

GROUND LEASE

This Ground Lease (“this Lease”), dated _____, 2007, is between the **City of Sacramento** (“Landlord”), a California municipal corporation; and **Rapton Investment Group LLC** (“Tenant”), a California limited-liability company.

Background

- A. Landlord owns the real property generally located at 3701 Fulton Avenue in Sacramento, California, and comprising approximately 17.5 gross acres (the “Property”). The Property is more particularly described and depicted in **Exhibit A**.
- B. Early in 2004, Tenant’s affiliate, Mel Rapton, Inc. (“Rapton”), informed Landlord that it desires to relocate its Honda dealership to the Property. Landlord desires to lease the Property to Rapton, given Rapton’s over 30 years of experience in operating successful, quality motor-vehicle dealerships within the Sacramento-area market. Accordingly, Landlord and Rapton entered into an Agreement for Exclusive Right to Negotiate a Lease dated June 1, 2004, and amended as of August 1, 2004; August 31, 2005; and August 31, 2006. Landlord and Rapton subsequently agreed that Rapton not only would relocate its Honda dealership to the Property but also would have the right to sublease a portion of the Property to a High-Volume Dealership (defined in Section 1.05). With Landlord’s consent, Rapton has assigned to Tenant all of Rapton’s rights and obligations under the Agreement for Exclusive Right to Negotiate a Lease.
- C. During the negotiations for this Lease, Landlord, Tenant, and Rapton entered into an Agreement Regarding Conditions Precedent to Lease of Land, designated as City Agreement No. 2006-1393 and dated December 12, 2006 (the “Conditions Precedent Agreement”), which provided the framework for Landlord’s leasing the Property to Tenant. Among other things, it obligated Tenant and Rapton to provide Landlord with specified financial information, and it obligated Landlord to do the following:
 - (1) Obtain a parcel map reconfiguring the Property into legal parcels; a rezoning of the Property to a C-4 designation; a planned-unit development, including any associated special permits and approvals, that allows the sale of new and used automobiles on the Property as well as the installation of a freeway pole sign and other on-site signage for two High-Volume Dealerships (defined in Section 1.05); and any general-plan amendments needed for C-4 zoning and the planned-unit development.
 - (2) Comply with the California Environmental Quality Act (“CEQA”), as required by law.
- D. All of the conditions set forth in the Conditions Precedent Agreement to Lease have been satisfied, including Landlord’s compliance with CEQA.

Article 1: Definitions

This article defines the terms “Effective Date,” “Premises,” “Area 1,” “Area 2,” “Improvements,” “Motor Vehicles,” and “High-Volume Dealership.” Other terms are defined in the provisions where they first appear.

Section 1.01. The Effective Date

The “Effective Date” of this Lease is the date as of which both Landlord and Tenant have signed this Lease, as indicated by the dates in the signature blocks below.

Section 1.02. The Premises; Area 1 and Area 2

Unless expressly provided otherwise, “the Premises” means all of the following: the Property, all rights and easements appurtenant to the Property, all improvements Landlord has made to the Property in accordance with Subsection 6.01, and the Improvements identified in Subsection 1.03(a). For purposes of identification, the Premises are depicted on the site map attached as **Exhibit B**, which divides the Premises into “Area 1” and “Area 2.” Area 1 comprises approximately 9.1 acres and will be subleased to Rapton, and Area 2 comprises approximately 8.4 acres and may be subleased to a High-Volume Dealership (see Sections 1.05 and 12.04). Unless expressly provided otherwise, “the Premises” does not mean the Improvements that are identified in Subsection 1.03(b) and placed by Tenant (or, for Area 2, a subtenant) on the Property, regardless of whether those Improvements are considered affixed to, and part of, the Property.

Section 1.03. The Improvements

Unless expressly provided otherwise, the “Improvements” means all of the following:

- (a) The asphalt paving required to create the impermeable cap on the Property in accordance with the Remediation Plan described in Subsection 6.01(a). Tenant shall install this paving at no cost to the Landlord.
- (b) All buildings, landscaping, lighting, related structures, and other appropriate features (1) that Tenant constructs or causes to be constructed on Area 1 for use by Rapton’s automobile dealership and (2) that Tenant, an assignee, or a subtenant constructs or causes to be constructed on Area 2 for use by a High-Volume Dealership (see Section 1.05). Each dealership may include a vehicle-repair-and-maintenance facility, a car wash, a body-repair shop, and as many as two above-ground fuel-storage tanks; alternatively, Tenant may install and operate a single fueling station, with two above-ground fuel-storage tanks, to serve both Area 1 and Area 2. In addition, each dealership may include any other lawful use that is reasonably related to the operation of a High-Volume Dealership and any other uses that Landlord approves in writing; Landlord shall not withhold, condition, or delay its approval unreasonably.

Section 1.04. Motor Vehicles

“Motor Vehicles” means one or more of the following: cars, vans, mini-vans, sport-utility vehicles, and pickup trucks.

Section 1.05. High-Volume Dealership

“High-Volume Dealership” means either of the following:

- (a) For Area 1, the Honda dealership owned and operated by Rapton, i.e., Mel Rapton Honda.
- (b) For Area 2, a franchised dealership (which may hold multiple franchises) that sells and services new and used Motor Vehicles and meets the following sales criteria:
 - (1) The following definitions apply in this Subsection 1.05(b):
 - (A) “State Economic Impact Report” means the *State Economic Impact Report of California Franchised New Car and Truck Dealerships* published annually by the California Motor Car Dealers Association. Each year’s report contains an Industry Profile showing total dollar sales for an average California dealership during the immediately preceding year.
 - (B) “Available Data” means the information Tenant provides to Landlord in accordance with Subsection 12.04(b)(3).
 - (C) “CPI” means the Consumer Price Index for All Urban Consumers, San Francisco-Oakland-San Jose, All Items (reference base 1982-84 = 100).
 - (2) A dealership qualifies as a “High-Volume Dealership” if the Available Data indicate, to Landlord’s reasonable satisfaction, that during the first 12 months of the dealership’s operations on Area 2 the dealership will sell at least 1,000 motor vehicles from its operations on Area 2 (with at least 50% of those motor vehicles being new) and will generate total gross revenues from its operations on Area 2 at least equal to the product that results from multiplying \$37,500,000 by a fraction that has—
 - (A) a numerator equal to the total dollar sales for an average California dealership, as shown in the Industry Profile contained in the most current State Economic Impact Report available when Landlord determines whether a dealership qualifies as a High-Volume Dealership; and
 - (B) a denominator equal to \$61,748,237, which was the total dollar sales for an average California dealership in 2005, as shown in the State Economic Impact Report for 2006.

If the State Economic Impact Report is no longer published, and if a comparable report of sales volumes for California automobile dealerships is not available, then the numerator of the fraction described in Subsection 1.05(b)(2) will be equal to the most recent bimonthly CPI that is available when Landlord determines whether a dealership qualifies as a High-Volume Dealership, and the denominator will be equal to the CPI for 2006.

- (3) The sales criteria in this Subsection 1.05(b) are relevant only to the City's approval of proposed subtenants of Area 2. They do not establish annual operating requirements for approved subtenants. Nor do they preclude Tenant from proposing, for Landlord's consideration, a subtenant that does not meet the specified criteria. Landlord may approve or reject such a proposed subtenant in Landlord's sole and absolute discretion.

Article 2: Lease of Premises and Term of Lease

Section 2.01. Lease of Premises

Landlord hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Landlord, on the terms and conditions set forth in this Lease.

Section 2.02. Term of Lease

(a) *Initial Term.* The "Initial Term" of this Lease consists of three phases:

- (1) The "Pre-Possession Phase," which begins on the Effective Date and ends on the date when Landlord has completed work on the Remediation Plan and improvements described in Section 6.01 and delivered possession of the Premises to Tenant. For purposes on this Subsection 2.02(a)(1), work on the Remediation Plan will be considered complete when the remaining tasks under the Remediation Plan (e.g., post-closure monitoring) will not interfere unreasonably with Tenant's use of the Premises.
- (2) The "Construction Phase," which begins at the end of the Pre-Possession Phase and ends on the date when Landlord, acting as a governmental entity, has issued Tenant a certificate of occupancy for the first dealership on the Premises.
- (3) The "Operations Phase," which begins at the end of the Construction Phase and ends 30 years after the Construction Phase begins. Within 30 days after the Operations Phase begins, Landlord and Tenant shall execute, and Landlord shall record, a Memorandum of Commencement Date in the form attached as **Exhibit C**.

(b) *First Extended Term.* Upon expiration of the Initial Term, Tenant will have the right to extend the Lease for an additional 15 years (the "First Extended Term"). The First Extended Term will be upon the same terms and conditions that applied during the Operations Phase of the Initial Term, except as otherwise provided. To exercise this

right, Tenant must give Landlord a written notice of extension no later than 180 days before the Initial Term expires.

- (c) *Second Extended Term.* Upon expiration of the First Extended Term, Tenant will have the right to extend the Lease for an additional 10 years (the "Second Extended Term"). The Second Extended Term will be upon the same terms and conditions that applied during the Operations Phase of the Initial Term, except as otherwise provided. To exercise this right, Tenant must give Landlord a written notice of extension no later than 180 days before the First Extended Term expires.

Section 2.03. Expiration of Lease; Holding Over

This Lease expires automatically at the end of the Initial Term unless extended in accordance with Subsection 2.02(b). If this Lease is extended under Subsection 2.02(b), then it expires automatically at the end of the First Extended Term unless extended in accordance with Subsection 2.02(c). If this Lease is extended under Subsection 2.02(c), then it expires automatically at the end of the Second Extended Term. Any holding over after expiration will not constitute a renewal of this Lease but will be on a month-to-month tenancy on the same terms and conditions that applied at expiration.

Section 2.04. Subtenants' Exercise of Right to Extend Term.

- (a) *One Subtenant.* If Tenant fails to exercise its right to extend under either Subsection 2.02(b) or 2.02(c) while either Area 1 or Area 2 (but not both) is under a sublease that complies with Section 12.04, then the subtenant may notify Landlord that the subtenant requests an assignment of this Lease from Tenant and desires to extend the term. The subtenant's notice must include the information specified in Section 12.01(c). Landlord shall determine whether the subtenant has the experience and wherewithal to successfully manage the Premises consistently with the purposes of this Lease and shall respond to the subtenant's notice within 60 days after receiving it; Landlord's failure to respond within this time constitutes a rejection of the subtenant's request. If Landlord determines, in accordance with Section 12.01, that the subtenant has the requisite experience and wherewithal, then Landlord shall so notify both Tenant and the subtenant. As soon as possible after receiving Landlord's notice, but in any event before the Lease term then in effect expires, Tenant shall assign this Lease to the subtenant in accordance with Subsection 12.02(a)(3), with the term of this Lease extended in accordance with Subsection 2.02(b) or 2.02(c), as appropriate, and Tenant will be released from all further obligations under this Lease.
- (b) *Two Subtenants.* If Tenant fails to exercise its right to extend under either Subsection 1.02(b) or 2.02(c) while both Area 1 and Area 2 are under subleases that comply with Section 12.04, then each subtenant may notify Landlord that the subtenant requests an assignment of this Lease from Tenant and desires to extend the term. Each subtenant's notice must include the information specified in Section 12.01(c). Landlord shall respond to each subtenant's notice within 60 days after receiving it; Landlord's failure to respond within this time constitutes a rejection of the subtenant's request. If only one subtenant requests an assignment and extension, then Landlord shall proceed

in accordance with Subsection 2.02(d)(2). If both subtenants request an assignment and extension, then Landlord shall terminate this Lease and enter a new, individual ground lease directly with each subtenant. The new ground leases will include the same terms and conditions as this Lease, except as follows: the new ground leases will not include terms and conditions that have already been fulfilled or no longer apply; and each new ground lease will reflect that only Area 1 or Area 2 is covered, as appropriate, with rent adjusted accordingly.

Section 2.05. Status of Title

- (c) Title to the leasehold estate created by this Lease is subject to all exceptions, easements, rights, rights of way, and other matters of record existing as of the Effective Date.
- (d) In addition to the matters set forth in Subsection 2.04(a), title to the leasehold estate is subject to, and subordinate to, all easements, rights of entry, rights-of-way, and other rights and interests that may subsequently be required by governmental agencies other than Landlord as a condition for approving construction of the Improvements.

Article 3: Rent

Section 3.01. No Pre-Possession Phase Rent

During the Pre-Possession Phase, Landlord will be satisfying its obligations under Section 6.01, and Tenant will not have possession of the Premises. Accordingly, Tenant is not obligated to pay rental during the Pre-Possession Phase.

Section 3.02. Construction Phase Rent

- (a) *Amount of Construction Phase Rent.* Tenant shall pay Landlord the following amounts as rental for the use and occupancy of the Premises during the Construction Phase of the Initial Term ("Construction Phase Rent"):
 - (1) For the first twelve months, \$1,000 a month.
 - (2) For the remaining months, \$27,156.92 a month, except as follows: if the final recorded parcel map that creates the Property shows that the Property comprises less than or greater than 17.5 gross acres, then rent for the remaining months shall be recalculated by multiplying the actual gross acreage by \$1,551.82 an acre, and Landlord and Tenant shall amend this Lease to set forth the exact gross acreage of the Property and the recalculated Construction Phase Rent.
- (b) *Due Date for Construction Phase Rent.* Construction Phase Rent is due and payable on the first day of each calendar month at the address set forth in Subsection 14.01.
- (c) *Proration of Construction Phase Rent.* If the Construction Phase begins on a day other than the first day of a month, then the first payment of Construction Phase Rent will be

prorated. If the Construction Phase ends on a day other than the first day of a month, then the last payment of Construction Phase Rent will be prorated.

Section 3.03. Monthly Rent

As rental for use and occupancy of the Premises during the Operations Phase of the Initial Term ("Monthly Rent"), Tenant shall pay Landlord \$54,313.83 a month, except as follows: if the final recorded parcel map that creates the Property shows that the Property comprises less than or greater than 17.5 gross acres, then Monthly Rent shall be recalculated by multiplying the actual gross acreage by \$3,103.65 an acre, and Landlord and Tenant shall amend this Lease to set forth the exact gross acreage of the Property and the recalculated Monthly Rent.

- (a) *Due Date for Monthly Rent.* Monthly Rent is due and payable on the first day of each calendar month at the address set forth in Subsection 14.01.
- (b) *Adjustments to Monthly Rent.* On the first day of the sixth year of the Operations Phase, and every five years afterward while this Lease is in effect, the Monthly Rent will be increased by 12%.
- (c) *Proration of Monthly Rent.* If the Operations Phase begins on a day other than the first day of a month, then the first and last months' payment of Monthly Rent will be prorated.

Article 4: Use of Premises

Section 4.01. Permitted Uses

Tenant and its subtenants may use the Premises solely for the purposes of constructing, maintaining, repairing, replacing, and operating the Improvements. As used in this Section 4.01, the phrase "operating the Improvements" not only includes the selling, leasing, servicing, and repairing of motor vehicles but also includes, as an ancillary business in conjunction with each dealership, the selling, leasing, servicing, and repairing of vehicles and equipment such as motorcycles, all-terrain vehicles, snowmobiles, and personal watercraft. Any violation of this Section 4.01 will constitute a breach of this Lease.

Section 4.02. Compliance With Laws

- (a) In using and occupying the Premises, Tenant shall comply, at its own cost, with all valid and applicable statutes, ordinances, regulations, rules, and orders of all federal, state, and local governmental entities with jurisdiction over the Premises, whether those statutes, ordinances, regulations, rules, and orders are in force when the Operations Phase of the Initial Term begins or are later enacted, with the exception of the following: Tenant is not obligated to comply with any Environmental Laws that apply to any Hazardous Substances (see Article 9) already existing at, under, or on the Premises on

or before the Effective Date. Without limiting the generality of the previous sentence, Tenant and its subtenants shall construct, maintain, repair, replace, and operate the Improvements in substantial compliance with—

- (1) all provisions of the Americans with Disabilities Act and any similar law that is in effect on or after the date the Operations Phase begins or;
 - (2) the requirements of any board of fire underwriters or similar body that exists on or after the date the Operations Phase begins; and
 - (3) any certificate of occupancy or other official direction issued by a government agency with jurisdiction over the Premises (including Landlord acting in a governmental capacity).
- (b) If any license, permit, or other governmental authorization is required for the lawful use or occupancy of all or any portion of the Premises, then Tenant shall obtain and maintain it while this Lease is in effect.
- (c) The final judgment of any court of competent jurisdiction, or Tenant's admission in a proceeding brought against Tenant by any government entity, that Tenant has violated such a statute, ordinance, regulation, rule, or order will be conclusive between Landlord and Tenant and will constitute grounds for Landlord's termination of this Lease if not corrected within a reasonable time.

Section 4.03. Prohibited Uses

Tenant shall not use or permit the Premises to be used in any way that violates this Lease or any valid and applicable statute, ordinance, regulation, rule, or order of any federal, state, or local governmental entity. Tenant shall not maintain or commit, or permit the maintenance or commission of, any public or private nuisance as defined by any law applicable to the Premises on or after the Effective Date. Tenant shall not install and maintain a below-ground fuel-storage tank on the Premises. Tenant shall not undertake or permit any activity that damages the impermeable barrier Landlord installs over the contaminated soil remaining on the Premises.

Section 4.04. Signage; Landlord's Approval Required

Tenant and its subtenants shall not install or maintain on the Premises or on the Improvements any billboards or advertising signs, except as follows:

- (a) Tenant and its subtenants may install and maintain those billboards and advertising signs that Landlord approves in writing while acting in its governmental capacity in accordance with its zoning or sign ordinances.
- (b) Tenant may construct, maintain, repair, and operate one freeway pole sign displaying the names and logos of each dealership operating at the Premises. This pole sign is to be located on the portion of Area 2 that is designated in **Exhibit B** as "the Marketing

Area,” subject only to obtaining all necessary permits from the appropriate government entities (including Landlord acting in a governmental capacity). In addition, Tenant and its subtenants may display automobiles on the Marketing Area.

Article 5: Taxes and Utilities

Section 5.01. Tenant to Pay Taxes

Subject to Section 5.02, during the Construction Phase and at all times afterwards while this Lease is in effect, Tenant shall pay, without abatement, deduction, or offset, all personal-property taxes, possessory-interest taxes, general and special assessments, special taxes, and other charges of any description (including any increase caused by a change in the tax rate or a change in assessed valuation) that any governmental entity levies or assesses on or against the Premises, the Improvements, Tenant’s personal property located on the Premises or the Improvements, or the leasehold estate created by this Lease. Without limiting the generality of the previous sentence, Tenant’s duty to pay taxes under this Section 5.01 includes the payment of any possessory-interest tax levied or assessed by any governmental entity on or against Tenant’s possessory interest under this Lease or in the Premises or the Improvements.

Section 5.02. Proration of First- and Last-Year Taxes

During the tax years in which the Operations Phase of the Initial Term commences and ends, all taxes, assessments, and other charges described in Section 5.01 will be prorated between Landlord and Tenant as of 12:01 a.m. on the date the Operations Phases begins and as of 12:01 a.m. on the date this Lease expires or terminates, on the basis of a tax year that begins on July 1 and ends on June 30. Landlord shall pay the taxes, assessments, and other charges for the year in which this Lease begins, and, on receiving Landlord’s written request, Tenant shall promptly reimburse Landlord for Tenant’s share of those taxes, assessments, and other charges. Tenant shall pay the taxes, assessments, and other charges for the year in which this Lease ends, and, on receiving Tenant’s written request, Landlord shall promptly reimburse Tenant for Landlord’s share of those taxes, assessments, and other charges even though Landlord may be a governmental entity on the date this Lease ends or otherwise may be exempt from taxes, assessments, and other charges.

Section 5.03. Separate Assessment of Leased Premises

If the Premises are assessed and taxed as part of other property Landlord owns before the Effective Date, then Landlord shall try in good faith to have the taxing authorities tax and assess the Premises, while this Lease is in effect, as a separate parcel distinct from the Landlord’s other property. If, for the year in which this Lease begins, the Premises are assessed and taxed as part of other property Landlord owns, then the share of the taxes, assessments, and other charges that Tenant must pay under Section 5.01 will be calculated as follows: (1) divide the acreage of the Property by the acreage of Landlord’s total taxed property; (2) multiply the resulting quotient by the sum of the taxes, assessments, and other charges on Landlord’s total taxed property, excluding taxes, assessments, and other charges attributable to any improvements; and (3) add to the resulting product the taxes,

assessments, and other charges attributable to any improvements on the Premises that are constructed by, or at the direction of, Tenant or its subtenants. Upon the completion of construction of a new motor-vehicle dealership on Area 1 or Area 2, Tenant shall apply to the taxing authorities for separate tax assessments and tax bills for Area 1 and Area 2, at Tenant's expense. Landlord shall cooperate with Tenant's efforts to obtain separate tax assessments and tax bills by timely executing any documents the taxing authorities reasonably require in connection with Tenant's application.

Section 5.04. Payment Before Delinquency

Tenant shall pay all taxes and assessments, installments of taxes and assessments, and other charges that Tenant is obligated to pay by this Article 5 before each tax, assessment, installment, or charge becomes delinquent. On Landlord's written request, Tenant shall provide Landlord with proof from the County of Sacramento that confirms, to Landlord's reasonable satisfaction, the payment of the taxes, assessments, installments, and other charges.

Section 5.05. Taxes Payable in Installments

If a special tax or assessment that is levied or assessed on the Premises may be either (a) paid in full before a delinquency date while this Lease is in effect or (b) paid in installments, then Tenant may opt to pay the tax or assessment in installments. Tenant may exercise this option even if the installments will extend beyond this Lease, will result in the Premises being encumbered with bonds, or will cause interest to accrue on the tax or assessment. If Tenant exercises this option, then Tenant will be obligated to pay only the installments that become due while this Lease is in effect. At Tenant's written request, Landlord shall execute or join Tenant in executing any instruments required for the special tax or assessment to be paid in installments.

