 p.m. and 7:29 a.m.	Verified by: Date:
Mitigation Measurement NOI-4: The City shall require that the construction contractor conduct crack surveys before construction that could cause architectural damage to adjacent walls and multi-family residential buildings. The survey shall be done by photographs, video tape, or visual inventory, and shall include all outside locations. All existing cracks in the masonry walls, walks, and driveways should be documented with sufficient detail for comparison after construction to determine whether actual vibration damage occurred. A post-construction survey should be conducted to document the condition of the surrounding buildings after the construction is complete.	City and its contractor(s) shall conduct pre-construction and post-construction crack surveys in accordance with the specifications of this measure.	City of Sunnyvale Public Works Department	Review pre-construction crack surveys for adequacy of detail. Review post-construction crack surveys to determine condition of the surrounding buildings after the construction is complete.	Review and approve pre-construction crack surveys prior to issuance of construction and grading permit(s). Review and approve post-construction crack survey and repaired damages (if any) prior to opening the park.	Verified by: Date:
Transportation and Traffic					
Mitigation Measure TRAN-1a: As part of pre-construction submittals, the contractor(s) shall submit a truck route plan to the City of Sunnyvale Public Works Department for review and approval to help minimize impacts to adjacent neighborhoods.	City and its contractor(s) shall obtain approval of truck route plan and implement the plan during construction.	City of Sunnyvale Public Works Department	Verify review and approve truck route plan; Building Department must receive the approvals	Prior to issuance of building or grading permit(s)	Verified by: Date:
Mitigation Measure TRAN-1b: To the extent possible, truck movements should be limited to the hours between 9:00 a.m. and 3:30 p.m. (or other times, if approved by the Public Works Department).	City and its contractor(s) shall include allowable truck movement hours in excavation, grading and construction plans.	City of Sunnyvale Public Works Department	Review excavation, grading and construction plans for inclusion of allowable truck movement hours. Inspect construction site to	Prior to issuance of building or grading permit(s). One inspection shall occur during	Verified by: Date:

**TABLE 1 (Continued)
MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM**

Mitigation Measures Adopted as Conditions of Approval	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
			confirm compliance with specifications in this measure.	each phase of construction, between the hours of 3:31 p.m. and 8:59 a.m.	