Section 5.06. Contest of Tax

Tenant may contest, oppose, or object to the amount or validity of any tax, assessment, or other charge levied or assessed on the Premises; and Landlord shall reasonably cooperate with Tenant in the contest, opposition, or objection, at no out-of-pocket expense to itself. The contest, opposition, or objection must be filed before the tax, assessment, or other charge at which it is directed becomes delinquent; and written notice of the contest, opposition, or objection must be given to Landlord at least 15 days before the date the tax, assessment, or other charge becomes delinquent. Tenant shall be responsible for, and shall pay all expenses of, any contest or legal proceeding Tenant institutes. Landlord will not be liable for such expenses, and Tenant shall indemnify, defend (with attorneys reasonably acceptable to Landlord), protect, and hold Landlord harmless from such expenses. Tenant shall not continue or maintain such a contest, opposition, or objection after the date the tax, assessment, or other charge at which it is directed becomes delinquent unless Tenant has done one of the following:

- (a) Paid the tax, assessment, or other charge under protest before it becomes delinquent.

- (b) Obtained and maintained a stay of all proceedings for enforcement and collection of the tax, assessment, or other charge by posting a bond or other security required by law for such a stay.
- (c) Delivered to Landlord a surety bond issued by a corporation authorized to transact surety business in California. The bond must be in a reasonable amount specified by Landlord and be conditioned on Tenant's payment of the tax, assessment, or charge, together with any fines, interest, penalties, costs, and expenses that may have accrued or been imposed, within 30 days after a final determination of Tenant's contest, opposition, or objection.

Section 5.07. Tax Returns and Statements

Tenant shall prepare and file any statement, return, report, or other instrument required or permitted by law in connection with the determination, equalization, reduction, or payment of any ad valorem real estate taxes, special assessments, or other similar charges that are or may be levied or assessed on the Premises, the Improvements, Tenant's personal property located on or in the Premises or the Improvements, or the leasehold estate created by this Lease.

Section 5.08. Tax Hold-Harmless Clause

Tenant shall indemnify, defend (with attorneys reasonably acceptable to Landlord), protect, and hold harmless Landlord and Landlord's property, including the Premises and the Improvements located on the Premises on or after the Effective Date, from and against—

- (a) all liabilities, claims, demands, damages, fines, penalties, judgments, settlements, and costs that arise from any taxes, assessments, or other charges this Article 5 requires Tenant to pay;
- (b) all interest, penalties, and other sums imposed on the taxes, assessments, or charges this Article 5 requires Tenant to pay; and
- (c) any sales or other proceedings to enforce collection of the taxes, assessments, or other charges this Article 5 requires Tenant to pay.

Section 5.09. Utilities

During the Construction Phase and Operations Phase of the Initial Term, and during the First and Second Extended Terms, if any, Tenant shall pay (or cause to be paid) and to hold Landlord and Landlord's property, including the Premises, free and harmless from all charges and expenses for—

- (a) water, sewerage, gas, electricity, telephone, cable television, and other public utilities furnished to the Premises; and
- (b) the removal of garbage and rubbish from the Premises.

Section 5.10. Payment by Landlord

If, within the time specified in this Article 5, Tenant fails to pay any tax, assessment, or other charge this Article 5 requires Tenant to pay, then Landlord may pay, discharge, or adjust that tax, assessment, or other charge for Tenant's benefit after giving Tenant at least 15 days' prior written notice. (If this Article 5 does not specify the time within which Tenant must pay a charge, then Tenant shall pay that charge before it becomes delinquent.) Tenant shall reimburse Landlord promptly, on receipt of Landlord's written demand, for the full amount Landlord incurs to pay, discharge, or adjust the tax, assessment, or other charge, together with interest at the then-maximum legal rate from the date Landlord pays, discharges, or adjusts the tax, assessment, or charge to the date of Tenant's reimbursement. Tenant's failure to reimburse Landlord when required by this Section 5.10 will constitute a breach of this Lease.

Article 6: Improvements

Section 6.01. Remediation and Improvements by Landlord

To put the Premises in a condition for commercial development, Landlord shall complete or cause to be completed, at no cost to Tenant and before Landlord delivers possession of the Premises to Tenant, the remediation and improvements described in this Section 6.01. Landlord shall begin this work as soon as practicable after the Effective Date and to pursue the work diligently without unnecessary interruption, with a goal of delivering possession of the Premises to Tenant at the earliest feasible date. Landlord will be excused, however, for any delays in beginning or completing the work that are caused by a Force Majeure Event, as defined in Subsection 14.03(b). Landlord shall use reasonable diligence to avoid such delays and to resume work as promptly as possible after a delay.

- (a) *Remediation.* Sacramento County's Environmental Management Department (the "County") has been designated as the lead agency for overseeing Landlord's efforts to excavate, remove, and dispose of contaminated soil, lead shot, and clay-pigeon debris located on the Property. **Exhibit D** to this agreement is a copy of Landlord's proposed plan for excavating, removing, and properly disposing of the soil, shot, and debris and for installing asphalt paving to create an impermeable cap on the Property. Landlord submitted this plan to the County for review, and the County has approved the plan. Landlord shall implement the approved plan (the "Remediation Plan") at no cost to Tenant, except as provided in Subsections 1.03(a) and 6.02(a)(1). Tenant acknowledges that Landlord has made no investigation concerning the possible presence of hazardous substances on the Property other than the investigation on which the Remediation Plan is based. Landlord shall provide Tenant with a copy of any no-further-action clearance letter or written approval to reuse the Premises that Landlord receives from the County concerning implementation of the Remediation Plan.
- (b) *Rough Grading Etc.* Landlord shall place the Property in a condition suitable for Tenant's installation of the asphalt cap required under the Remediation Plan. Specifically, Landlord shall fill, compact, and rough grade the Property to an elevation

ranging from 60 feet above sea level on the north side to 69 feet above sea level on the south side; shall place all contaminated soils on the portion of the Property designated as Parcel B on Landlord's tentative parcel map of the Property (a copy of which is attached as **Exhibit A**); and shall install an impermeable liner and aggregate base materials.

- (1) Before beginning the filling, compacting, and rough grading, Landlord shall submit the following documents for Tenant's review:
 - (A) Filling, compacting, grading, and drainage plans prepared and signed by a licensed civil engineer. The plans must identify the existing topography, any proposed cut and fill, and the proposed finished grade; they must also include calculations of anticipated water runoff and identify concentration points.
 - (B) A soils report prepared by a licensed civil engineer or licensed geologist.
 - (C) Plans for an underground storm-water-drainage system to be installed on the Property.
- (2) Tenant and its agents may observe the filling, compacting, and rough grading at all times, subject only to reasonable security and safety precautions required by Landlord or Landlord's contractors. But the work may proceed even if Tenant or its agents are not present. All work must be conducted under the overall supervision of a licensed civil or geo-technical engineer. When the work is completed, Landlord shall provide Tenant with the following documents:
 - (A) A final certificate of grading operations by a soil-testing laboratory reasonably acceptable to Tenant.
 - (B) A written certification from a civil or geo-technical engineer that the Property has been filled, compacted, and graded to the required elevations in accordance with the plans described in Subsection 6.01(b)(1).
- (3) After giving Landlord reasonable notice, Tenant's agents and consultants may conduct tests to ascertain the amount and extent of the fill or of any surface or subsurface condition on the Property. Tenant shall provide Landlord with copies of any reports concerning these tests, at no cost to Landlord.
- (4) Tenant shall indemnify, defend (with attorneys reasonably acceptable to Landlord), protect, and hold Landlord and Landlord's officers, employees, and agents harmless from and against all liabilities, claims, demands, damages, fines, penalties, judgments, settlements, and costs that arise directly or indirectly from the activities of Tenant or Tenant's agents or consultants in accordance with this Subsection 6.01(b), except to the extent caused by the gross negligence or willful misconduct of Landlord or Landlord's officers, employees, or agents. The term "costs" is to be interpreted broadly and includes reasonable attorneys' fees and

litigation costs through final resolution on appeal, as well as fees and costs associated with execution upon any judgment or order. Tenant's obligation under this Subsection 6.01(b)(4) includes but is not limited to liabilities, claims, demands, damages, fines, penalties, judgments, settlements, and costs arising from any—

- (A) injuries to any persons, including but not limited to members, officers, employees, agents, consultants, and invitees of Tenant; and
- (B) damage to any property, including but not limited to any impermeable liner installed on the Property in accordance with the Remediation Plan described in Subsection 6.01(a).

Tenant's obligations under this Subsection 6.01(b)(4) will survive the expiration or termination of this agreement.

- (c) *Utilities.* From existing available access points, Landlord shall locate, install, and extend stubs for the following utility services to the perimeter boundary of the Property at the locations designated in **Exhibit E** to this Lease: water, sewer, gas, electricity, and telephone. Landlord shall do this at no cost to Tenant. Before installation, Landlord shall consult with Tenant concerning the sizes and capacities of the utility services.
- (d) *Drainage.* Landlord shall have the Property graded and will install an underground storm-water-drainage system so as to cause the discharge of all water in a manner approved by the governmental agencies with jurisdiction over such discharges.
- (e) *Street Improvements.* Landlord shall construct all roadways, curbs, gutters, sidewalks, landscaping and irrigation, street lights, stop signs, and traffic signals described on **Exhibit E** to this agreement. All construction will be done in compliance with Landlord's standards for public streets and at no cost to Tenant, except as follows: Tenant shall contribute one half of the cost of all traffic signals Caltrans or Landlord requires as mitigation for the Land Use Entitlements identified in Subsection 6(a) of the Conditions Precedent Agreement (see Paragraph C of the Background), up to a maximum total contribution of \$100,000, payable to Landlord within 30 days after the Effective Date.
- (f) *Wetlands.* In connection with Landlord's remediation of the Property (under Subsection 6.01(a)) and its subsequent filling, compacting, and rough grading of the Property (under Subsection 6.01(b)), Landlord shall be responsible for filling the existing wetlands and drainage ditches on the Property and for—
 - (1) obtaining and complying with all necessary permits from the U.S. Army Corps of Engineers under the Clean Water Act;
 - (2) obtaining and complying with any necessary Streambed Alteration Agreement from the California Department of Fish and Game, as required under California's Fish and Game Code;

- (3) complying with the associated mitigation requirements of the U.S. Fish and Wildlife Service and the California Department of Fish and Game for the loss of species listed as threatened or endangered and the loss of the species' habitat (but Landlord may terminate this Lease by written notice, without further obligation to Tenant under this Lease, if the actual or estimated cost of mitigation for endangered species exceeds \$600,000); and
 - (4) obtaining and complying with all necessary permits from the Central Valley Regional Water Quality Control Board.
- (g) Landlord shall complete the work described in Subsections 6.01(a) through 6.01(f) within 12 months after the Effective Date, subject to extension for Force Majeure Events in accordance with Section 14.03. If Landlord fails to complete this work 18 months after the Effective Date, then Tenant will have the right to terminate this Lease by giving Landlord written notice.

Section 6.02. Construction of Improvements by Tenant or its Subtenants

Tenant and its subtenants shall construct the Improvements on the Property (or cause them to be constructed) according to the terms and conditions in this Section 6.02 and consistent with the permitted uses of the Premises set forth in Article 4, all at no cost to Landlord. Without cost to itself, Landlord shall cooperate with Tenant and Tenant's subtenants in their efforts to secure building permits and other permits and authorizations needed for any construction or alterations of the Improvement. Landlord's cooperation does not indicate consent to the filing of mechanic's liens, notices of intention to file a mechanic's liens, or any claims relating to mechanic's liens; nor does Landlord's obligation to cooperate apply when Landlord is acting in a governmental capacity.

- (a) *Compliance with Approved Plans.* All Improvements must be constructed in accordance with one of the following, and at locations approved by Landlord: the improvement-and-business plans that Landlord reviews and approves under Subsections 6.02(a)(1) and 6.02(a)(2); or the plans and specifications that Landlord approves under Subsection 6.02(a)(3).
- (1) *Improvement-and-Business Plans.* Before Tenant or its subtenant begins construction on the Improvements for a dealership, Tenant or its subtenant shall submit to the Landlord, for Landlord's review and approval, two identical sets of detailed improvement-and-business plans. The plans must be consistent, in Landlord's sole and absolute judgment, with the operation on the Property of a High-Volume Dealership. The plans for the first dealership on the Property must also include installation (at no cost to Landlord) of the asphalt cap required by the Remediation Plan. Within 30 days after Landlord receives the plans for a dealership, Landlord shall either—
 - (A) approve the plans by endorsing Landlord's approval on them and returning one set of the plans to Tenant or its subtenant; or

- (B) notify Tenant or its subtenant in writing of Landlord's objections to the plans, specifying in detail each objection.

If Landlord does not respond in accordance with either Subsection 6.02(a)(1)(A) or 6.02(a)(1)(B) within 30 days after receiving the plans, then the plans will be considered approved. If Landlord timely responds, then within 20 days after Tenant or its subtenant receives written notice of Landlord's objections to the plans, Tenant or its subtenant may deliver corrective amendments to Landlord. Within 20 days after receiving the corrective amendments, Landlord shall serve written notice on Tenant of Landlord's approval or rejection of the amended plans. If Landlord does not serve Tenant or its subtenant with written notice of approval or rejection within 20 days after receiving the corrective amendments, then the amended plans will be considered approved.

- (2) *Changes to Improvement-and-Business Plans.* Landlord must approve, in writing, any substantial change in the improvement-and-business plans Landlord approves under Subsection 6.02(a)(1). For purposes of this Subsection 6.02(a)(2), "substantial change" means a change that materially changes the size, appearance, or layout of the Improvements. If Landlord does not give Tenant or its subtenant written notice of objection to a proposed change within 30 days after Tenant or its subtenant serves Landlord with a written statement of the proposed change, then the change will be considered approved. Landlord need not approve changes in work or materials that are not substantial changes, but Tenant or its subtenant shall provide Landlord with a copy of the changed improvement-and-business plans.
- (3) *Improvements not Included in the Improvement-and-Business Plans.* Any component of the Improvements that costs more than \$50,000 to construct and is not included in the improvement-and-business plans or is not consistent with this Lease ("Component") may be constructed on the Property only if Landlord has approved, in writing, the plans and specifications (which must include the proposed location) for the Component. Tenant and its subtenants shall not split or separate a Component into smaller units for the purpose of evading this restriction. Landlord may disapprove the plans and specifications of any Component that is not consistent with this Lease or with any easements or interests that may be imposed in connection with the Premises in accordance with Subsection 2.04(b). Landlord has 10 days to approve any plans and specifications for a Component that Tenant or its subtenant submits under this subsection 6.02(a)(3). If Landlord disapproves any plans and specifications, then Landlord shall provide Tenant or its subtenant with a written statement of the reasons for disapproval and the changes necessary to obtain approval. Landlord's failure to give notice of approval or disapproval within 10 days after Tenant or its subtenant submits plans and specifications to Landlord will be considered to be an approval for purposes of this Lease. Tenant acknowledges that Landlord's initial approval of plans and specifications is at all times subordinate to approvals by the City of Sacramento's Design Review Board and Planning Commission and that the

approvals by the Design Review Board and Planning Commission will control over Landlord's conflicting approvals or disapprovals.

- (4) *Disclosure of Improvement-and-Business Plans.* Tenant or its subtenant may designate portions of the improvement-and-business plans that it believes qualify as confidential financial records and proprietary information exempt from disclosure under the California Public Records Act ("Proprietary Information"). Landlord shall take all reasonable and lawful measures to keep Proprietary Information confidential in accordance with the following:
- (A) Landlord shall notify Tenant or its subtenant within 10 days after Landlord receives a request for disclosure of Proprietary Information under the California Public Records Act or is served with a legal or administrative demand for disclosure (e.g., by subpoena, civil investigative demand, or court-ordered or -sanctioned discovery) so that Tenant or its subtenant may seek an appropriate protective order or may consent in writing to disclosure. Absent a protective order or written consent to disclosure, received before the time disclosure is required, Landlord may disclose Proprietary Information as required by law.
 - (B) Landlord is not obligated to defend against any litigation brought to compel disclosure of Proprietary Information, but Tenant or its subtenant may defend against the litigation as the real party in interest, subject to the following: Tenant shall indemnify and hold Landlord harmless against all damages and costs awarded against Landlord in the litigation, including reasonable attorney's fees and litigation costs through final resolution on appeal.
- (b) *Utilities.* Tenant shall install (or cause to be installed) in, on, and within the Premises all facilities necessary to supply water, sewerage, gas, electricity, telephone, cable television, and other utility services required for Tenant's maintenance and operation of the Improvements while this Lease is in effect, all at no cost to Landlord.
- (c) *Drainage.* All surface water from the Premises must be discharged into the underground storm-water-drainage system installed by Landlord in accordance with Subsection 6.01(d).
- (d) *All Work on Written Contract.* All work required to construct the Improvements must be performed only by competent contractors licensed under California law and must be performed under written contracts with those contractors. As used in this Subsection 6.02(d), "work" means not only the actual construction of the Improvements but also any site-preparation, landscaping, and utility installation.
- (e) *Compliance with Law and Standards.* The Improvements must be constructed, and all work on the Premises must be performed, in accordance with all valid and applicable statutes, ordinances, regulations, rules, and orders of all federal, state, or local

governmental entities with jurisdiction over the Premises. All work performed on the Premises under this Lease must be done in a good workmanlike manner and only with new materials of good quality and high standard.

- (f) *Time for Completion.* Tenant shall cause construction of the Improvements for Area 1 (which will be subleased to Rapton) to begin by the later of the following: the date the Construction Phase begins, or 60 calendar days after Tenant receives all required building permits. Tenant shall cause construction of those Improvements to be pursued diligently without unnecessary interruption and shall cause those Improvements to be completed and ready for occupancy and use within two years after the Construction Phase begins, except that Tenant will be excused for any delays in beginning or completing construction that are caused by a Force Majeure Event, as defined in Subsection 14.03(b). Tenant shall use reasonable diligence to avoid such delays and to resume construction as promptly as possible after a delay. Any default by Tenant, Rapton, or a subtenant under this Subsection 6.02(f) as to Area 1 will not constitute a default by Tenant, Rapton, or a subtenant as to Area 2.
- (g) *Mechanics' Liens.* While this Lease is in effect, Tenant and its subtenants shall keep the Premises and the Improvements free and clear of all liens and claims of liens for labor, services, materials, supplies, or equipment performed on or furnished to the Premises. If Tenant or a subtenant does not pay and discharge such liens and claims of liens or cause the Premises and the Improvements to be released from such liens or claims of lien within 30 days after Landlord serves Tenant and its subtenants with a written request to do so, then Landlord may pay, adjust, compromise, and discharge any such lien or claim of lien on any terms Landlord considers appropriate in Landlord's reasonable discretion. On or before the first day of the next calendar month following any such payment by Landlord, Tenant shall reimburse Landlord for the full amount Landlord incurred to pay, adjust, compromise, and discharge the lien or claim of lien, including any attorneys' fees or other costs expended by Landlord (together with interest at the then-maximum legal rate from the date of payment by Landlord to the date of Tenant's reimbursement). Nothing in this Lease gives Landlord's consent or request (whether express, implied, or otherwise) to any contractor, subcontractor, laborer, or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration, or repair of the Premises or the Improvements. Landlord is entitled at all reasonable times to post and keep posted on the Premises any notices of non-responsibility Landlord believes necessary to protect Landlord and the Premises and the Improvements from liens imposed by any contractor, subcontractor, laborer, or materialman.
- (h) *Use Permits and Design-Review.* Tenant and its subtenants are responsible for obtaining all building permits and all design-review approvals (if any) required for the Improvements they construct on the Premises. Tenant shall indemnify, defend (with attorneys reasonably acceptable to Landlord), protect, and hold Landlord and Landlord's property (including but not limited to the Premises) harmless from and against all costs related to such building permits and design-review approvals.

- (i) *Ownership of the Improvements.* Tenant will own title to all Improvements Tenant constructs on the Premises until this Lease expires or terminates. When this Lease expires or terminates—
- (1) the Improvements will automatically become Landlord's property without any act of Tenant or any third party, and without compensation to Tenant;
 - (2) Tenant shall surrender the Improvements to Landlord free of all liens and encumbrances other than those, if any, permitted under this Lease or otherwise created or consented to by Landlord; and
 - (3) Landlord may require Tenant to remove some or all surface Improvements, underground Improvements, utilities, and foundations from Parcel A of the Property, at no cost to Landlord, by giving Tenant written notice. Notice under this Subsection 6.02(i)(3) must specify the surface Improvements, underground Improvements, utilities, and foundations to be removed and must be given before expiration or termination.

If Landlord requests, Tenant shall execute, acknowledge, and deliver to Landlord any instrument Landlord considers necessary to perfect Landlord's right, title, and interest to the Improvements and the Premises. Tenant shall not remove any of the Improvements from the Property or waste, destroy, or modify any of the Improvements, except as permitted or required by this Lease, subject to the following: Tenant is entitled (but not obligated) to remove any trade fixtures installed at the Premises or in the Improvements at any time without first obtaining Landlord's consent, so long as Tenant repairs any damage caused to the Premises or the Improvements by the removal.

Article 7: Encumbrance of Leasehold Estate

Section 7.01. Tenant's and Subtenant's Right to Encumber

While this Lease is in effect, and without Landlord's consent, Tenant and its subtenants may encumber any part of their interests under this Lease or a sublease, for any purpose, by granting a deed of trust, mortgage, or other security instrument (a "Leasehold Encumbrance"). A Leasehold Encumbrance may not constitute a lien or encumbrance on Landlord's fee interest in the Premises. Except as otherwise provided in this Lease, each Leasehold Encumbrance will be subject to all covenants, conditions, and restrictions set forth in this Lease and to all of Landlord's rights, title, and interest. Tenant and its subtenants shall give Landlord prior written notice of any Leasehold Encumbrance affecting their interests under this Lease or a sublease, together with a copy of the deed of trust, mortgage, or other security interest evidencing the Leasehold Encumbrance. If this Lease is divided and assigned in accordance with Article 12, then the rights and obligations of any Lender relating to this Lease or the rights of Tenant or an assignee of this Lease will also be divided between Area 1 and Area 2.

Section 7.02. Notice to Lenders

If a lender who holds a Leasehold Encumbrance in Area 1 or Area 2 (“Lender”) provides Landlord with written notice of the its name and address, then—

- (a) Landlord shall provide the Lender with a copy of each notice or written communication Landlord gives to Tenant in connection with this Lease, including but not limited to any notice of breach, notice regarding any matter on which Landlord may claim a breach, or notice of termination; and
- (b) such a notice or written communication will be effective only if the notice is also provided to the Lender.

Landlord may satisfy its obligation under this Section 7.02 by placing the copy of the notice or communication in an envelope addressed to the Lender (at the last mailing address the Lender provided to Landlord in writing) and by depositing the envelope in the U.S. Mail with first-class postage prepaid.

Section 7.03. No Modification Without Lender's Consent

So long as any Leasehold Encumbrance is in effect, Tenant and Landlord shall not modify or cancel this Lease without the Lender’s written consent, except as follows: any modification or cancellation that only affects Area 1 will not require the written consent of any Lender that has an interest only in Area 2, and vice versa. This Section 7.03 does not apply to early termination under Subsection 2.02(d), Section 12.04, or Article 13.

Section 7.04. Right of Lender to Realize on Security

A Lender with a Leasehold Encumbrance is entitled while this Lease is in effect and during the existence of the Leasehold Encumbrance to do the following:

- (a) Perform any act required of Tenant under this Lease, and the Lender’s performance will prevent a forfeiture of Tenant’s rights under this Lease.
- (b) Realize on the security afforded by the leasehold estate by foreclosure proceedings, by accepting an assignment in lieu of foreclosure, or by any other remedy afforded in law or in equity or by the security instrument evidencing the Leasehold Encumbrance (the “Security Instrument”), and—
 - (1) transfer, convey, or assign Tenant’s title to the leasehold estate to any purchaser at any foreclosure sale (whether the foreclosure sale is conducted under court order or under a power of sale contained in the Security Instrument) or to an assignee under an assignment in lieu of foreclosure; and
 - (2) acquire and succeed to Tenant’s interest under this Lease by virtue of any foreclosure sale (whether the sale is conducted under a court order or under a

power of sale contained in the Security Instrument) or by virtue of an assignment in lieu of foreclosure.

The Lender or any person or entity acquiring the leasehold estate will be obligated to perform Tenant's obligations under this Lease only during the time the Lender, entity, or person owns the leasehold estate or possesses the Premises.

Section 7.05. Right of Lender to Cure Breaches

So long as a Leasehold Encumbrance is in effect, Landlord shall not terminate this Lease because of Tenant's breach unless Landlord first gives the Lender written notice of the breach and affords the Lender an opportunity, after service of the notice, to do one of the following:

- (a) For a breach that can be cured by paying money to Landlord or some other person: cure the breach within 30 days after Tenant's opportunity to cure has expired.
- (b) For a breach that must be cured by something other than the payment of money: cure the breach within 45 days after Tenant's opportunity to cure has expired.
- (c) For a breach that must be cured by something other than the payment of money, if the cure cannot be performed within 45 days after Tenant's opportunity to cure has expired: cure the breach in any reasonable time that may be required, but only if the Lender (1) commences work on the cure within 45 days after Tenant's opportunity to cure has expired and (2) diligently prosecutes the work to completion.

Section 7.06. Foreclosure in Lieu of Curing Breach

Notwithstanding any other provision of this Lease, the Lender under a Leasehold Encumbrance may forestall termination of this Lease for Tenant's breach by commencing proceedings to foreclose the Leasehold Encumbrance. The proceedings may be for foreclosure by court order or for foreclosure under a power of sale contained in the Security Instrument. But the proceedings will not forestall Landlord's termination of this Lease for the Tenant's breach unless—

- (a) they are commenced within 60 days after service on the Lender of notice under Section 7.05;
- (b) they are diligently pursued to completion in the manner required by law; and
- (c) the Lender keeps and performs all of the terms, covenants, and conditions of this Lease that require Tenant to pay or expend money until the proceedings are complete or are discharged by redemption, satisfaction, payment, or conveyance of the leasehold estate to the Lender.

Section 7.07. Assignment Without Consent on Foreclosure

Transfer of the Tenant's leasehold estate to any of the following does not require Landlord's prior consent:

- (a) A purchaser at a foreclosure sale of the Leasehold Encumbrance, whether the sale is conducted under a court order or under a power of sale in the Security Instrument. The Lender under the Leasehold Encumbrance must give Landlord written notice of the purchase, including the name and address of the purchaser and the effective date of the purchase.
- (b) An assignee of the leasehold estate under an assignment in lieu of foreclosure. The Lender under the Leasehold Encumbrance must give Landlord written notice of the assignment, including the name and address of the assignee and the effective date of the assignment.
- (c) A purchaser at a foreclosure sale of the Leasehold Encumbrance (or an assignee of the purchaser) or the assignee of Tenant's leasehold estate by an assignment in lieu of foreclosure. The purchaser or assignee must deliver to Landlord its written agreement to be bound by all provisions of this Lease.

Section 7.08. New Lease to Lender

Notwithstanding any other provision of this Lease, if Landlord terminates this Lease because of Tenant's breach, then Landlord shall enter into a new lease of the Premises with the Lender under a Leasehold Encumbrance if all of the following conditions are satisfied:

- (a) Within 60 days after Landlord serves the Lender with notice under Section 7.05, the Lender has served Landlord with a written request for the new lease.
- (b) The term of the new lease ends on the same date this Lease would have expired had this Lease not been terminated.
- (c) The new lease provides for payment of rent at the same rate that would have been payable under this Lease had it not been terminated; in addition, the new lease contains the same terms, covenants, conditions, and provisions that are in this Lease (except those that have already been fulfilled or no longer apply).
- (d) On Landlord's execution of the new lease, the Lender pays all sums that would have been due at the time under this Lease but for its termination; in addition, the Lender remedies (or agrees in writing to remedy) all of Tenant's other breaches of this Lease to the extent they can be remedied.
- (e) On Landlord's execution of the new lease, the Lender pays all reasonable costs and expenses, including attorneys' fees and court costs, Landlord incurred in terminating this Lease, recovering possession of the Premises from Tenant or Tenant's representative, and preparing the new lease.

- (f) If Tenant has subleased the Premises and the subleases are still in effect, then the new lease will be subject to each sublease for which the subtenant has agreed in writing to attorn to Lender or to Lender's assignee.
- (g) The Lender may assign the new lease without Landlord's prior consent. But an assignee of the Lender (the "Lender's Assignee") may assign the new lease only with Landlord's prior written consent, which Landlord shall not withhold, delay, or condition unreasonably.
- (h) If this Lease is divided and assigned under Article 12, then, upon the request of Lender or Lender's Assignee, Landlord shall enter into a separate ground lease with Lender or Lender's Assignee relating solely to Area 1 or Area 2, as applicable.

Section 7.09. No Merger of Leasehold and Fee Estates

So long as any Leasehold Encumbrance exists, the leasehold estate created by this Lease and Landlord's fee estate in the Premises will not merge merely because both estates are acquired or become vested in the same person or entity, unless the Lender consents otherwise in writing.

Section 7.10. Lender as Assignee of Lease

A Lender will not be liable to Landlord as an assignee of this Lease unless the Lender acquires all of Tenant's rights under this Lease through foreclosure, an assignment in lieu of foreclosure, or some other action or remedy provided by law or by the Security Instrument.

Section 7.11. Lender Includes Subsequent Security Holders

Except for purposes of Section 7.08, the term "Lender" means not only the institutional lender that lent Tenant money and is named as beneficiary, mortgagee, secured party, or security holder in the Security Instrument but also all subsequent purchasers or assignees of the leasehold estate.

Section 7.12. Two or More Lenders

If two or more Lenders each exercise their rights under this Lease and a conflict arises that renders compliance with all Lender requests impossible, then the Lender whose Leasehold Encumbrance would have senior priority in a foreclosure will prevail. If a division and assignment under Article 12 results in separate Lenders for Area 1 and Area 2, then the Lender for Area 1 will be automatically deemed to have priority as to Area 1 and the Lender for Area 2 will be automatically deemed to have priority as to Area 2.

Article 8: Repairs and Restoration

Section 8.01. Maintenance by Tenant

While this Lease is in effect—

- (a) Except as provided in Section 6.01, Landlord is not obligated to make any changes, alterations, additions, improvements, or repairs in, on, or about the Premises and the Improvements; and
- (b) at no cost to Landlord, Tenant and its subtenants shall (1) keep and maintain the Premises, the Improvements, and all appurtenant facilities in first-class condition, good order and repair, and safe-and-clean condition; and (2) keep and maintain the whole of the Premises, the Improvements, all appurtenances, and all landscaping in clean, sanitary, safe, orderly, litter-free, and attractive condition.

Section 8.02. Requirements of Laws and Governmental Agencies

- (a) While this Lease is in effect, Tenant and its subtenants shall do the following at no cost to Landlord: comply with all valid and applicable statutes, ordinances, regulations, rules, and orders that concern the Premises or the Improvements and are enacted or issued by any federal, state, or local governmental entity with jurisdiction over the Premises or the Improvements (whether enacted or issued before, on, or after the date of this Lease), other than any statutes, ordinances, regulations, rules, and orders pertaining to the presence and remediation of Hazardous Substances (defined in Article 9) that existed on the Premises before the Effective Date.
- (b) At its sole discretion and at no cost to Landlord, Tenant may institute appropriate legal proceedings to contest, in good faith, the validity or applicability of any statute, ordinance, regulation, rule, or order that concerns the Premises or the Improvements. Tenant may do this in its own name or, if appropriate or required, in the names of both Tenant and Landlord. Tenant shall protect the Premises, the Improvements, and Landlord from Tenant's failure to comply with the contested statute, ordinance, regulation, rule, or order during the contest.
- (c) Tenant shall indemnify, defend (with attorneys reasonably acceptable to Landlord), protect, and hold Landlord and Landlord's property, including the Premises, harmless from and against all liabilities, claims, demands, damages, fines, penalties, judgments, settlements, and costs (including reasonable attorneys' fees and litigation costs through final resolution on appeal) that arise from Tenant's or any subtenant's failure to perform as this Section 8.02 requires.

Section 8.03. Tenant's Duty to Restore Premises

- (a) Except as provided by Section 8.03(b) and Section 8.04, this Lease will continue in full effect even if any of the Improvements are damaged or destroyed in whole or part by any cause covered by the property-and-casualty insurance Tenant is required to carry

under this Lease. Tenant shall repair and restore, at no cost to Landlord, any Improvements so damaged or destroyed. Any repairs or restoration by Tenant (or by its subtenants) must comply with original plans for the Improvements, as described in Article 6, except (1) as Tenant (or its subtenants) may modify the plans to comply with the terms of any sublease of the Premises, or (2) as Tenant (or its subtenants) may modify the plans with Landlord's written approval, which Landlord shall not withhold, delay, or condition unreasonably. Tenant shall begin the work of repair and restoration within 180 days after the damage or destruction occurs and shall complete the work with due diligence within 12 months after the work begins. In all other respects, Tenant (or its subtenants) shall perform the work of repair and restoration in accordance with the requirements for original construction work set forth in Article 6. Tenant shall use any insurance proceeds it receives or is entitled to receive because of the damage or destruction to repair and restore the Premises unless required by a Lender to pay off any leasehold mortgage or deed of trust on the Premises.

- (b) Notwithstanding anything to the contrary in Subsection 8.03(a), Tenant is not required to repair or restore the Improvements if—
- (1) the damage or destruction does not arise from an insured cause; or
 - (2) more than 50% of the Improvements are damaged or destroyed and the damage or destruction occurs during the last two years of the Initial Term (if Tenant opts not to extend this Lease under Subsection 2.02(b)), or during the last two years of the First Extended Term (if Tenant opts to extend this Lease under Subsection 2.02(c)), or during the last two years of the Second Extended Term.

Tenant shall notify Landlord in writing of its election not to repair or restore the Improvements. If Tenant elects not to repair or restore the Improvements, then Tenant shall satisfy all Leasehold Encumbrances and to assign to Landlord all remaining insurance proceeds Tenant received for the damage or destruction of the Improvements (less any insurance proceeds attributable to Tenant's trade fixtures and personal property), and this Lease will terminate when all Leasehold Encumbrances are satisfied and all proceeds assigned.

Section 8.04. Option to Terminate Lease for Destruction

Notwithstanding Section 8.03, Tenant is entitled to terminate this Lease by giving Landlord 30 days' prior written notice of termination if all Leasehold Encumbrances are satisfied and removed, and either—

- (a) the Improvements are damaged or destroyed during the last two years of the Initial Term (if Tenant opts not to extend this Lease under Subsection 2.02(b)), or during the last two years of the First Extended Term (if Tenant opts to extend this Lease under Subsection 2.02(c)), or during the last two years of the Second Extended Term by a casualty for which Tenant is not required under this Lease to carry insurance; or

- (b) the cost to repair or restore the damaged or destroyed Improvements exceeds 50% of the fair-market value of the Improvements immediately before the damage or destruction.

Section 8.05. Application of Insurance Proceeds

All insurance proceeds that become payable while this Lease is in effect because of damage to, or destruction of, any of the Improvements will be paid to Tenant in trust and applied by Tenant to the cost of repairing and restoring the damaged or destroyed Improvements as required by Section 8.03. If, however, Tenant terminates this Lease under Section 8.03 or Section 8.04, then all insurance proceeds for the Improvements, but not for Tenant's trade fixtures and personal property, will be used to satisfy any outstanding Leasehold Encumbrances with the remainder of the proceeds being turned over to Landlord, and Landlord may decide in its sole and absolute discretion whether to apply the proceeds to the repair and restoration of the Premises and the Improvements or to retain the proceeds for other uses.

Article 9: Hazardous Substances

Section 9.01. Definitions; Hazardous Substances; Environmental Laws

The following definitions apply in this Lease:

(a) "Hazardous Substance" means—

- (1) any substance defined as a "hazardous substance," "hazardous material," "hazardous waste," "toxic substance," "toxic waste," "solid waste," "pollutant," or "contaminant" under Environmental Laws (defined in Subsection 9.01(b));
- (2) any substance listed as hazardous substances by the U.S. Department of Transportation at 49 C.F.R. § 172.101, by the U.S. Environmental Protection Agency at 40 C.F.R. Part 302, or by any successor agencies;
- (3) any other substance, material, or waste that is or becomes regulated or classified as hazardous or toxic under Environmental Laws (defined in Subsection 9.01(b));
- (4) any material, waste, or substance that is (A) a petroleum or refined petroleum product, (B) asbestos or asbestos-containing materials, (C) polychlorinated biphenyl, (D) designated as a hazardous substance under 33 U.S.C. § 1321, or listed under 33 U.S.C. § 1317, (E) a flammable explosive, (F) a radioactive material, or (G) a lead-based paint;
- (5) any substance listed by the State of California under subdivision (a) of Health and Safety Code section 25249.8, as amended, as a chemical known by the state to cause cancer or reproductive toxicity;

- (6) any material that, because of its characteristics or interaction with one or more other substances, chemical compounds, or mixtures, threatens to damage health, safety, or the environment or is required by any law or public agency to be remediated, including remediation that the law or public agency requires for the Premises to be put to any of the uses specified in Subsection 4.01;
 - (7) any material that, if present, would require remediation under the guidelines set forth in California's Leaking Underground Fuel Tank Field Manual, regardless of whether the presence of the material resulted from a leaking underground fuel tank;
 - (8) any pesticide regulated under the federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §136 et seq.);
 - (9) any material regulated under the federal Occupational Safety and Health Act (29 U.S.C. § 651 et seq.) or California's Occupational Safety and Health Act (Health & Saf. Code, § 63000 et seq.);
 - (10) any material regulated under the federal Clean Air Act (42 U.S.C. 7401 et seq.) or under division 26 of California's Health and Safety Code;
 - (11) any material that qualifies as an "extremely hazardous waste," "hazardous waste," or "restricted hazardous waste" under section 25115, 25117, or 25122.7 of California's Health and Safety Code, or as "medical waste" under section 25281, 25316, 25501, 25501.1, 25023.2, or 39655 of California's Health and Safety Code; and
 - (12) any material listed or defined as a "hazardous waste," "extremely hazardous waste," or an "acutely hazardous waste" under chapter 11 of title 22 of the California Code of Regulations.
- (b) "Environmental Laws" means any statute, ordinance, regulation, rule, order, decree, or other law or requirement that is enacted, promulgated, or issued by any federal, state, or local government entity (whether before, on, or after the Effective Date) and—
- (1) regulates, relates to, or imposes liability or standards of conduct concerning any Hazardous Substance (defined in Subsection 9.01(a));
 - (2) regulates land use or regulates or protects the environment, including but not limited to air, soil, soil vapor, groundwater, surface water, flora, or fauna; or
 - (3) pertains to occupational health or industrial hygiene or to occupational or environmental conditions on, under, or about the Premises.

Without limiting the generality of the foregoing, "Environmental Laws" includes the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (42 U.S.C. § 9601 et seq.); the Resource Conservation and Recovery Act of

1976 (RCRA) (42 U.S.C. § 6901 et seq.); the Clean Water Act, also known as the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. § 1251 et seq.); the Toxic Substances Control Act (TSCA) (15 U.S.C. § 2601 et seq.); the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. § 1801 et seq.); the Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136 et seq.); the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. § 6901 et seq.); the Clean Air Act (42 U.S.C. § 7401 et seq.); the Safe Drinking Water Act (42 U.S.C. § 300f et seq.); the Solid Waste Disposal Act (42 U.S.C. § 6901 et seq.); the Emergency Planning and Community Right to Know Act (42 U.S.C. § 11001 et seq.); the Occupational Safety and Health Act (OSHA) (29 U.S.C. §§ 655 and 657); the California Underground Storage of Hazardous Substance Act (Health & Saf. Code, § 25280 et seq.); the California Hazardous Waste Control Act (Health & Saf. Code, § 25100 et seq.); the California Safe Drinking Water and Toxic Enforcement Act (Health & Saf. Code, § 24249.5 et seq.); and the Porter-Cologne Water Quality Act (Water Code, § 13000 et seq.), together with any amendments of these statutes and regulations promulgated under them (whether enacted or promulgated before, on, or after the Effective Date).

Section 9.02. Landlord Warranty and Indemnity

- (a) Landlord represents and warrants that, when it delivers possession of the Premises to Tenant in accordance with this Lease, there will be no Hazardous Substances on the Premises that have not been remediated and for which Landlord has not obtained, from the applicable government regulatory agencies, either no-further-action clearance letters or written approvals to reuse the Premises for the purposes set forth in this Lease. Landlord shall indemnify, defend (with attorneys reasonably acceptable to Tenant), protect, and hold Tenant and Tenant's members, directors, officers, shareholders, employees, assignees, subtenants, and Lenders harmless from and against all liabilities, claims, demands, damages, fines, penalties, judgments, settlements, and costs (including reasonable attorneys' fees and litigation costs through final resolution on appeal) that arise from Hazardous Substances existing on the Premises on or before the date Landlord delivers possession of the Premises to Tenant, or from Landlord's possession, use, generation, transportation, release, threatened release, handling, remediation, storage, or disposal of Hazardous Substances on or about the Premises, except as follows: Landlord is not obligated under this Subsection 9.02(a) for matters caused by Tenant's intentional disturbance, spread, or exposure of pre-existing Hazardous Substances or by the negligence or willful misconduct of Tenant or Tenant's members, directors, officers, employees, agents, contractors, assignees, subtenants, Lenders, or invitees with regard to pre-existing Hazardous Substances.
- (b) Landlord's obligation under Subsection 9.02(a) includes all liabilities, claims, demands, damages, fines, penalties, judgments, settlements, and costs related to—
- (1) any required or necessary remediation, repair, cleanup, or detoxification of the Premises or the Improvements and the preparation of closure plans and other required plans, whether the actions and plans are required or necessary before or after expiration or termination of this Lease; and

- (2) any death, bodily injury, personal injury, property damage or destruction (including injury to the environment), and economic injury that arises from the possession, use, generation, transportation, release, handling, storage, or disposal of Hazardous Substances on, at, or from the Premises by Landlord.
- (c) Landlord's obligation under this Section 9.02 will survive the expiration or termination of this Lease.

Section 9.03. Compliance with Environmental Laws

- (a) In using the Premises, Tenant shall comply with all Environmental Laws pertaining to the Premises and the Improvements. Without limiting the generality of the previous sentence, Tenant shall require that its members, officers, employees, agents, contractors, assignees, subtenants, and invitees handle, transport, store, treat, dispose of, and use Hazardous Substances in, on, or about the Premises or the Improvements in strict compliance with all applicable Environmental Laws.
- (b) Notwithstanding Subsection 9.03(a), Tenant is not obligated to comply with Environmental Laws that pertain to the remediation, removal, release, treatment, transport, storage, encapsulation, or disposal of Hazardous Substances that existed in, on, or about the Premises on or before the date Landlord delivers possession of the Premises to Tenant, except as follows: Tenant shall comply with Environmental Laws, at no cost to Landlord, if Tenant's intentional, negligent, or willful misconduct causes or exacerbates a release of those Hazardous Substances.

Section 9.04. Tenant's Indemnity

- (a) Tenant shall indemnify, defend (with attorneys reasonably acceptable to Landlord), protect, and hold harmless—
 - (1) Landlord and Landlord's elected officials, officers, employees, agents, and property; and
 - (2) any successor to, or assignee of, Landlord's interest in this Lease or in the title to the Premises, and the successor's or assignee's directors, officers, shareholders, partners, members, employees, agents, and property,

from and against any and all liabilities, claims, demands, damages, fines, penalties, judgments, settlements, and costs (including reasonable attorney's fees and litigation costs through final resolution on appeal) that arise directly or indirectly from the possession, use, generation, transportation, release, threatened release, handling, storage, or disposal of Hazardous Substances on or about the Premises by any person or entity on the Premises while this Lease is in effect (other than Landlord's employees or agents), except as follows: Tenant is not obligated to provide this indemnity for any Hazardous Substances that existed in, on, or about the Premises on or before the date Landlord delivers possession of the Premises to Tenant unless Tenant's intentional,

negligent, or willful misconduct causes or exacerbates a release of those Hazardous Substances.

- (b) Tenant's obligation under Subsection 9.04(a) includes but is not limited to all liabilities, claims, demands, damages, fines, penalties, judgments, settlements, and costs related to—
 - (1) any required or necessary remediation, repair, cleanup, or detoxification of the Premises or the Improvements and the preparation of closure plans and other required plans, whether the actions and plans are required or necessary before or after expiration or termination of this Lease; and
 - (2) any death, bodily injury, personal injury, property damage or destruction (including injury to the environment), and economic injury that arises from the possession, use, generation, transportation, release, handling, storage, or disposal of Hazardous Substances on, at, or from the Premises by Tenant or by any person or entity who occupies or operates the Premises or the Improvements on Tenant's behalf or as Tenant's subtenant.
- (c) Tenant's obligation under this Section 9.04 will survive the expiration or termination of this Lease.

Section 9.05. Remediation by Tenant

If Tenant or Tenant's members, directors, officers, employees, agents, contractors, assignees, subtenants, or invitees cause the presence of Hazardous Substances on the Premises or the release of Hazardous Substances on or from the Premises, and if that presence or release results in the contamination or deterioration of the Premises, or of any water or soil on or beneath the Premises, or of any property in the vicinity of the Premises, or of the atmosphere, then Tenant shall promptly take all action necessary to investigate and remedy that contamination or deterioration in compliance with Environmental Laws, at no cost to Landlord. In addition, if Tenant or Tenant's members, directors, officers, employees, agents, contractors, assignees, subtenants, or invitees damage the impermeable barrier Landlord installed over the contaminated soil remaining on the Property, then Tenant shall promptly take all action necessary to repair the barrier and to remedy any contamination caused by the damage, all in compliance with Environmental Laws and at no cost to Landlord.

Section 9.06. Restrictions on Use of Hazardous Substances

- (a) Except as provided otherwise in Subsection 9.06(b), Tenant and Tenant's members, directors, officers, employees, agents, contractors, assignees, subtenants, and invitees shall not use, handle, store, transport, generate, release, or dispose of any Hazardous Substances on, under, or about the Premises.
- (b) Tenant and Tenant's members, directors, officers, employees, agents, contractors, assignees, subtenants, and invitees may use—

- (1) quantities of common chemicals needed to conduct Tenant's or a subtenant's business on the Premises consistent with this Lease, including but not limited to adhesives, lubricants, motor-vehicle fuels, paints, solvents, used motor oil and oil filters, brake fluid, and cleaning fluids; and
- (2) other Hazardous Substances that are necessary to Tenant's or a subtenant's conduct of business on the Premises consistent with this Lease and for which Landlord has given written consent before the Hazardous Substances are brought on the Premises. Within 10 days after receiving a written request from Landlord, Tenant shall disclose in writing all Hazardous Substances being used on the Premises, the nature of the use, and the manner of storage and disposal.

Section 9.07. Notification Obligations

Landlord and Tenant shall promptly notify each other in writing of all oral or written communications from a governmental entity that relate to the Premises and concern Hazardous Substances or the violation of Environmental Laws.

Article 10: Indemnity and Insurance

Section 10.01. Tenant's Indemnity Agreement

- (a) *Definitions.* For purposes of this Section 10.01—
 - (1) "the Premises" includes any of the Improvements located on the Premises on or after the Effective Date;
 - (2) "Person" is to be interpreted broadly and includes Tenant's members, directors, officers, employees, and agents; and
 - (3) "Occurrence" means (A) the death of, or injury to, any Person; and (B) damage to, or destruction of, any real or personal property or the environment (broadly interpreted).
- (b) Tenant shall indemnify, defend (with attorneys reasonably acceptable to Landlord), protect, and hold Landlord and Landlord's property (including the Premises) harmless from and against all liabilities, claims, demands, damages, fines, penalties, judgments, settlements, and costs (including reasonable attorneys' fees and litigation costs through final resolution on appeal) that arise directly or indirectly from Tenant's possession and use of the Premises, except to the extent caused by the negligence or willful misconduct of Landlord or Landlord's elected officials, officers, employees, contractors, or agents. Tenant's obligation under this Section 10.01 includes but is not limited to liabilities, claims, demands, damages, fines, penalties, judgments, settlements, and costs arising from any of the following:
 - (1) Any Occurrence on the Premises.

- (2) Any Occurrence that is in any way connected with the Premises or with any personal property on the Premises.
- (3) Any Occurrence caused or allegedly caused by either (A) the condition of the Premises created by Tenant or by any Person on the Premises with Tenant's permission or (B) some act or omission on the Premises by Tenant or by any Person on the Premises with Tenant's permission.
- (4) Any Occurrence caused by, or related in any way to, work performed on the Premises or materials furnished to the Premises at the request of Tenant or any person or entity acting for Tenant or with Tenant's permission.
- (5) Tenant's failure to perform any provision of this Lease, to comply with any requirement of law applicable to Tenant, or to fulfill any requirement imposed by any governmental entity on Tenant or Tenant's use of the Premises.

Section 10.02. Liability Insurance

While this Lease is in effect (except during the Pre-Possession Phase of the Initial Term), Tenant shall procure and maintain, at no cost to Landlord, a broad-form comprehensive-coverage policy of public-liability insurance that insures Tenant and Landlord against loss or liability caused by, or connected with, Tenant's possession and use of the Premises under this Lease, in amounts not less than the following:

- (a) \$2,000,000 for injury to, or death of, one person and, subject to that limitation, of not less than \$2,000,000 for injury to, or death of, two or more persons as a result of any one accident or incident.
- (b) \$2,000,000 for damage to, or destruction of, any property.

The policy must include an endorsement naming Landlord and all Lenders as additional insureds.

Section 10.03. Garage Liability Insurance

While this Lease is in effect (except during the Pre-Possession and Construction Phases of the Initial Term), Tenant shall require that each subtenant of the Premises procure and maintain, at no cost to Landlord, a garage-liability insurance policy that insures the subtenant, Tenant, and Landlord against loss or liability caused by, or connected with, the subtenant's possession and use of the Premises under this Lease and any sublease, in amounts not less than the following:

- (a) \$1,000,000 for injury to, or death of, one person and, subject to that limitation, of not less than \$1,000,000 for injury to, or death of, two or more persons as a result of any one accident or incident.

(b) \$1,000,000 for damage to, or destruction of, any property.

The policy must include an endorsement naming Landlord, Tenant, and all Lenders as additional insureds.

Section 10.04. Pollution Insurance

While this Lease is in effect (except during the Pre-Possession Phase of the Initial Term), Tenant shall procure and maintain, at no cost to Landlord, a pollution-insurance policy that insures Tenant and Landlord against loss or liability caused by, or connected with, Tenant's possession and use of the Premises under this Lease, in an amount not less than \$1,000,000. The policy must include an endorsement naming Landlord as an additional insured. Tenant may comply with this Section 10.04 by requiring each subtenant to procure and maintain the required insurance policy, at no cost to Landlord, with the policy including an endorsement naming Landlord, Tenant, and all Lenders as additional insureds.

Section 10.05. Fire-and-Casualty Insurance

While this Lease is in effect (except during the Pre-Possession Phase of the Initial Term), Tenant shall procure and maintain, at no cost to Landlord, a fire-insurance policy insuring the Improvements for their full replacement value against damage or destruction by fire and the perils commonly covered under the standard extended-coverage endorsement to fire-insurance policies issued on real property in Sacramento County. The policy required by this Section 10.05 must insure the Improvements against loss or destruction by windstorm, cyclone, tornado, hail, explosion, riot, riot attending a strike, civil commotion, malicious mischief, vandalism, aircraft, fire, smoke damage, and sprinkler leakage, even if these perils are not commonly covered under the standard extended-coverage endorsement. During construction of the Improvements, the policy must also include coverage for course of construction, vandalism, and malicious mischief and insure the Improvements and all materials delivered to the construction site for their full insurable value. In addition, so long as any Leasehold Encumbrance exists, the policy must include a standard lender endorsement.

Section 10.06. Landlord's Approval of Policies; Certificates and Copies

Each insurance policy required under this Article 10 must be issued by an insurance company authorized to transact insurance business in California and will be subject to Landlord's approval, which Landlord shall not withhold, delay, or condition unreasonably. Tenant shall deliver to Landlord one or more certificates of insurance confirming that all policies are in effect, with each certificate executed by the insurance company or companies or by their authorized agents. Tenant shall deliver the certificate or certificates within 10 days after (a) this Lease is fully executed by Landlord and Tenant and (b) any policy is replaced, rewritten, or renewed. Upon Landlord's written request, Tenant shall promptly provide Landlord with accurate and complete copies of each policy, including all endorsements.

Section 10.07. Notice of Cancellation of Insurance

Each insurance policy required under this Article 10 must include an endorsement stating that the policy cannot be cancelled or materially altered for any reason unless the insurer gives at least 30-days' prior written notice of the cancellation or material alteration to Landlord and all Lenders in the manner required by this Subsection 14.01 for service of notices.

Article 11: Condemnation

Section 11.01. Total Condemnation

If, while this Lease is in effect, any public or quasi-public entity uses the power of eminent domain to take fee title to all of the Premises, or to take fee title to all of the Improvements, or to take the Tenant's entire leasehold estate (a "Total Taking"), then this Lease will terminate at 12:01 a.m. on the earlier of—

- (a) the day legal title is vested in the entity exercising the power of eminent domain; or
- (b) the day the entity exercising the power of eminent domain takes actual physical possession.

Thereafter, both Landlord and Tenant will be released from all obligations under this Lease except those specified by Section 11.03 or by the indemnity obligations specified to survive termination or expiration of this Lease.

Section 11.02. Partial Taking; Replacement Improvements

- (a) If, while this Lease is in effect, a taking of the Premises or the Improvements occurs that is less than a Total Taking (a "Partial Taking"), then all compensation and damages payable for the Partial Taking and attributable to the Improvements will be made available to Tenant as reasonably needed to do the following:
 - (1) Repair all or any portion of the Improvements not taken.
 - (2) Replace the Improvements taken on the portion of the Premises not taken (the "Replacement Improvements"), if replacement is permitted by then-existing law. Plans and specifications for the Replacement Improvements must be compatible in architecture and construction quality with the Improvements not taken and must be approved in writing by Landlord before construction begins.
- (b) Notwithstanding Subsection 11.02(a), Tenant may elect to terminate this Lease for a Partial Taking if the portion of the Premises or the Improvements taken is so substantial that even with Replacement Improvements Tenant's use of the Premises for the uses described in Section 4.01 will be materially impaired. To terminate this Lease under this Subsection 11.02(b), Tenant must serve Landlord with written notice of termination

within 60 days after Tenant receives, from Landlord or the entity exercising the power of eminent domain, a written notice describing the extent and scope of the taking. The termination will be effective on the earlier of—

- (1) the termination date specified in Tenant's notice to Landlord; or
 - (2) the date the condemning authority takes physical possession of the portion of the Premises or the Improvements taken by eminent domain.
- (c) When the termination under Subsection 11.02(b) becomes effective—
- (1) all subleases and subtenancies created by Tenant in or on the Premises or any portion of the Premises will also terminate, and Tenant shall deliver the Premises and the remaining Improvements to Landlord free and clear of those subleases and subtenancies, except as follows: in its sole and absolute discretion, Landlord may notify any subtenant in writing that the subtenant may attorn to Landlord and continue its occupancy of the Premises as a tenant of Landlord;
 - (2) Tenant shall deliver the Premises and remaining Improvements free and clear of all liens and encumbrances not created by Landlord; and
 - (3) both Landlord and Tenant will be released from all obligations under this Lease except those specified in Section 11.03 and the indemnity obligations specified to survive termination or expiration of this Lease.

Section 11.03. Condemnation Award

Compensation awarded because of a taking by eminent domain will be allocated between Landlord and Tenant as follows:

- (a) Compensation for any land that is part of the Premises will be paid to Landlord and be Landlord's sole property, free and clear of any claim of Tenant or any person claiming rights to the Premises through or under Tenant. Tenant is entitled to just compensation for the value of its leasehold estate.
- (b) When only a portion of the Premises is taken by eminent domain and Tenant is not entitled to or does not terminate this Lease, compensation for any of the Improvements constructed or located on the portion of the Premises taken will be applied in accordance with Subsection 11.02(a) toward the Replacement Improvements.
- (c) When this Lease is terminated under Section 11.01 or Subsection 11.02(b), any compensation awarded for any of the Improvements located on the portion of the Premises taken will be allocated between Tenant and Landlord as follows:
 - (1) Tenant will receive, as its sole property, the percentage of the compensation awarded for the Improvements that equals the percentage of the term of this Lease then in effect that has not expired when the termination becomes effective.

- (2) Landlord will receive, as its sole property, the percentage of the compensation awarded for the Improvements that equals the percentage of the term of this Lease then in effect that has expired when the termination becomes effective.
- (3) Illustration of Subsections 11.03(c)(1) and 11.03(c)(2): If the termination becomes effective at the end of the fifth year of the First Extended Term, then Tenant would receive 66.67% of the compensation awarded for the Improvements, and Landlord would receive 33.33% of the compensation awarded for the Improvements.
- (3) For purposes of this Subsection 11.03(c), a termination becomes effective at 12:01 a.m. on the earlier of—
 - (A) the date that title to the portion of the Premises on which the Improvements are located is taken by the entity exercising the power of eminent domain; or
 - (B) the date that physical possession of the portion of the Premises on which the Improvements are located is taken by the entity exercising the power of eminent domain.
- (d) Any severance damages awarded because only a portion of the Premises is taken by eminent domain shall be—
 - (1) Tenant's sole and separate property during the first 70% of the term of this Lease then in effect;
 - (2) equally divided between Tenant and Landlord during the next 20% of the term of this Lease then in effect, except to the extent needed for Replacement Improvements when Tenant cannot or does not terminate this Lease; and
 - (3) Landlord's sole and separate property during the last 10% of the term of this Lease.
- (e) Any damages awarded for relocation expenses, loss of business, or loss of goodwill will belong exclusively to Tenant.

Section 11.04. Partial Termination and Reduction of Monthly Rent for Partial Taking

If, while this Lease is in effect, a public or quasi-public agency or entity uses the power of eminent domain to take title to, and possession of, only a portion of the Premises, and if Tenant does not or cannot terminate this Lease under Subsection 11.02(b), then this Lease will terminate as to the portion of the Premises taken (a "Partial Termination") at 12:01 a.m. on the earlier of—

- (a) the date that title to the portion of the Premises on which the Improvements are located is taken by the entity exercising the power of eminent domain; or

- (b) the date that physical possession of the portion of the Premises on which the Improvements are located is taken by the entity exercising the power of eminent domain.

Upon a Partial Termination, the Monthly Rent payable under this Lease will be reduced in the same proportion that the value of the portion of the Premises taken by eminent domain bears to the full value of the Premises immediately before the Partial Termination. As to the portion of the Premises still subject to this Lease after the Partial Termination, Tenant shall construct Replacement Improvements in accordance with Subsection 11.02(a) and to do all other acts, at no cost to Landlord, that are required to make the remaining portion of the Premises fit for the uses described in Section 4.01.

Section 11.05. Voluntary Conveyance in Lieu of Eminent Domain

Landlord's voluntary conveyance of title to a public or quasi-public entity of all or a portion of the Premises under threat by that entity to take it by eminent domain will be considered a taking of title to all or a portion of the Premises under the power of eminent domain for purposes of this Article 11.

Article 12. Assignment and Subletting

Section 12.01. No Assignment Without Landlord's Consent

- (a) Tenant may assign this Lease only with Landlord's prior written consent, which Landlord shall not withhold, delay, or condition unreasonably. An assignment made contrary to this Section 12.01 is void unless otherwise permitted by this Article 12.
- (b) An assignment may cover all of Tenant's interests in this Lease or may be limited to Tenant's interests with respect to either Area 1 or Area 2. If Tenant partially assigns its interests and obligations in Area 1 or Area 2 to an assignee approved by the Landlord, then as of the date of the assignment this Lease will be interpreted so that rights and obligations pertaining to Tenant are divided between Area 1 and Area 2, and the interests and obligations of Tenant as to one area and of the assignee as to the other area will each stand on their own as if there were separate and independent ground leases with Landlord for Area 1 and Area 2.
- (c) An assignee must be a person or entity who, in Landlord's sole and absolute judgment, has the experience and wherewithal needed to successfully manage the Premises consistently with the purposes of this Lease. To assist Landlord in determining whether to consent to an assignment, Tenant shall provide Landlord with the proposed assignee's complete, detailed financial statements (audited by a certified public accountant reasonably satisfactory to Landlord, if the proposed assignee has the statements audited in its normal course of business), together with complete, detailed information about—
 - (1) the proposed assignee's business experience;

- (2) the proposed assignee's intended use of the Premises and the Improvements;
 - (3) the proposed assignee's sources of funds for repaying any indebtedness of Tenant that the proposed assignee will assume, take subject to, or agree to pay, and all other claims on those funds; and
 - (4) any other information that Landlord may reasonably require to determine whether the proposed assignee is qualified.
- (d) Landlord's consent to one assignment will not be considered consent to any subsequent assignment.

Section 12.02. Permitted Assignments

For purposes of this Section 12.02, "Tenant" means the original Tenant under this Lease, Rapton Investment Group LLC. Notwithstanding Section 12.01, Landlord consents to the following assignments (each, a "Permitted Assignment"):

- (a) *Assignment to Affiliate.* Tenant may assign its rights and obligations under this Lease—
- (1) to a partnership, so long as (A) Tenant is one of the general partners or (B) Tenant has greater than a 50% ownership interest (directly or indirectly) in an entity that is one of the general partners;
 - (2) to a limited-liability company in which Tenant is the managing member; or
 - (3) to the then-current subtenant of Area 1 (if other than Rapton) or Area 2.
- (b) *Estate Planning.* Any transfer of shares or membership interests in Tenant to a shareholder's or member's estate-planning trust, family partnership, spouse, children, or grandchildren if the transfer results from the shareholder's or member's death, retirement, estate plan, or disability. Tenant shall give Landlord at least 10-days' prior written notice of such a transfer.

Section 12.03. Leasehold Encumbrances and Subsequent Transfers

Notwithstanding Section 12.01, Landlord's consent is not required for the following:

- (a) Tenant's assignment to a Lender under a Leasehold Encumbrance (as defined in Section 7.01) of all or a portion of Tenant's interest under this Lease and all Tenant's leasehold estate;
- (b) A transfer, conveyance, or assignment resulting from a foreclosure or from a Lender's acceptance of a deed in lieu of foreclosure.

- (c) Any transfer, conveyance, or assignment by a Lender following its acquisition of this Lease and Tenant's leasehold estate as a result of foreclosure or acceptance of a deed in lieu of foreclosure.

Section 12.04. Subleases

- (a) *Sublease of Area 1.* Tenant shall sublease Area 1 of the Premises to Rapton before the Operations Phase of the Initial Term begins (see Subsection 2.02(a)(3)). The term of the sublease to Rapton must be co-extensive with the Initial Term of this Lease. If Rapton's sublease of Area 1 expires, terminates, or is terminated before the expiration or termination of this Lease, then, at Landlord's sole and absolute discretion, Landlord may terminate this Lease as to Area 1 alone in accordance with Subsection 12.04(d).
- (b) *Sublease of Area 2.* Tenant may sublease Area 2 of the Premises, subject to the following:
 - (1) *Initial Sublease.* The initial sublease of Area 2 must be with a subtenant who, in Landlord's reasonable judgment, has the experience and wherewithal needed to successfully operate a High-Volume Dealership on Area 2, and it must obligate the subtenant to have a High-Volume Dealership in operation on Area 2 within two years after the date of the sublease. If Tenant fails to enter into an initial sublease of Area 2 within three years after the Construction Phase begins, or if a High-Volume Dealership is not in operation on Area 2 within two years after the date of the initial sublease, then it will not be a default by Tenant under this Lease but Landlord may terminate this Lease as to Area 2 in accordance with Subsection 12.04(d). If Landlord terminates this Lease as to Area 2 in accordance with this Subsection 12.04(b), then Landlord shall not re-lease Area 2 to any High-Volume Dealership from which Tenant received a bona-fide written offer to sublease Area 2 (the preclusive effective of this sentence will not apply to more than three High-Volume Dealerships and will expire at 11:59 p.m. on December 31, 2010).
 - (2) *Subsequent Subleases.* If the initial sublease or any subsequent sublease of Area 2 expires, terminates, or is terminated before the expiration or termination of this Lease, then Landlord may terminate this Lease as to Area 2 in accordance with Subsection 12.04(d) unless Tenant subleases Area 2 to a new subtenant within 18 months after the previous sublease expired or terminated. The new sublease must be with a subtenant who, in Landlord's reasonable judgment, has the experience and wherewithal needed to successfully operate a High-Volume Dealership on Area 2, and it must obligate the subtenant to have a High-Volume Dealership in operation on Area 2 within twelve months after the date of the new sublease. If Tenant fails to sublease Area 2 to a new subtenant within the 18 months, or if a High-Volume Dealership is not in operation on Area 2 within twelve months after the date of the new sublease, then Landlord may terminate this Lease as to Area 2 in accordance with Subsection 12.04(d).
 - (3) *Landlord's Approval of Subtenants.* Tenant shall not enter into a sublease of Area 2 until Landlord notifies Tenant in writing of Landlord's determination that the

proposed subtenant has the experience and wherewithal needed to successfully operate a High-Volume Dealership on Area 2. To assist Landlord in making this determination, Tenant shall provide Landlord with the following:

- (A) Complete, detailed information about the proposed subtenant's business experience.
- (B) The proposed subtenant's complete, detailed financial statements for the most recent business year (audited by a certified public accountant reasonably satisfactory to Landlord, if the proposed subtenant has the statements audited in its normal course of business).
- (C) The proposed subtenant's intended use of Area 2 and the associated Improvements.
- (D) Pro forma financial statements for the first 12 months of the proposed subtenant's operations on Area 2, showing, to Landlord's reasonable satisfaction, the projected sales of new and used motor vehicles (number of units plus dollar amounts).
- (E) Any other information that Landlord may reasonably require to determine whether the proposed subtenant is qualified.

A proposed subtenant of Area 2 will be considered approved unless Landlord disapproves the proposed subtenant in writing within 30 days after Landlord receives all of the information described in this Subsection 12.04(b)(3).

- (c) *Common Sublease Provisions.* Each sublease must be expressly subject to all terms and conditions of this Lease, which will be superior to those set forth in the sublease; must require the subtenant to attorn to Landlord if Tenant breaches or Landlord terminates this Lease; and must have a term that does not extend beyond the term of this Lease then in effect. In addition, each sublease must authorize Tenant to terminate the sublease if, after the subtenant begins operating a High-Volume Dealership on the Premises, the subtenant discontinues operations for more than 60 consecutive days for reasons other than a Force Majeure Event (see Section 14.03).
- (d) *Termination Procedures.* To exercise its right under this Section 12.04 to terminate this Lease as to Area 1 or Area 2, Landlord must serve Tenant with a written notice of termination, which will be effective 30 days after service.
 - (1) On the effective date of a notice of termination, Tenant or the subtenant, whichever is then in possession, shall surrender to Landlord the affected area of the Premises and the associated Improvements, all of which must be in as good, safe, and broom-clean condition as practicable, excepting reasonable wear and tear and damage by forces beyond Tenant's reasonable control. At Landlord's written request, Tenant shall execute and provide to Landlord quitclaim deeds or other reasonable documents in recordable form acceptable to Landlord that reflect

the termination of Tenant's and the subtenant's right, title, and interest in this Lease, the Premises, and the Improvements.

- (2) The Monthly Rental will be reduced proportionately if Landlord terminates this Lease as to Area 1 or Area 2.
 - (3) Termination under this Section 12.04 will not relieve Tenant from the obligation to pay any sum due to Landlord or from any claim for damages previously accrued or then accruing against Tenant.
- (e) *Effect of Termination of Lease on Area Not Terminated.* If Landlord partially terminates this Lease as to Area 1 or Area 2 in accordance with this Section 12.04, then the following apply:
- (1) This Lease will be construed so that Tenant's rights and obligations are divided between Area 1 and Area 2, with the leasehold interest in the area not terminated treated as a continuing, separate, and independent interest governed by this Lease.
 - (2) The terms "Property" and "Premises" in this Lease will refer only to the area not terminated, and Tenant or Tenant's assignee will have no further rights or obligations in connection with the terminated area.
- (f) *Invalid Subleases.* A sublease made contrary to this Section 12.04 is void.

Section 12.05. Certified Copies of Assignments and Subleases

Tenant shall provide Landlord with a copy of each executed assignment and each executed sublease as soon after execution as is reasonably practicable, and Tenant shall certify in writing that each copy so provided is complete and accurate.

Section 12.06. Non-disturbance of Subtenants

If Landlord terminates this Lease solely because of Tenant's breach or default, Landlord shall not terminate any subleases that are in effect on the termination date or disturb the possession or leasehold rights of the subtenants. To that end, when Tenant subleases Area 1 or Area 2 in accordance with Section 12.04, Landlord shall enter into a non-disturbance agreement with the subtenant, using the form attached as **Exhibit F**, within 10 days after receiving Tenant's written request for such an agreement. Landlord is not bound by any sublease or amendment to a sublease unless Landlord has consented to it; Landlord shall not withhold, delay, or condition its consent unreasonably.

Section 12.07. Assignment or Sublease to a REIT

Notwithstanding any other provision of this Lease, if Tenant assigns or subleases Area 2 in accordance with this Article 12, then the assignee or subtenant may in turn assign or sublet its leasehold interest to a real estate investment trust ("REIT"), without Landlord's consent, as

part of an assignment-and-leaseback transaction under which (a) the REIT simultaneously subleases its interest back to the assignee or subtenant; and (b) the assignee or subtenant operates a High-Volume Dealership on Area 2, in accordance with this Lease.

Article 13: Breach and Remedies

Section 13.01. Breach by Tenant

- (a) If Tenant violates any covenant, condition, or agreement of this Lease, and if Landlord serves Tenant with written notice of breach, then the following will apply:
- (1) *Non-monetary violations.* For non-monetary violations, Tenant will be in breach of this Lease if Tenant has not cured the violation within 60 days after service of the notice or, for a violation that cannot be cured within 60 days, has not begun work on a cure within 60 days after service of the notice and diligently pursued the cure to completion.
 - (2) *Monetary violations.* For monetary violations, Tenant will be in breach of this Lease if Tenant has not cured the violation within 30 days after service of the notice.
- (b) In addition to Tenant's failure to cure a violation of any covenant, condition, or agreement within the time permitted by Subsection 13.01(a), the following also constitute a breach by Tenant:
- (1) Tenant's failure for more than 60 consecutive days (except during the Construction Phase of the Initial Term) to have at least one High-Volume Dealership operating on the Premises during all commercially reasonable days of the week and hours of the day, except as excused under Section 14.03 because of a Force Majeure Event.
 - (2) The appointment of a receiver to take possession of the Premises or the Improvements, or of Tenant's interest under this Lease, or of Tenant's operations on the Premises, for any reason, including but not limited to an assignment for benefit of creditors or voluntary or involuntary bankruptcy proceedings, if not released within 60 days.
 - (3) An assignment by Tenant for the benefit of creditors, or the voluntary filing by Tenant or the involuntary filing against Tenant of a petition or other court action or suit under any law for the purpose of (1) adjudicating Tenant a bankrupt; (2) extending time for payment; (3) satisfaction of Tenant's liabilities; or (4) reorganization, dissolution, or arrangement because of bankruptcy or insolvency, or to prevent bankruptcy or insolvency. In the case of an involuntary proceeding, if all consequent orders, adjudications, custodies, and supervisions are dismissed, vacated, or otherwise permanently stayed or terminated within 60 days after the filing or other initial event, then Tenant will not be in breach of this Lease.

- (4) The subjection of any right or interest of Tenant under this Lease to attachment, execution, or other levy, or to seizure under legal process, when the claim against Tenant is not released within 60 days.
- (5) Tenant's abandonment of, or vacation from, the Premises (failure to occupy and operate the Premises for 60 consecutive days will be considered an abandonment and vacation of the Premises and of the personal property remaining on the Premises). This Subsection 13.01(b)(5) does not apply to Tenant's vacating the Premises because the Improvements are damaged or destroyed, nor does it apply to any subsequent, reasonable period of repair or reconstruction.
- (6) Except for assignments approved or permitted under Article 12, assignment of the Premises or this Lease by Tenant, either voluntarily or by operation of law, and whether by judgment, execution, death, or any other means, without Landlord's written consent.
- (7) Use of the Premises for any purpose other than as authorized in this Lease.

Section 13.02. Termination and Unlawful Detainer

If Tenant breaches this Lease in accordance with Section 13.01, then, except as provided in Section 13.03, Landlord has the following remedies in addition to all other rights and remedies provided by law or equity. Landlord may resort to these remedies cumulatively or in the alternative, at Landlord's election:

- (a) Landlord may terminate this Lease by serving Tenant and its then-current subtenants with a written notice of termination ("Termination Notice"). If a Termination Notice is served, then all Tenant's rights in the Premises and the Improvements will terminate immediately. Promptly after the Termination Notice is served—
 - (1) Tenant shall surrender and vacate the Premises and the Improvements in "broom clean" condition;
 - (2) Landlord may re-enter and take possession of the Premises and the Improvements; and
 - (3) Except as otherwise provided in Section 12.06, Landlord may eject all persons and entities in possession or occupancy, or eject some and not others, or eject none.

Termination under this Subsection 13.02(a) will not relieve Tenant from the obligation to pay any sum due to Landlord or from any claim for damages previously accrued or then accruing against Tenant. Nor will termination relieve Tenant from indemnity obligations specified to survive termination of this Lease.

- (b) Landlord may—
- (1) re-enter the Premises and, without terminating this Lease, re-let the Premises and the Improvements, in whole or part, for the account and in the name of Tenant or otherwise; and
 - (2) eject all persons, or eject some and not others, or eject none, except as otherwise provided in Section 12.06.

Landlord shall apply all rents from re-letting in accordance with Subsection 13.02(f). Any re-letting may be for the remainder of the term then in effect or for a shorter period. Landlord shall execute any leases made under this provision in Landlord's name, and Landlord will be entitled to all rents from the use, operation, or occupancy of the Premises or the Improvements, or of both. Tenant nevertheless shall pay to Landlord, on the due dates specified in this Lease, the equivalent of all sums required of Tenant under this Lease plus reasonable Landlord's expenses, less the proceeds of any re-letting or attornment. No act by Landlord or on Landlord's behalf under this Subsection 13.02(b) will constitute a termination of this Lease unless Landlord serves Tenant with a Termination Notice.

- (c) Landlord may store Tenant's personal property and trade fixtures remaining on the Premises for Tenant's account and at Tenant's cost in accordance with California law. The election of one remedy for any one item will not foreclose the subsequent election of any other remedy for another item or for the same item.
- (d) Landlord will be entitled to each installment of rent or to any combination of installments for any period before termination, plus interest at 10% per annum from each installment's due date. The proceeds of re-letting or attorned sub-rents will be applied as follows when received: (1) to Landlord to the extent that the proceeds for the period covered do not exceed the amount due from, and charged to, Tenant for the same period; and (2) the balance to Tenant.
- (e) Landlord will be entitled to damages in the following sums:
- (1) the worth at the time of award of the unpaid rent that had been earned at the time of termination of this Lease;
 - (2) the worth at the time of award of the amount by which the unpaid rent that would have been earned after termination of this Lease until the time of award, less the proceeds of all re-lettings and attornments, plus interest at the annual rate of 10%;
 - (3) the worth at the time of award of the amount by which the unpaid rent for the balance of the term then in effect after the time of award exceeds the amount of future rental loss that Tenant proves could be reasonably avoided; and
 - (4) any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease.

For purposes of Subsections 13.02(e)(1) and 13.02(e)(2), the "worth at the time of award" will be calculated by adding 3% to the discount rate of the Federal Reserve Bank of San Francisco at the time of the award. For purposes of Subsection 13.02(e)(3), the "worth, at the time of award" will be calculated by adding 2% to the discount rate of the Federal Reserve Bank of San Francisco at the time of the award.

- (f) Tenant hereby assigns to Landlord all sub-rents and other sums falling due from subtenants, licensees, and concessionaires during any period in which Landlord has the right under this Lease, exercised or not, to re-enter the Premises for Tenant's breach, and Tenant will not have any right to these sums during that period. This assignment is subject and subordinate to all assignments of the same sub-rents and other sums made, before the breach in question, to a Lender holding a Leasehold Encumbrance. Landlord may re-enter the Premises and the Improvements with or without process of law, and without terminating this Lease, and collect these sums or bring an action for the recovery of the sums from such obligors, or both. Landlord will receive and collect all sub-rents and proceeds from re-letting, applying them as follows:
- (1) first, to the payment of reasonable expenses (including attorney's fees or brokers' commissions, or both) paid or incurred by Landlord or on Landlord's behalf in recovering possession, placing the Premises and the Improvements in good condition, and preparing or altering the Premises or the Improvements for re-letting;
 - (2) second, to the reasonable expense of securing new tenants;
 - (3) third, to the fulfillment of Tenant's covenants to the end of the term then in effect; and
 - (4) fourth, to Landlord's uses and purposes.

Tenant nevertheless shall pay to Landlord, on the due dates specified in this Lease, the equivalent of all sums required of Tenant under this Lease plus Landlord's expenses, less the proceeds of the sums assigned and actually collected under this Subsection 13.02(f). Landlord may collect either the assigned sums or Tenant's balances, or both, or any installment or installments of them, either before or after expiration of the term then in effect. But the limitations period will not begin to run on Tenant's payments until the due date of the final installment to which Landlord is entitled, nor will it begin to run on the payments of the assigned sums until the due date of the final installment due from the respective obligors.

Section 13.03. Subtenant's Election to Continue Lease in Effect

As used in this Section 13.03 (except in Subsections 13.03(b)(1) and 13.03(b)(2)), "subtenant," "sublease," and "area" are singular if only one sublease is in effect and plural if two subleases are in effect. If Tenant breaches this Lease while a valid sublease is in effect, then Landlord may not terminate this Lease under Section 13.02 unless Landlord first notifies

the subtenant in accordance with this Section 13.03 and the time for the subtenant to respond to the notice has passed.

- (a) *Landlord's Notice.* Landlord's notice must (1) state that Tenant has breached this Lease; (2) describe the breach and the required cure; (3) state the time within which the cure must be completed; (4) explain that Landlord intends to terminate the Lease unless the subtenant notifies Landlord, within 30 days after receiving Landlord's notice, that the subtenant elects to cure the breach and take an assignment of this Lease as to the area covered by the subtenant's sublease; and (5) explain that the subtenant may take the assignment only if Landlord determines, in accordance with Section 12.01, that the subtenant has the experience and wherewithal needed to successfully manage the area covered by the sublease consistently with the purposes of this Lease (if, however, Landlord has previously approved the subtenant in accordance with Section 12.04, then Landlord's further approval is not required for the subtenant to take an assignment).
- (b) *Subtenant's Response.* The subtenant must respond to Landlord's notice within 30 days after receiving Landlord's notice, and the response must (1) affirm that the subtenant will cure the breach as required, within the time specified in Landlord's notice (or within a time acceptable to both Landlord and the subtenant); (2) affirm that the subtenant desires to take an assignment of this Lease as to the area covered by the subtenant's sublease; and (3) acknowledge that the assignment will be effective only if Landlord determines, in accordance with Section 12.01, that the subtenant has the experience and wherewithal needed to successfully manage the area covered by the subtenant's sublease consistently with the purposes of this Lease (if, however, Landlord has previously approved the subtenant in accordance with Section 12.04, then Landlord's further approval is not required for the subtenant to take an assignment).
 - (a) If two subleases are in effect and both subtenants respond that they are willing to cure Tenant's breach and take an assignment of the Lease, then their respective obligations for curing Tenant's breach will be in the proportions that the acreages of Area 1 and Area 2 each bear to the acreage of the total Property, and Tenant shall partially assign the Lease to each subtenant based on the area covered by each subtenant's sublease.
 - (b) If two subleases are in effect and only one of the two subtenants responds that it is willing to cure the Tenant's breach and take an assignment of the Lease, then the responding subtenant will be solely responsible for curing the Tenant's breach, and the Lease for the entire Premises will be assigned to the responding subtenant if Landlord determines, in accordance with Section 12.01, that such responding subtenant has the experience and wherewithal to successfully manage the entire Premises consistently with the purposes of this Lease.
- (c) *Assignment.* When Landlord notifies Tenant that a subtenant has elected to cure the breach and take an assignment, Tenant shall assign this Lease to the subtenant, in accordance with Subsection 12.02(a)(3), as to the area covered by the subtenant's sublease.

- (d) *Subtenant's Failure to Cure.* A subtenant's failure to cure the breach as required, within the time specified in Landlord's notice under Subsection 13.03(a) (or within a time acceptable to both Landlord and the subtenant) will constitute a breach under Section 13.01 that entitles Landlord to terminate this Lease, in accordance Section 13.02, as to the area covered by the subtenant's sublease.

Section 13.04. Continuation of Lease in Effect

If Tenant breaches this Lease and abandons the Premises while this Lease is in effect, and if Section 13.03 has not been invoked, then Landlord may continue this Lease in effect by not terminating Tenant's right to possession of the Premises. In that event, Landlord will be entitled to enforce all of its rights and remedies under this Lease, including the right to recover Monthly Rent as it becomes due. This Section 13.04 is to be applied in accordance with Civil Code section 1951.4, which provides that a landlord may continue a lease in effect after a tenant's breach and abandonment and recover rent as it becomes due if tenant has a right to sublet or assigns, subject only to reasonable limitations.

Section 13.05. Cumulative Remedies

The remedies given to Landlord in this Article 13 are not exclusive. They are cumulative with, and in addition to, all remedies provided elsewhere in this Lease or allowed by law on or after the Effective Date.

Section 13.6. Waiver of Breach

A party's failure to insist on strict performance of this Lease or to exercise any right or remedy upon the other party's breach of this Lease will not constitute a waiver of the performance, right, or remedy. A party's waiver of the other party's breach of any term or provision in this Lease will not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other term or provision. A waiver is binding only if set forth in writing and signed by the waiving party.

Section 13.7. Surrender of Premises

On expiration or earlier termination of this Lease, Tenant shall surrender the Premises and the Improvements to Landlord in as good, safe, and broom-clean condition as practicable, excepting reasonable wear and tear and damage by forces beyond Tenant's reasonable control. At Landlord's written request, Tenant shall execute and provide to Landlord quitclaim deeds or other reasonable documents in recordable form acceptable to Landlord that reflect the expiration or termination of Tenant's right, title, and interest in this Lease, the Premises, and the Improvements.

Article 14: Miscellaneous

Section 14.01. Notices

Any notice or other communication under this Lease must be in writing and will be considered properly given and effective only when delivered or mailed to the following persons in the manner provided in this section:

- (a) If to Landlord: City Manager
 City of Sacramento
 915 I Street, Fifth Floor
 Sacramento, CA 95814

- (b) If to Tenant: Rapton Investment Group LLC
 Attn: Mel Rapton, Manager
 2820 Fulton Avenue
 Sacramento, CA 95821

With a copy to— Law Offices of Gregory D. Thatch
 1730 "I" Street, Suite 220
 Sacramento, CA 95814

Any party may change its address for these purposes by giving written notice of the change to the other party in the manner provided in this section. If sent by mail, a notice or other communication will be effective or will be considered to have been properly given 48 hours after it has been deposited in the United States Mail (certified mail and return receipt requested) and addressed as set forth above, with postage prepaid. The parties shall not refuse or evade delivery of any notice. Notice personally served will be considered effective or to have been properly given upon delivery.

Section 14.02. Landlord's Right to Enter and Inspect

Tenant shall permit Landlord and Landlord's elected officials, officers, employees, agents, representatives, or consultants to enter upon the Premises during Tenant's normal business hours while this Lease is in effect to inspect the Premises and the Improvements for the purpose of determining Tenant's compliance with this Lease.

Section 14.03. Force Majeure

- (a) Except as otherwise expressly provided in this Lease, if the performance of any act required by this Lease to be performed by either Landlord or Tenant is prevented or delayed because of a Force Majeure Event (defined in Subsection 14.03(b)), then the time for performance will be extended for a period equivalent to the period of delay, and performance of the act during the period of delay will be excused. This section does not excuse Tenant from the obligation to pay rent promptly or the obligation of either party to perform an act rendered difficult or impossible solely because of that party's financial condition.

- (b) "Force Majeure Event" means a cause of delay that is not the fault of the party who is required to perform under this Lease and is beyond that party's reasonable control, including but not limited to the elements (including but not limited to floods, earthquakes, windstorms, and unusually severe weather), fire, energy shortages or rationing, riot, acts of terrorism, war or war-defense conditions, the acts of any public enemy, the actions or inactions of any governmental entity (excluding Landlord) or the entity's agents, litigation (including but not limited to litigation under CEQA), labor shortages (including but not limited to shortages caused by strikes or walkouts), and materials shortages.

Section 14.04. Time of Essence

Time is of the essence of this Lease.

Section 14.05. Relationship of the Parties

This Lease does not create any relationship or association between Landlord and Tenant other than that of landlord and tenant. For example, and without limiting the previous sentence, this Lease does not create between Landlord and Tenant the relationship of principal and agent, nor does it create a partnership or joint venture.

Section 14.06. Attorneys' Fees

The party prevailing in any litigation concerning this Lease, the Premises, or the Improvements will be entitled to an award by the court of reasonable attorneys' fees and litigation costs through final resolution on appeal in addition to any other relief that may be granted in the litigation.

Section 14.07. Binding on Successors and Assigns

This Lease binds and inures to the benefit of the successors and assigns of the parties. This Section 14.07 does not constitute Landlord's consent to any assignment of this Lease or any interest in the Lease.

Section 14.08. Partial Invalidity

If any nonmaterial provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, then the remaining provisions will remain in full force.

Section 14.09. Memorandum of Lease for Recording

Neither Landlord nor Tenant may record this Lease without the other's written consent. Landlord and Tenant shall execute, at the request of either at any time while this Lease is in effect, a memorandum or "short form" of this Lease for purposes of, and in a form suitable

for, recordation. The memorandum or "short form" must describe the parties and the Premises, specify the term of this Lease, incorporate this Lease by reference, and include any other provisions required by any Lender. In the event of a division and partial assignment of this Lease under Article 12, and upon the request of any assignee, Landlord and the assignee shall execute and record an amended memorandum of lease referencing the partial assignment and confirming the assignee's rights under this Lease to Area 1 or Area 2, as applicable.

Section 14.10. Interpretation and Venue

This Lease is to be interpreted and applied in accordance with California law, except that the rule of interpretation in Civil Code section 1654 will not apply. Paragraphs A, B, C, and D of the Background are part of this Lease, as are **Exhibits A, B, C, D, E, and F**. Any litigation concerning this Lease must be brought and prosecuted in the Sacramento County Superior Court.

Section 14.11. Interest

Tenant shall pay interest at the annual rate of 10% on any sums Tenant owes Landlord under this Lease but fails to pay when due.

Section 14.12. Authority of Persons Signing Lease

Each person or entity signing this Lease on behalf of Landlord or Tenant warrants and represents that he, she, or it is authorized to execute this Lease and to bind Landlord or Tenant, as the case may be, to its provisions.

Section 14.13. Estoppel Certificates

Each party, within 10 business days after receiving a written request from the other party, shall execute and deliver to the requesting party an Estoppel Certificate that does the following:

- (a) certifies that this Lease is unmodified and in full effect (or, if this Lease has been modified, that this Lease is in full effect as modified);
- (b) states the amount of rental and dates to which the rental has been paid in advance, if any;
- (c) states, to the best knowledge of the party providing the certificate, whether the other party is in breach of the performance of any provision of this Lease, specifying each breach;
- (d) identifies whether the portion of the Premises being leased or subleased consists of either Area 1 or Area 2, or both; and

(e) such other pertinent information as Landlord, Tenant, a subtenant, or any Lender may request.

Prospective purchasers, lenders, and other similar lien holders of the Premises, and any assignee or subtenant of the Premises, may rely on such an Estoppel Certificate.

Section 14.14. Integration and Modification

This Lease sets forth the parties' entire understanding regarding the matters set forth above. It supersedes all prior or contemporaneous agreements, representations, and negotiations (written, oral, express, or implied) and may be modified only by another written agreement signed by both parties.

City of Sacramento

Rapton Investment Group LLC

By _____
Heather Fargo, Mayor

By _____
Mel Rapton, Manager

Dated: June __, 2007

Dated: June __, 2007

Attest:

Approved for Legal Form:

By _____
City Clerk

By _____
City Attorney

EXHIBIT A
THE PROPERTY

EXHIBIT 'A-1'

DESCRIPTION OF PROPERTY FULTON AVENUE DEVELOPMENT PROJECT

Being a portion of the tract of land conveyed in the deed from T.A. Farrell to the City of Sacramento, a municipal corporation, recorded on February 28, 1914 in Book 397, of Deeds at Page 157, in the Office of the Sacramento County Recorder, and being a portion of that certain Record of Survey entitled "Map of Survey and Subdivision of Rancho Del Paso" filed for record in Book A of Surveys, at Page 94, Sacramento County Records situate in Sections 26 and 31 of Rancho Del Paso, City of Sacramento, County of Sacramento, State of California, said property being more particularly described as follows:

Beginning at a found 6" x 6" concrete highway monument marking a point on the northwesterly right-of-way line of Interstate Business 80, currently known as Capital City Freeway, from which station 305+16.07 on the "B1" base line of the Department of Public Works 1948 Survey between Bell Street and Placer County line in Sacramento County, District III, County of Sacramento, Route 3, Section B, Sheet 4 as filed for record on February 13, 1958 in Book 3 of State Highway Maps, at Page 268, Sacramento County Records bears South 26°29'08" East a distance of 80.00 feet; thence from said **POINT OF BEGINNING** along said northwesterly right-of-way line of Interstate Business 80 for the following four (4) arcs, courses and distances:

1. from a radial line which bears South 26°29'08" East, 574.36 feet along the arc of a non-tangent 2750.00 foot radius curve to the right through a central angle of 11°58'00", subtended by a chord which bears South 69°29'52" West for a distance of 573.32 feet;
2. South 75°28'52" West a distance of 265.91 feet;
3. South 80°50'34" West a distance of 140.71 feet; and
4. North 89°45'38" West a distance of 333.85 feet to a point of curvature;

thence leaving said northwesterly right-of-way line of Interstate Business 80 for the following thirteen (13) arcs, courses and distances:

1. from a radial line which bears North 83°15'46" West, 188.29 feet along the arc of a non-tangent 635.17 foot radius curve to the right through a central angle of 16°59'06";
2. South 66°16'40" East a distance of 0.17 feet to a point of curvature;
3. from a radial line which bears South 66°16'40" East, 538.00 feet along the arc of a non-tangent 565.00 foot radius curve to the left through a central angle of 54°33'28";
4. North 30°50'08" West a distance of 70.26 feet to a point of curvature;
5. from a radial line which bears North 33°10'48" West, 11.66 feet along the arc of a non-tangent 285.00 foot radius curve to the right through a central angle of 02°20'40";
6. North 59°09'52" East a distance of 130.24 feet to a point of curvature;
7. 221.80 feet along the arc of a tangent 635.00 foot radius curve to the right through a central angle of 20°00'47";
8. North 79°10'39" East a distance of 143.60 feet to a point of curvature;

9. 123.25 feet along the arc of a tangent 565.00 foot radius curve to the left through a central angle of 12°29'55";
10. North 66°40'44" East a distance of 90.62 feet;
11. North 64°01'34" East a distance of 50.01 feet;
12. South 48°53'25" East a distance of 158.17 feet; and
13. South 35°18'51" East a distance of 781.84 feet to the Point of Beginning.

Containing 20.02 acres of land, more or less.

See Exhibit "A-2", plat to accompany description, attached hereto and made a part hereof.

The Basis of Bearings for this description is California State Plane Coordinate System, Zone 2, NAD'83, as measured between GPS Station "G3709", and GPS Station "G3810 as shown and so designated on that certain Record of Survey entitled "Record of Survey GPS Static Survey" filed for record in Book 63 of Surveys, at Page 29, Sacramento County Records. Said bearing is North 61°25'55" East. Distances shown are ground based.

This description is for a **lease agreement only** and not intended to circumvent the Subdivision Map Act and shall not be used for sale, lease or finance. Any conveyance must comply with the Subdivision Map Act and local ordinances.



Craig E. Spiess P.L.S. 7944
Expires: December 31, 2007

Date: 6/4/07



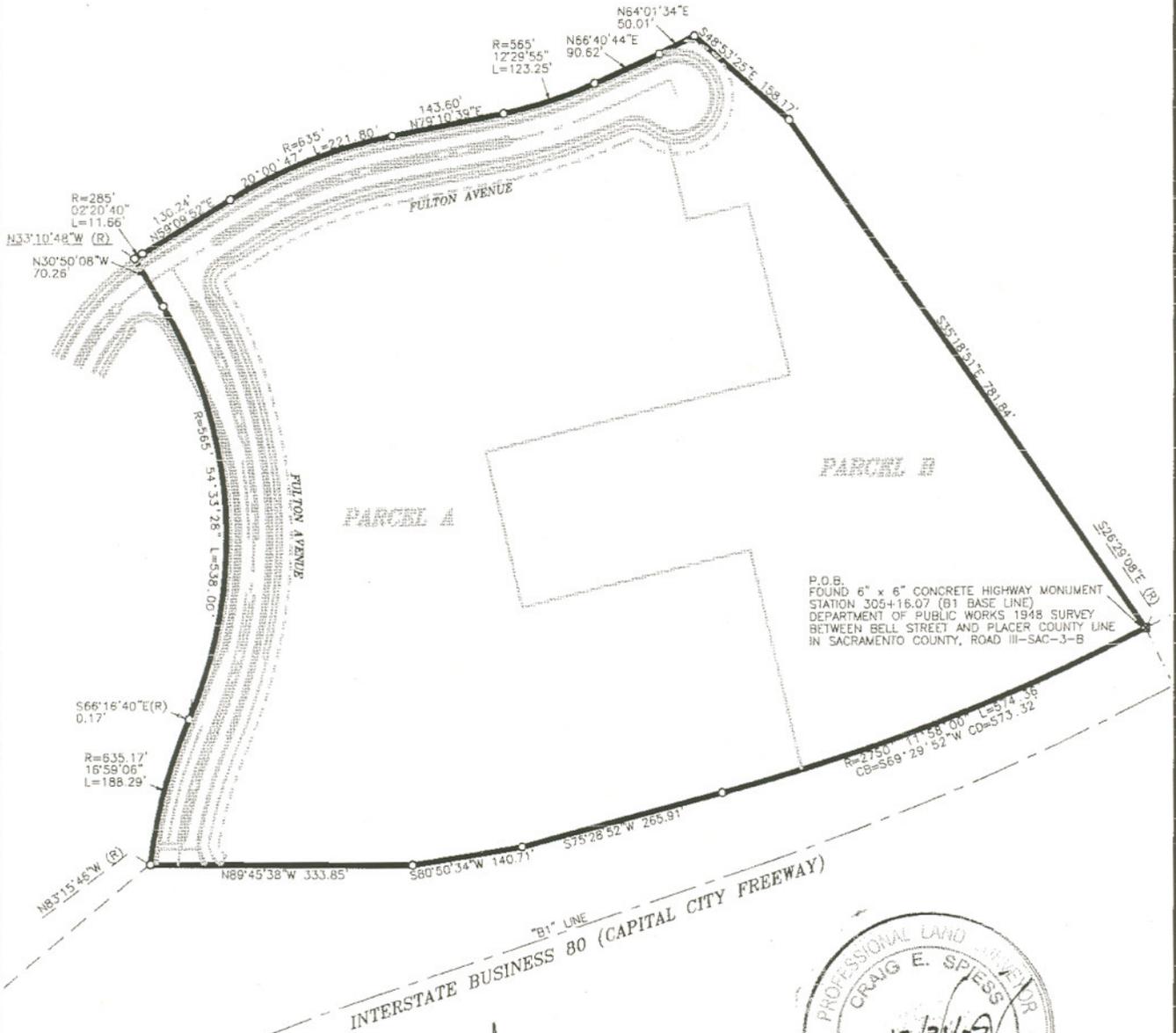
PREPARED BY WOOD RODGERS, INC.
SACRAMENTO, CALIFORNIA

EXHIBIT A-2

PLAT TO ACCOMPANY
DESCRIPTION

FULTON AVENUE DEVELOPMENT PROJECT

CITY OF SACRAMENTO COUNTY OF SACRAMENTO
STATE OF CALIFORNIA



P.O.B.
FOUND 6" x 6" CONCRETE HIGHWAY MONUMENT
STATION 305+16.07 (B1 BASE LINE)
DEPARTMENT OF PUBLIC WORKS 1948 SURVEY
BETWEEN BELL STREET AND PLACER COUNTY LINE
IN SACRAMENTO COUNTY, ROAD III-SAC-3-B



SEE DESCRIPTION FOR
COURSE INFORMATION

SCALE: 1"=200'

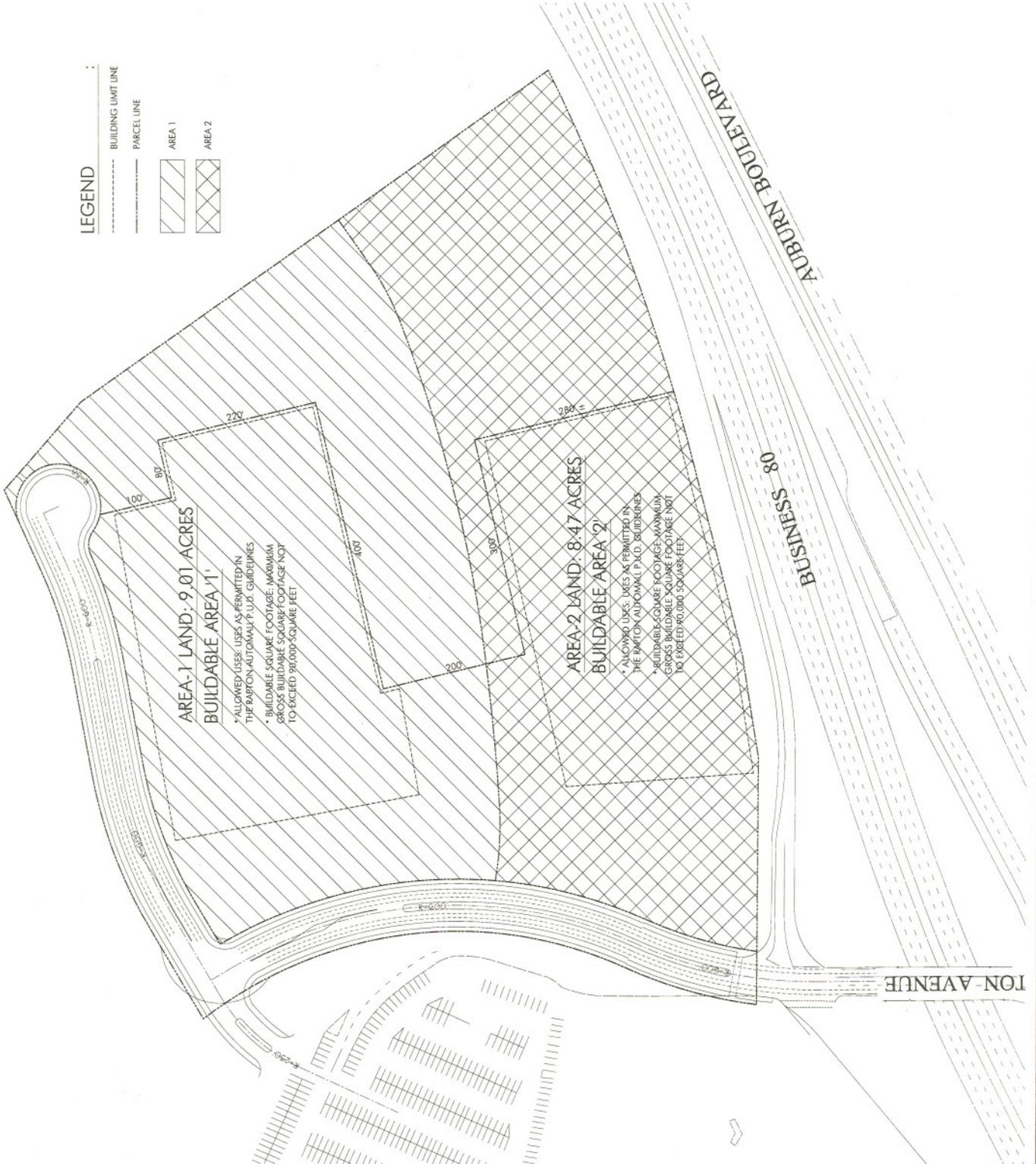
WOOD RODGERS
 ENGINEERING • MAPPING • PLANNING • SURVEYING
 3301 C St., Bldg. 100-B Tel 916.341.7760
 Sacramento, CA 95816 Fax 916.341.7767

EXHIBIT B

**SITE PLAN
SHOWING AREA 1 AND AREA 2**

LEGEND

- BUILDING LIMIT LINE
- PARCEL LINE
- ▨ AREA 1
- ▩ AREA 2



**AREA-1 LAND: 9.01 ACRES
 BUILDABLE AREA '1'**

- * ALLOWED USES: USES AS PERMITTED IN THE RAPTON AUTOMALL P.U.D. GUIDELINES
- * BUILDABLE SQUARE FOOTAGE: MAXIMUM GROSS BUILDABLE SQUARE FOOTAGE NOT TO EXCEED 90,000 SQUARE FEET

**AREA-2 LAND: 8.47 ACRES
 BUILDABLE AREA '2'**

- * ALLOWED USES: USES AS PERMITTED IN THE RAPTON AUTOMALL P.U.D. GUIDELINES
- * BUILDABLE SQUARE FOOTAGE: MAXIMUM GROSS BUILDABLE SQUARE FOOTAGE NOT TO EXCEED 90,000 SQUARE FEET

Exhibit C

Record for the benefit of the
City of Sacramento: exempt from
Fees under Government Code § 6103

When recorded mail to:

Office of the City of Attorney
915 I Street, 4th Floor
Sacramento, California 95814
Attn: Joseph Cerullo, Esq.

(Space above line for Recorder's use only)

Memorandum of Commencement Date Ground Lease

Landlord: City of Sacramento, a California municipal corporation

Tenant: Rapton Investment Group LLC, a California limited-liability
company

- 1. Background.** The City of Sacramento ("Landlord"), a California municipal corporation, and Rapton Investment Group LLC ("Tenant"), a California limited-liability company, are parties to a Ground Lease, dated _____, 2007 (the "Lease"). The Lease covers the real property described in **Exhibit A** to this memorandum (the "Premises"). Under Subsection 2.02(c) of the Lease, the Operations Phase of the Lease's Initial Term begins on the date that Landlord, acting as a governmental entity, issues Tenant a certificate of occupancy for the first dealership on the Premises. Subsection 2.02(c) also provides that the parties are to execute, and Landlord is to record, a Memorandum of Commencement Date within 30 days after the Operations Phase begins. This document fulfills that obligation.
- 2. Commencement Date.** Landlord and Tenant hereby confirm that the Operations Phase of the Lease's Initial Term commenced on _____, 200__, which is the date on which Landlord issued a certificate of occupancy for the first dealership on the Premises, and that the Initial Term of the Lease will expire on _____, 20__.

City of Sacramento

Rapton Investment Group LLC

By: _____
Heather Fargo, Mayor
Dated: _____, 200__

By: _____
Mel Rapton, Manager
Dated: _____, 200__

Attest:

Approved for Legal Form:

By: _____
City Clerk

By: _____
City Attorney

EXHIBIT D

REMEDIATION PLAN

The Remediation Plan consists of the following identified documents which are on file with the City of Sacramento Economic Development Department and which are hereby incorporated herein by reference:

- 1) "Final Implementation Plan" for the Sacramento Trapshooting Club, dated March 2007, prepared by Baseline Environmental Consulting, no. Y4368-BO.
- 2) "Risk Management Plan" for the Sacramento Trapshooting Club, dated March 2007, prepared by Baseline Environmental Consulting, no. Y4368-BO.
- 3) "Final Response Plan" for the Sacramento Trapshooting Club, dated February 2007, prepared by Baseline Environmental Consulting, no. Y4368.00676.

FINAL IMPLEMENTATION PLAN

SACRAMENTO
TRAPSHOOTING CLUB
3701 Fulton Avenue
Sacramento, California

MARCH 2007

For:
City of Sacramento
Economic Development Department

Y4368-B0

BASELINE

ENVIRONMENTAL CONSULTING

14 March 2007
Y4368-B0.00443

Mr. Charley Langer
County of Sacramento
Environmental Management Department
Site Assessment and Mitigation
8475 Jackson Road
Sacramento, California 95826-3904

Subject: Final Implementation Plan, Sacramento Trapshooting Club, Sacramento

Dear Mr. Langer:

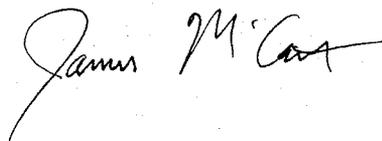
Enclosed please find the Final Implementation Plan for the area of contamination associated with the Sacramento Trapshooting Club. The Implementation Plan has been revised to address your comments, received via email dated 19 January 2007.

Should you have any questions or need additional information, please do not hesitate to contact us at your convenience.

Sincerely,



Yane Nordhav
Principal
Professional Geologist No. 4009



James McCarty
Project Engineer
Professional Engineer No. C 62618



YN:JM:km

Enclosure

cc: Jim Rinehart, City of Sacramento
Dean Peckham, City of Sacramento
Gerald Djuth, RWQCB

FINAL IMPLEMENTATION PLAN

SACRAMENTO
TRAPSHOOTING CLUB
3701 Fulton Avenue
Sacramento, California

MARCH 2007

Prepared for:
CITY OF SACRAMENTO
ECONOMIC DEVELOPMENT DEPARTMENT

Y4368-B0.00443

BASELINE Environmental Consulting
5900 Hollis Street, Suite D • Emeryville, California 94608
(510) 420-8686 • (510) 420-1707 fax

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- E: Quality Assurance Project Plan (“QAPP”)
- F: Risk Management Plan

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- 4: Parcel Boundary
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- 1: Summary of Background Sampling, Soil Samples
- 2: Summary of ARARS and TBCs

FINAL IMPLEMENTATION PLAN
Sacramento Trapshooting Club
3701 Fulton Avenue
Sacramento, California

1.0 PURPOSE OF IMPLEMENTATION PLAN

This Final Implementation Plan (“IP”) has been prepared by BASELINE Environmental Consulting (“BASELINE”) on behalf of the City of Sacramento (“City”) for environmental remediation associated with the activities of the Sacramento Trapshooting Club (“Club”). The Club leased the property (“leasehold”) at 3701 Fulton Avenue in Sacramento (Figure 1) from the City and operated a trapshooting range on the site. This activity resulted in the deposit of lead shot and clay pigeon debris onto the leasehold and a small area beyond the northern boundary of the leasehold, defined for the purpose of this document as the area of contamination (“AOC”). The City considered various remedial alternatives in accordance with the U.S. Environmental Protection Agency (“EPA”) guidelines (EPA, 1988) and this IP presents the details of the preferred remedial alternative for the AOC as identified in BASELINE’s Draft Final Response Plan (“RP”), dated 31 March 2006 and finalized in the Final Response Plan, dated 21 February 2007.

This IP contains the technical and operational plans for implementation of the RP, which has been approved by the Sacramento County Environmental Management Department (“SCEMD”), the lead agency for remediation oversight. This IP includes: design specifications; mitigation measures developed during the public review process to minimize environmental impacts; post-remedial sampling and monitoring procedures; a Transportation Plan; a Model Health and Safety Plan; a Quality Assurance Project Plan (“QAPP”); and a Risk Management Plan (“RMP”).

2.0 BACKGROUND

2.1 Site History

The Club leased approximately 28 acres from the City in 1926. The adjacent Haggin Oaks Golf Complex and the leasehold are part of the greater Del Paso Park, a recreational area adjacent to Arcade Creek in the northeastern portion of Sacramento (Figure 1). Del Paso Park was originally located within Rancho del Paso, a 40,000-acre ranch owned by Ben Ali Haggin and used for breeding racehorses. Historical maps indicate 828 acres of the present day Del Paso Park area were reserved for a City park in 1910 and the City had taken ownership of the land by 1916. The size of the leasehold was reduced to approximately 20 acres to allow for the construction of Interstate 80 and the Haggin Golf complex. The City terminated the lease in the fall of 2006.

The Club operated a shooting range consisting of ten trapshooting stations where the public could practice shooting aerial targets (clay pigeons). Clay pigeons typically consist of crushed limestone and petroleum pitch, which contain polynuclear aromatic hydrocarbons (“PAHs”). Clay pigeons are launched from trap houses for participants to shoot at with shotguns loaded

with shells containing lead pellets, which are referred to as “shot.” The shooting stations are located along the southwestern edge of the shooting range and face northeast (Figure 2). In addition to the trapshooting range, the leasehold contains registration booths, restrooms, a paved parking area (about 2.5 acres), and a clubhouse, all located on the extreme southwestern portion of the leasehold. The earliest available aerial photographs, taken in 1952, indicate that at that time the alignments of the shooting stations and shooting range were the same as they were up until the lease was terminated in 2006. According to Jim Elliott, the former President of the Sacramento Trapshooting Club, the site parking, building, and grass areas have not been changed since the original construction in 1926.

2.2 Environmental Investigations

In 2004, the City initiated environmental investigations at the leasehold to evaluate potential future land use plans. The City is proposing to change the General Plan designation from Parks, Recreation, and Open Space to Heavy Commercial or Warehouse and rezone the leasehold accordingly. As part of the planning process, the City submitted an application to the California Environmental Protection Agency Site Designation Committee requesting that SCEMD become the regulatory agency providing oversight regarding site remediation. On 26 August 2004, the Site Designation Committee approved SCEMD as the oversight agency for the leasehold.

BASELINE prepared a workplan for site characterization activities, which was approved by SCEMD on 5 November 2004. In February 2005, BASELINE prepared a Site Assessment and Preliminary Response Report, describing the results of site characterization activities. That investigation found that the shallow soil (upper two feet) at the leasehold contained elevated concentrations of lead, arsenic, and PAHs. Fate and transport modeling indicated that it was unlikely that these contaminants in the shallow soil would migrate vertically into the groundwater. Sediment and water samples, collected from Arcade Creek, did not provide any evidence of impact due to surface runoff.

The SCEMD requested that additional work be conducted. The additional work consisted of: 1) evaluation of potential effects of the trapshooting club’s activities on surface soil quality outside the trapshooting club leasehold; 2) off-leasehold evaluation of background levels for arsenic; and 3) waste classification of on-leasehold clay pigeon debris.

BASELINE prepared a workplan for these activities, dated 1 June 2005, which was approved by SCEMD on 13 June 2005. BASELINE reported the results of these investigation activities and evaluated remedial action alternatives in the RP submitted to the SCEMD, dated 31 March 2006. The RP included the results of background sampling for arsenic and the clay pigeon waste classification activities, as well as the effects of trapshooting on soil quality outside the leasehold.

The analytical results from the samples collected beyond the leasehold boundaries indicated that the shallow soils north of the leasehold were impacted with lead, arsenic, and PAHs. The SCEMD requested additional sampling to define the limits of the impact. A workplan was prepared by BASELINE, dated 21 March 2006, and approved by the SCEMD in a letter dated 17 April 2006. The work was performed in May 2006 and a report summarizing the findings was submitted to the SCEMD on 23 June 2006. The report defined the limits of the AOC that

includes the shooting range of the leasehold and an area beyond the leasehold boundary to the north (Figure 3).

3.0 REMEDIATION PLAN

3.1 Remediation Goals

The goal of the selected remedial alternative is to protect both the public and the environment from adverse effects from soils containing lead, arsenic, and PAHs within the AOC. Exposure to contaminants in groundwater or surface water or degradation of the beneficial uses of groundwater or surface water is not considered necessary because: 1) BASELINE's site assessment indicated that the contaminants in the soil from the trapshooting activities were unlikely to migrate into the groundwater; and 2) the planned development will include improvements to the storm water conveyance system, which will be designed to minimize potential migration of contaminants into nearby surface waters (Arcade Creek). Therefore, the goal of remedial effort is to protect human receptors from adverse exposure to contaminants in the shallow soil.

3.2 Selected Remediation Alternative

The alternative selected as the most effective, feasible, and cost-effective in the RP consists of the following components:

- Excavation and off-site disposal of clay pigeon debris as a non-hazardous waste at a permitted facility;
- Consolidation of contaminated soil onto one of two parcels that will be created within the leasehold;
- Capping of the consolidated material with two feet of clean fill soil and two to four inches of concrete asphalt; and
- Institutional and engineering controls.

The two parcels would consist of Parcels A and B, about 10.8 and 6.7 acres, respectively (Figure 4). Grading exhibit drawings are provided in Appendix A. Clay pigeon debris will be removed and disposed of off-site in accordance with local, state, and federal waste disposal laws and regulations. Soil from the upper two feet of Parcel A will be excavated and consolidated onto Parcel B. Soil from north of the leasehold will also be excavated and consolidated onto Parcel B.

The EPA has published Preliminary Cleanup Goals ("PRGs") that provide chemical-specific soil concentration, at which adverse health effects are not expected to occur (EPA, 2004a). These screening values are based on types of land use (residential or commercial), a target excess cancer risk of one in a million (1×10^{-6}), and a non-cancer hazard index ("HI")¹ of one. The

¹ The HI is calculated by summing the hazard quotients for substances that affect the same target organ or organ system (e.g., respiratory system). The hazard quotient is the ratio of potential exposure to the substance and

differences in the residential and the commercial/industrial screening values are due to the use of different exposure scenarios, incorporating differences such as estimated exposure time and duration. Residential exposure scenarios are more conservative. For instance, the residential screening values assume an exposure duration of 70 years while a commercial/industrial exposure assumes an exposure duration of 25 years.

One of the goals of this remedial effort is to remove soil from Parcel A, such that the parcel would be acceptable for unrestricted use. To be acceptable for unrestricted use, the soil on Parcel A should not contain PAHs at concentrations that present an excess cumulative cancer risk of 1×10^{-5} or lead concentrations exceeding the PRG, assuming a residential land use exposure scenario; and arsenic should not exceed background levels. Background arsenic concentrations were found to range from less than the laboratory reporting limit (0.92 mg/kg) to 8.1 mg/kg (Table 1). The highest background value will be used as the upper range for background arsenic concentration. Following excavation and consolidation of the impacted soil, verification sampling will be completed in Parcel A and north of the leasehold to demonstrate that the cleanup goals have been met. Verification samples will be subjected to metals and PAH analyses in accordance with EPA methods 6010B and 8310, respectively. About ten percent of the verification samples will be analyzed for arsenic content.

The following are the target cleanup goals for Parcel A:

- Less than the residential PRG for lead, 150 mg/kg;
- Less than an excess cumulative cancer risk of 1×10^{-5} for PAHs;
- Less than 8.1 mg/kg for arsenic, which is the highest background value reported for the Del Paso Park area.

The cumulative cancer risk for PAHs will be calculated using a benzo(a)pyrene equivalent concentration using the following Toxic Equivalency Factor (TEF):

Benzo(a)pyrene	1.0
Benzo(a)anthracene	0.1
Benzo(b)fluoranthene	0.1
Benzo(k)fluoranthene	0.1
Chrysene	0.001
Dibenz(a,h)anthracene	1.0
Indeno(1,2,3-dc)pyrene	0.1

A benzo(a)pyrene equivalent of less than 0.62 mg/kg would have a cumulative cancer risk of less than 1×10^{-5} .

the level at which no adverse health effects are expected. An HI of less than one indicates no adverse health effects are expected as a result of exposure and an HI greater than one indicates adverse health effects are possible.

To provide protection from exposure to impacted soil consolidated onto Parcel B, institutional and engineering controls (“IC/ECs”)² have been developed for Parcel B. Development of Parcel B will include the use of clean backfill in all utility corridors to prevent exposure of future utility workers to contaminants. Any contaminated soil that is excavated and not consolidated on Parcel B will be disposed of off-site at a permitted facility. Hazardous Waste Operations and Emergency Response (“HAZWOPER”) health and safety training will be required for construction workers engaged in initial utility corridor excavation.

An RMP has been prepared to guide future construction and maintenance activities at Parcel B. The RMP delineates measures to be undertaken to protect human health and the environment (e.g., health and safety training, dust control, soil management procedures), and procedures for annual cap maintenance (and repairs, if necessary). The RMP includes requirements for annual reporting to SCEMD (refer to Appendix F).

3.3 Applicable or Relevant and Appropriate Requirements (“ARAR”)

Applicable or relevant and appropriate requirements (“ARARs”) are federal and state environmental statutes and regulations that pertain to the remedial action. Applicable requirements are cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or facility citing laws that specifically address a hazardous substance, pollutant, contaminant, remedial action, or location. Relevant and appropriate requirements are laws or regulations, that, while not “applicable,” address problems or situations sufficiently similar to those encountered that their use is well suited to a particular site. State requirements are ARARs only if they are more stringent than federal requirements.

In addition to ARARs, relevant advisories, criteria, or guidance, known as To-Be-Considered guidance (“TBCs”), must be considered for a remedial action. TBCs are not ARARs because they are neither promulgated nor enforceable and do not have to be achieved by remedial actions implemented at a site.

ARARs or TBCs may be chemical-, location-, or activity-specific. Chemical-specific ARARs or TBCs are usually health- or risk-based numerical values or methodologies used to determine acceptable concentrations of chemicals that may be found in, or discharged to, the environment. Location-specific ARARs or TBCs restrict actions or contaminant concentrations in certain environmentally sensitive areas. Examples of areas regulated under various federal laws include locations where endangered species or historically significant resources are present. Action-specific ARARs or TBCs are usually technology- or activity-based requirements, or limitations on actions or conditions involving specific chemicals of concern.

As part of the evaluation of remedial alternatives, the potentially applicable ARARs were identified (BASELINE, 2006). Table 2 summarizes the potentially applicable ARARs and TBCs identified in the RP and indicates how the proposed remedial action will comply with specific

² Including a deed restriction limiting future land uses to ensure only commercial/industrial land use and prohibition of sensitive land uses (e.g., schools, hospitals, and residential). The deed restriction will be enforced by Sacramento County.

ARARs or TBCs, if applicable, or provides an explanation as to why the identified ARAR or TBC is not applicable.

3.4 CEQA Process

In 1970, the California legislature enacted the California Environmental Quality Act (“CEQA”). The California Environmental Quality Act establishes both a procedural obligation to analyze and make public adverse physical environmental effects, and a substantive obligation to mitigate significant impacts. CEQA requires that public agencies prepare an Environmental Impact Report (“EIR”) whenever a proposed project may cause significant effects on the environment. The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided. The CEQA process provides an opportunity for public participation in the decision-making process for proposed projects and provides the public and decision makers with full information about the potential impacts of the project. The City prepared a Draft EIR for development and remediation of the AOC. The Draft EIR was circulated for public comment and review on 6 October 2006. The comment and review period ended on 20 November 2006. The City certified the Final EIR on 16 January 2007. Appendix B contains the mitigation measures that are required for the remedial action portion of the project.

3.5 Public Participation and Notifications

As part of the CEQA process, there was a 45-day public comment period on the Draft EIR, allowing the public to comment on the adequacy of the impact evaluation.

The City provided public notice of the availability of a Draft EIR. The notice was mailed to the last known name and address of all organizations and individuals who had previously requested such notice in writing. The notice was also provided by at least one of the following procedures:

1. Publication at least one time by the public agency in a newspaper of general circulation in the area affected by the proposed project;
2. Posting of notice by the public agency on and off the leasehold in the area where the project is to be located; and
3. Direct mailing to the owners and occupants of property contiguous to the parcel or parcels on which the project is located.

The notice disclosed the following:

- A brief description of the proposed project and its location;
- The starting and ending dates for the review period during which the lead agency would receive comments;
- A list of the significant environmental effects anticipated as a result of the project, to the extent such effects were known; and
- The address where copies of the Draft EIR and all documents referenced in the EIR were available for public review.

At the completion of the 45-day review period, comments received from the public were reviewed and considered by the City. No changes in the Draft Final Response Plan occurred from comments received during the public review period and the Final Response Plan was published on 21 February 2007.

Prior to beginning remedial activities, copies of this IP will be made available to interested nearby residents and businesses. In addition, copies will be provided to other entities that have established an interest in the project through participation in the CEQA process or by requesting information from the City.

3.5.1 Fact Sheet

Prior to remediation, the City will develop and submit fact sheets to the SCEMD for review and approval when specifically requested by the SCEMD. The City will be responsible for printing and distribution of fact sheets upon SCEMD approval using the approved community mailing list. The fact sheets will contain, at a minimum, the following information:

- Site background;
- Description of remedial actions;
- City and County contacts; and
- Emergency contacts.

In addition, the fact sheets will inform the public about future actions and opportunities for public participation concerning the site development.

3.5.2 Site Posting

During the remedial phase of site development, the City, or its agent, will post signs on the fence facing public areas identifying City and County contacts to obtain information or to report concerns.

3.6 Clay Pigeon Removal

3.6.1 Procedure

In 2005, BASELINE collected samples of the clay pigeon debris for the purpose of waste classification. The material was screened to separate the fine and coarse fractions; ninety percent of the material passed through a ¾-inch screen. The fine fraction of the sample was submitted for total and soluble lead and arsenic and PAH analyses. The coarse fraction was tested for toxicity by performing a 96-hour fish bioassay on the material using fathead minnows in accordance with Title 22 CCR section 66261.24(a)(6). In addition to the analyses of the screened material, unscreened clay pigeon debris consisting of both the fine and coarse fractions was analyzed for total and soluble lead, and subjected to a fish bioassay. A composite sample was analyzed for extractable hydrocarbons and Title 22 metals. The analytical results indicate that the debris is not a Federal or California hazardous waste. The clay pigeon debris (Figures

A1 and A2), estimated volume in excess of 14,000 cubic yards, will be excavated, loaded onto trucks, and off-hauled to a permitted facility accepting non-hazardous waste.

A contractor under contract with the City will perform the work. The contract will be based on specifications issued by the City, which will include the following requirements:

- Dust control;
- Site security; and
- Adherence to the Model Health and Safety Plan, or its equivalent.

Air monitoring strategy has been developed as part of the Model Health and Safety Plan to ensure that dust generation would not exceed specified thresholds (refer to Appendix D).

3.6.2 Dust Control and Monitoring

Dust control measures will be implemented to reduce the potential for worker exposure to contaminants in the dust above the National Institute for Occupational Safety and Health (“NIOSH”) standards and to minimize potential transport of contaminant-laden dust off-site.

- Dust control measures that will be implemented during the removal action include the following:
- Watering disturbed unpaved areas at least twice a day;
- Covering (tarping) clay pigeon debris hauled by trucks before leaving the site;
- Applying water at least three times a day to all unpaved access roads, parking areas, and staging areas; and
- Sweeping adjacent public streets daily if visible soil is carried onto the streets.

Dust suppression would be sufficient to ensure that there is no visible off-site migration. Dust generation from any single source shall not be darker than the No. 1 shade on the Ringelmann chart for periods aggregating more than three minutes in one hour. Additional measures (e.g., reducing speed of trucks, increased watering) would be implemented, as necessary, to maintain airborne dust levels to below the action level defined in the Model Health and Safety Plan. Real time dust monitoring will be performed and adjustments in the dust control procedures will be performed, as necessary.

3.6.3 Site Security

Site control measures will be implemented during the removal action to prevent the public from entering the remediation area. Measures will be used to restrict public access and inform the public of the presence of hazardous substances. The contractor will use temporary fencing to control access to the site during remediation. The fence would be placed in a manner that will discourage access from Fulton Avenue or the golf course areas. Signs will be posted at the entrance gate stating that entrance to the site is prohibited unless authorized by the site owner or

the owner's representative and that a hard hat must be worn on-site at all times. The site will be secured at the end of each workday.

Before beginning construction activity, the contractor's Health and Safety Officer will identify the following site work zones:

- Exclusion zone, where contamination is known or expected to occur;
- Contamination reduction zone, or transition area where heavy equipment and workers are decontaminated and temporary worker rest facilities are located; and
- Support zone, where clean personal protective equipment is stored and respirators (if needed) are cleaned.

The specific zones will be clearly delineated by barricades, tape, or other means.

Only properly trained and qualified workers will enter the exclusion zone. Heavy equipment used in the exclusion zone will remain there until completion of the task, at which time the equipment will be decontaminated. Other workers may go as far as the contamination reduction zone, which will surround the exclusion zone. An area will be established in the support zone to temporarily store clean or unused personal protective equipment. Smoking and eating will be allowed in the support zone only.

3.6.4 Health and Safety Plan

All construction or maintenance activities will be carried out under a site-specific health and safety plan prepared by the contractor in accordance with Title 8 CCR §5192. Bid specifications will include requirements for HAZWOPER trained workers in accordance with the requirements of 29 CFR 1910.120. All specifications will also include disclosures of the contaminants identified at the site.

3.6.5 Transportation/Trucking

All transportation to and from the site will be performed in accordance with the Transportation Plan included in Appendix C. The plan includes a description of the wastes to be transported off-site, the routes to be used to minimize impact to the surrounding communities, traffic control and loading procedures, procedures to be implemented in case of an emergency, emergency contacts and phone numbers, and record keeping requirements.

3.7 Soil Consolidation

3.7.1 Procedure

Two feet of soil from the surface of Parcel A (34,900 cubic yards) and one foot from the area north of the leasehold (2,800 cubic yards) will be excavated and consolidated onto Parcel B (Figure A3). The excavation and consolidation of impacted soil will be performed in a phased approach to allow confirmation sampling and analyses to be performed in a timely manner. Parcel A and the off-leasehold area to the north will be divided into three sub-areas; Area-1, Area-2, and Area-3 (Figure 5). After all the impacted soil has been consolidated onto Parcel B, Parcel B will be graded and a geotextile placed across the contaminated soil. Approximately two

feet of clean fill will be imported and placed on top of the geotextile. Approximately 58,000 cubic yards of clean soil fill will also be imported and placed on Areas-1, -2, and -3 to raise the grade as required for leasehold development (Figures A4 and A5), or in the case of the area north of the leasehold, to accommodate a stormwater detention basin.

3.7.2 Area of Contamination Survey

Prior to commencement of the removal action, a land surveyor registered in the State of California will survey the boundary between Parcels A, B, and the northern limit of the off-leasehold area to define the limits of excavations. The land surveyor will also stake a 50-foot grid system along the site boundaries. The survey will be performed with accuracy equivalent or greater than the California Department of Transportation's "general order survey" using established elevations, lines, and levels, using recognized engineering survey practices. All distances will be measured and reported to the nearest 0.01 foot, and all angles will be measured and reported to the nearest 20 seconds of arc. Closure must meet or exceed 1:10,000. The surveyor will submit site drawings signed by Land Surveyor certifying elevations.

3.7.3 Site Security

Site control measures will be implemented during the response action to protect the public health. Measures will be used to restrict public access and inform the public of the presence of hazardous substances. The contractor will use temporary fencing to control access to the site during the response action. The fence will be placed in a manner that will discourage access from Fulton Avenue. The site will be secured at the end of each workday.

Signs will be posted at the entrance gate stating that entrance to the site is prohibited unless authorized by the site owner or the owner's representative and that a hard hat must be worn on-site at all times. Signs will also be posted identifying City and County contacts to obtain information or to report complaints.

Before beginning response activity, the contractor's Health and Safety Officer will identify the following site work zones using barricades, tape, or other means:

- Exclusion zone, where contamination is known or expected to occur.
- Contamination reduction zone, or transition area, where heavy equipment and workers are decontaminated and temporary worker rest facilities are located.
- Support zone, where clean personal protective equipment is stored and respirators are cleaned.

Only properly trained and qualified workers will enter the exclusion zone. Heavy equipment used in the exclusion zone will remain there until completion of the task, at which time the equipment will be decontaminated. Other workers may go as far as the contamination reduction zone, which will surround the exclusion zone. An area will be established in the support zone to temporarily store clean or unused personal protective equipment. Smoking and eating will be allowed in the support zone only.

3.7.4 Dust Control and Monitoring

Dust control measures will be implemented to reduce the potential for worker exposure to lead, arsenic, and PAHs contained in the soil and to minimize potential transport of contaminant-laden dust off-site. Dust suppression would be sufficient to ensure that there is no visible off-site migration. Dust generation from any single source shall not be darker than the No. 1 shade on the Ringelmann chart for periods aggregating more than three minutes in one hour.

Dust control measures that will be implemented during the removal action include the following:

- Watering disturbed unpaved areas at least twice a day.
- Applying water at least three times a day to all unpaved access roads, parking areas, and staging areas.
- Sweeping adjacent public streets daily if visible soil is carried onto the streets.

Additional measures (e.g., reducing speed of trucks, increased watering) would be implemented, as necessary, to maintain airborne dust levels to below the action level defined in the Model Health and Safety Plan (Appendix D).

3.7.5 Health and Safety Plan

All construction or maintenance activities at the site will be carried out under a site-specific health and safety plan prepared by the contractor. Title 29 CFR 1910.120 requires a site-specific safety and health plan (“HSP”) for clean-up operations conducted under Occupational Safety and Health Administration (“OSHA”) HAZWOPER Standard. A Model Health and Safety Plan is provided in Appendix D. Contractors performing subsurface work on Parcels A and B during remediation or Parcel B after remediation will work under a site-specific health and safety plan that is *at least* as protective of worker safety and the public as the model health and safety plan. The HSP will contain the following elements:

- Organizational Structure
- Site Characterization and Job Hazard Analysis
- Site Control
- Training
- Medical Surveillance
- PPE
- Exposure Monitoring
- Heat Stress
- Spill Containment
- Decontamination
- Emergency Response

- Health hazards of lead, arsenic, and PAHs.

All bid specifications will include requirements for HAZWOPER trained workers in accordance with the requirements of 29 CFR 1910.120. All specifications will also include disclosures of the contaminants identified at the site in the soil and groundwater. The City's Economic Development Department will be responsible for ensuring the implementation of this requirement.

3.8 Capping

A minimum of two feet of clean fill (including aggregate base rock) will be imported and placed on Parcel B and asphalt will be placed on top of the clean fill in areas not occupied by building foundations (Figure A6 in Appendix A). The asphalt cap will consist of two to four inches of asphalt concrete. The asphalt will be treated with an asphalt fog seal to provide resistance to moisture penetration and to prevent raveling due to traffic. The outline of the parcel B boundaries will be provided by embedding tiles, metal markers, or other permanent devices in the asphalt at the surveyed boundaries of Parcel B.

As part of site development, a new subsurface storm drain system will be constructed. The storm drain system will allow for storm water conveyance via surface-grade drop inlets and an underground piping network that ultimately will discharge into Arcade Creek. The storm drain system will contain storm water flow and prevent contact between storm water and the contaminated soils underlying the site.

3.9 Imported Soil

The construction specifications issued to the contractor will require documentation that the soil imported onto the site is clean. For the purpose of this document, "clean soil" shall be defined as soil not containing any chemicals or chemical compounds exceeding the PRGs for residential land use. Fill material from industrial areas or from sites undergoing environmental cleanup will not be allowed. The design specifications will require that information concerning the source of fill material be submitted to the City for approval prior to import and placement of the fill material.

3.10 Post-Remediation Survey

The AOC will be resurveyed after the excavated soil from Parcel A and the area north of the leasehold boundary has been consolidated onto Parcel B. The surveying will be performed upon completion of each sub-area (Area-1, -2, and -3) so that soil can be imported to completed areas while further excavation activities are performed. Parcel B will then be surveyed a third time after the two feet of clean soil have been placed and compacted and the asphalt cap constructed to outline the boundaries between parcels A and B; monument markers will be installed in the asphalt cap. The surveying will be performed in accordance with the procedures previously described in Section 3.7.2.

3.11 Verification Sampling

Verification that the cleanup goals have been obtained will be performed in a phased approach. After each area (Area-1, -2, and -3) has been excavated, BASELINE will collect soil samples to verify that the remaining soil does not contain:

- Lead at a concentration equal to or exceeding 150 mg/kg;
- PAHs exceeding a benzo(a)pyrene equivalent of 0.62 mg/kg; and
- Arsenic at a concentration equal to or exceeding 8.1 mg/kg.

3.11.1 Soil Sample Collection

BASELINE will collect one verification soil sample for every 2,500 square feet of surface area for a total of about 180 samples. The soil sample locations have been determined using a systematic random sampling. Beginning at a random start point, sample points are located every 50 feet along parallel and perpendicular lines (Figure 6).

The soil samples will be collected from the surface to a maximum depth of six inches bgs using a stainless steel slide hammer equipped with a 6- by 2-inch stainless steel tube. The sample tubes will be sealed with Teflon squares, non-adhesive tape, and plastic end caps immediately after collection. The samples tubes will be labeled with the date, time, and sample locations and placed in a cooler with ice to preserve the samples at approximately 4 degrees Celsius. The samples will be transported under chain-of-custody procedures to a California-certified laboratory for analyses.

3.11.2 Laboratory Analyses

Soil samples will be submitted to a California-certified analytical laboratory analyses. Samples will be screened using a No. 10 mesh screen prior to analysis. The samples will be homogenized and analyzed as follows:

- 100 percent of soil samples - lead prepared using EPA Method 3050A and analyzed by EPA Method 6010B;
- Ten percent of soil samples (selected at random) – arsenic prepared using EPA Method 3050A and analyzed by EPA Method 6010B; and
- 100 percent of soil samples – PAHs prepared using EPA Method 3550B and analyzed by EPA Method 8310.

The results will be reported in dry weight.

3.11.3 Decision Rules

The following decision rules will be implemented to determine actions to be taken based on the analytical results of the soil samples collected during the verification sampling. The analytical results for lead, PAHs, and arsenic will be compared against the residential PRG of 150 mg/kg, a benzo(a)pyrene equivalent of 0.62 mg/kg, and a background arsenic of 8.1 mg/kg, respectively.

- If none of the sample analytical results for lead, PAHs, or arsenic is at or greater than the cleanup goals listed above, no further action is required. Clean imported fill may be placed to raise the surface elevation to the required development grade.
- If the analytical results indicate that a soil sample contains lead, PAHs, or arsenic at levels exceeding the cleanup goals, the analytical result, along with the analytical results from the eight nearest samples will be used to calculate the 95 percent upper confidence limit of the sample mean (“95% UCL”). The 95% UCL will be determined using the EPA supported software program, ProUCL,³ in accordance with EPA guidance (EPA, 2002). ProUCL tests for normality, lognormality, and gamma distribution of a data set, and computes a conservative and stable 95% UCL of the population mean (EPA, 2002). Normal and lognormal distributions are tested using Shapiro and Wilk W-Test (for sample set sized less than 50) at a level of significance of 0.05. The Anderson-Darling Test and the Kolmogorov-Smirnov Test are used to test the gamma distribution of the data set. If the data set satisfies tests for both the lognormal and gamma distributions, a lognormal distribution will be assumed. ProUCL will also perform several parametric and non-parametric UCL computation methods, should statistical tests indicate the data set does not meet the criteria for the aforementioned distributions. The five parametric UCL computation methods include:
 1. Student’s-t UCL,
 2. Approximate gamma UCL using chi-square approximation,
 3. Adjusted gamma UCL (adjusted for level of significance),
 4. Land’s H-UCL, and
 5. Chebyshev inequality based UCL (using minimum variance unbiased estimators of a lognormal distribution).

The ten non-parametric methods included in ProUCL are:

1. The central limit theorem based UCL,
2. Modified-t statistic (adjusted for skewness) bases UCL,
3. Adjusted-central limit theorem (adjusted for skewness) based UCL,
4. Chebyshev inequality based UCL (using sample mean and sample standard deviation),
5. Jackknife method based UCL,
6. UCL based upon standard bootstrap,
7. UCL based upon percentile bootstrap,
8. UCL based upon bias-corrected accelerated bootstrap,
9. UCL based upon bootstrap-t, and

³ ProUCL software was developed by Lockheed Martin under a contract with the EPA and is made available through the EPA Technical Support Center in Las Vegas, Nevada.

10. UCL based upon Hall's bootstrap.

- If the 95% UCL is less than the cleanup goal, no further action is required. Clean imported fill may be placed to raise the surface elevation to the required development grade.
- If the 95% UCL is at or greater than the cleanup goal, a minimum of six inches of soil within a fifty-foot radius of the sample at or exceeding the cleanup goal will be excavated and consolidated with other impacted soils on Parcel B. Five new soil samples will be collected, one at the location where the sample that contained lead, PAHs, or arsenic at or above the cleanup goal was collected, and four at sample points arranged symmetrically around the original sample point location at a distance of 25 feet. These samples will be submitted to the laboratory for analysis of the analyte that exceeded the cleanup goal.
- If the analytical results from the five new samples are less than the cleanup goal, no further action is required.
- If any of the new samples equal or exceed the cleanup goals, an additional minimum of six inches of soil will be removed within a 25-foot radius and the sample point will be resampled. This procedure will be repeated until the soil sample result is less than the cleanup goal.

3.11.4 Quality Assurance and Quality Control ("QA/QC")

Quality assurance during field operations will be implemented by conducting all fieldwork in accordance with BASELINE's Standard Operating Procedures ("SOP"). The QAPP for this project is provided in Appendix E. Field personnel are responsible for recording any deviations from the QAPP on a field log sheet or in a field notebook and reporting the deviations to the project manager. After field sampling activities, field documents are checked by field personnel and then reviewed by the project manager to confirm that samples were collected in accordance with the QAPP.

Additional samples will be collected for QA/QC purposes. The field QA/QC samples for soil sampling will consist of equipment blank samples. Equipment blank samples will be collected after the sampling equipment has been through the decontamination process by retaining deionized water that is poured over the sampling equipment. The resultant water sample will be submitted for lead, PAH, and arsenic analyses. A minimum of one field equipment blank sample will be collected and submitted to the laboratory for every ten field samples collected.

BASELINE will review the laboratory data for completeness and accuracy using laboratory QA/QC forms. A copy of the QA/QC form is included in Appendix E. Exceptions to the laboratory QA/QC goals will be indicated and corrective actions taken, as necessary.

3.12 O&M Agreement

Once remediation is complete, Parcel B will be covered with asphaltic concrete and Parcels A and B will be zoned for commercial use. Maintaining the cap intact will be necessary to ensure that there is no exposure to users of Parcel B to the contaminated soils consolidated onto the parcel. The City, or its designated representative, will inspect the site annually to check for cap deterioration. The inspection will consist of visual inspections along longitudinal (north to

south) traverses every 100 feet. The inspection will consist of observations regarding cap cracking, erosional damage, settlement, sloughing, seepage, or other damage to the cap. The inspection will be documented and submitted to SCEMD annually. If damage is detected in the cap, routine maintenance will be performed to correct cap damage.

3.13 Deed Restriction

A deed restriction would be recorded with the County to prohibit future single-family residential development and sensitive land uses on Parcel B. The City currently owns the land and current plans are to lease all or portions of the leasehold for commercial development. There are no plans for the City to sell the property. The results of the verification sampling will be entered into the Geographic Environmental Information Management System (GEIMS), a data warehouse that tracks regulatory data. GEIMS data may be accessed through the Geotracker website.

3.14 Permit Tracking

The City will administer the deed restrictions and risk management plan. The City's zoning map for Parcel B will include a "T," indicating "Toxics," and the City's parcel database will include the designation "Permit Plus," indicating the presence of a deed restriction.

3.15 Risk Management Plan

A RMP has been prepared for Parcel B, setting out the health and safety requirements for construction workers breaching the cap and guidelines for the handling of soil excavated from below the two feet of clean soil. A copy of the RMP is included in Appendix F. The purpose of the RMP is to eliminate future commercial workers' exposure to site contaminants and to provide protection to future construction and utility workers through requirements for implementation of health and safety provisions in accordance with the model site-specific health and safety plan, or equivalent. The RMP also establishes protocols for management of soil that will be excavated below the clean fill (i.e., the residual contaminated soil containing lead, arsenic, and PAHs) in future utility corridors and require placement of clean fill in all utility trenches after installation of specific utilities. The RMP includes provisions for cap O&M, including cap inspections, and reporting to SCEMD.

3.15.1 Model Health and Safety Plan

During construction activities, construction workers who may directly or indirectly be exposed to on-site soil would perform work in accordance with the California Occupational Safety and Health Administration ("Cal OSHA") regulations. All site construction activities associated with exposure to on-site soil will be conducted in compliance with a site-specific HSP to protect workers and the environment from site contaminants. The site-specific HSP will be prepared according to Title 8, California Code of Regulations, Section 5192 and Title 29 Code of Federal Regulations 1910.120. The HSP will include provisions for air monitoring and personal protective equipment to be worn by workers during site redevelopment activities. A model HSP is provided in Appendix D.

3.16 Schedule

The City anticipates that the remediation may proceed during the summer of 2007. BASELINE estimates that excavation and consolidation will be completed by September 2007 and that confirmation sampling and additional excavation would be completed by October 2007. Placement of the asphalt cap is expected to occur immediately thereafter.

4.0 REFERENCES

BASELINE Environmental Consulting (“BASELINE”), 2006, Draft Final Response Plan, Sacramento Trapshooting Club, March.

BASELINE, 2005a, Site Assessment and Preliminary Response Option Report, Sacramento Trapshooting Club, February.

BASELINE, 2005b, Workplan Off-Site Sampling Background Arsenic Evaluation And Waste Classification, June.

EPA 2004a, Region IX Preliminary Remediation Goals (“PRGs”) as updated; by Stanford Smucker, Ph.D.

EPA, 2004b, ProUCL Version 3.0 User Guide, April.

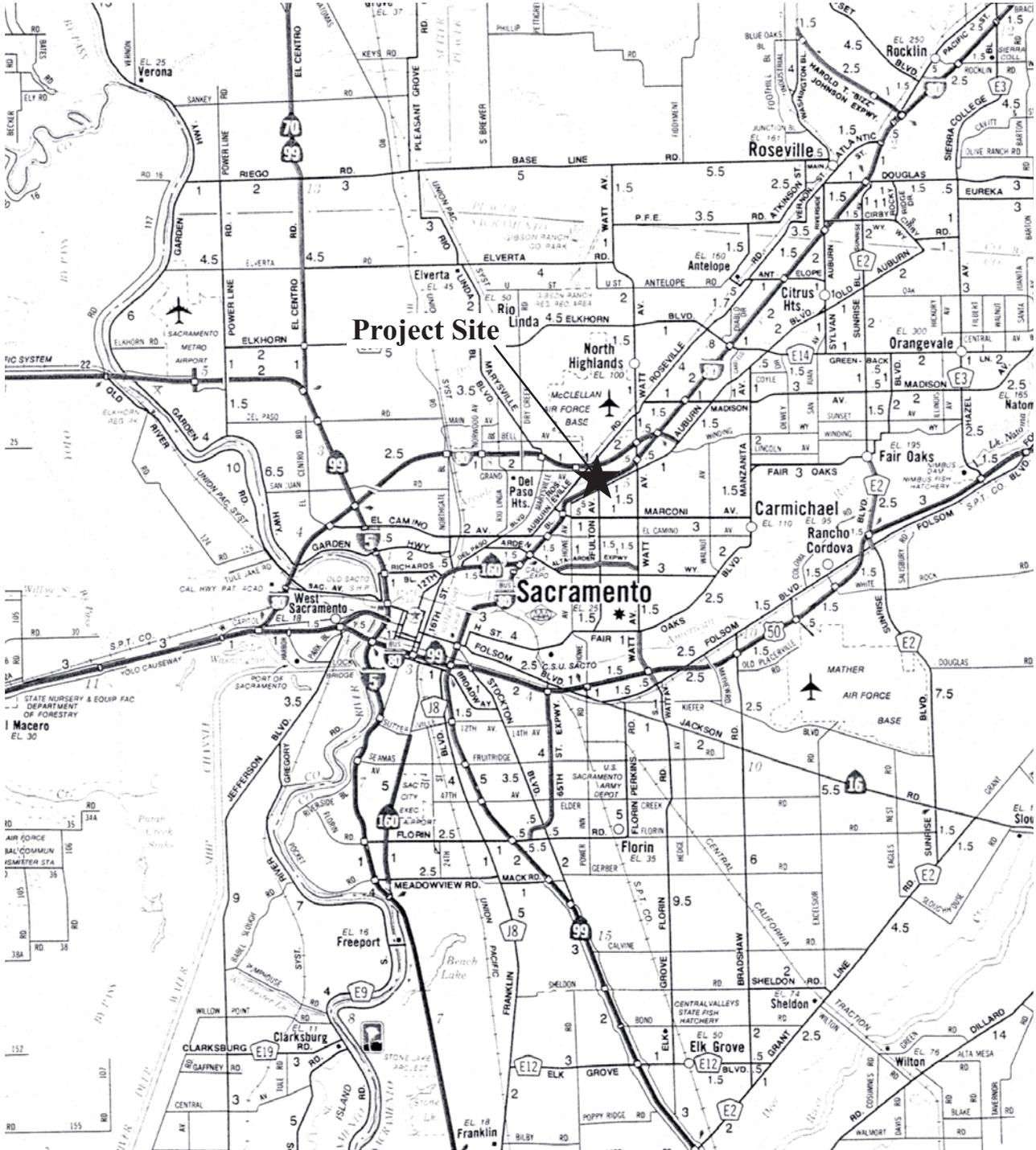
EPA, 2002, Calculating Upper Confidence Limits For Exposure Point Concentrations At Hazardous Waste Sites, OSWER 9285.6-10, December.

EPA, 1988, Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA, Interim Final, EPA 540/G-89/004, OSWER 9355.3-01, October.

FIGURES

REGIONAL LOCATION

Figure 1



Sacramento Trapshooting Club Sacramento, California





**Sacramento Trapshooting Club
Sacramento, California**

Source: City of Sacramento, 2004.

Y4368-B0.00443.Fig2.cdr 12/21/06





Legend



Clay pigeon debris area



Area of contamination



Shooting station

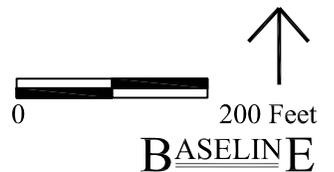


Drainage ditch



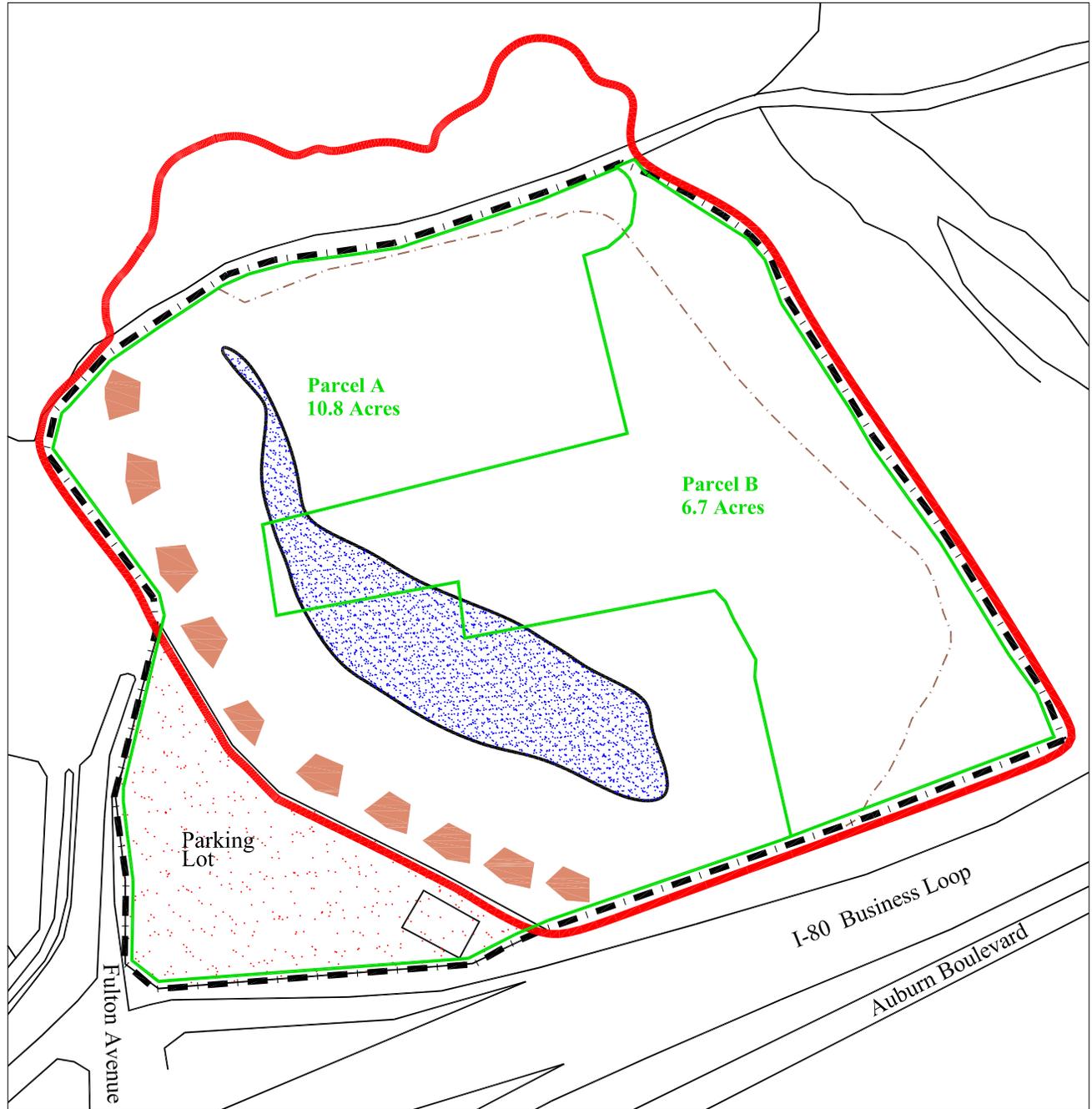
Leasehold boundary

Sacramento Trapshooting Club
Sacramento, California



PARCEL BOUNDARY

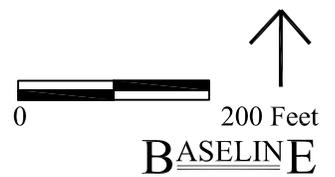
Figure 4



Legend

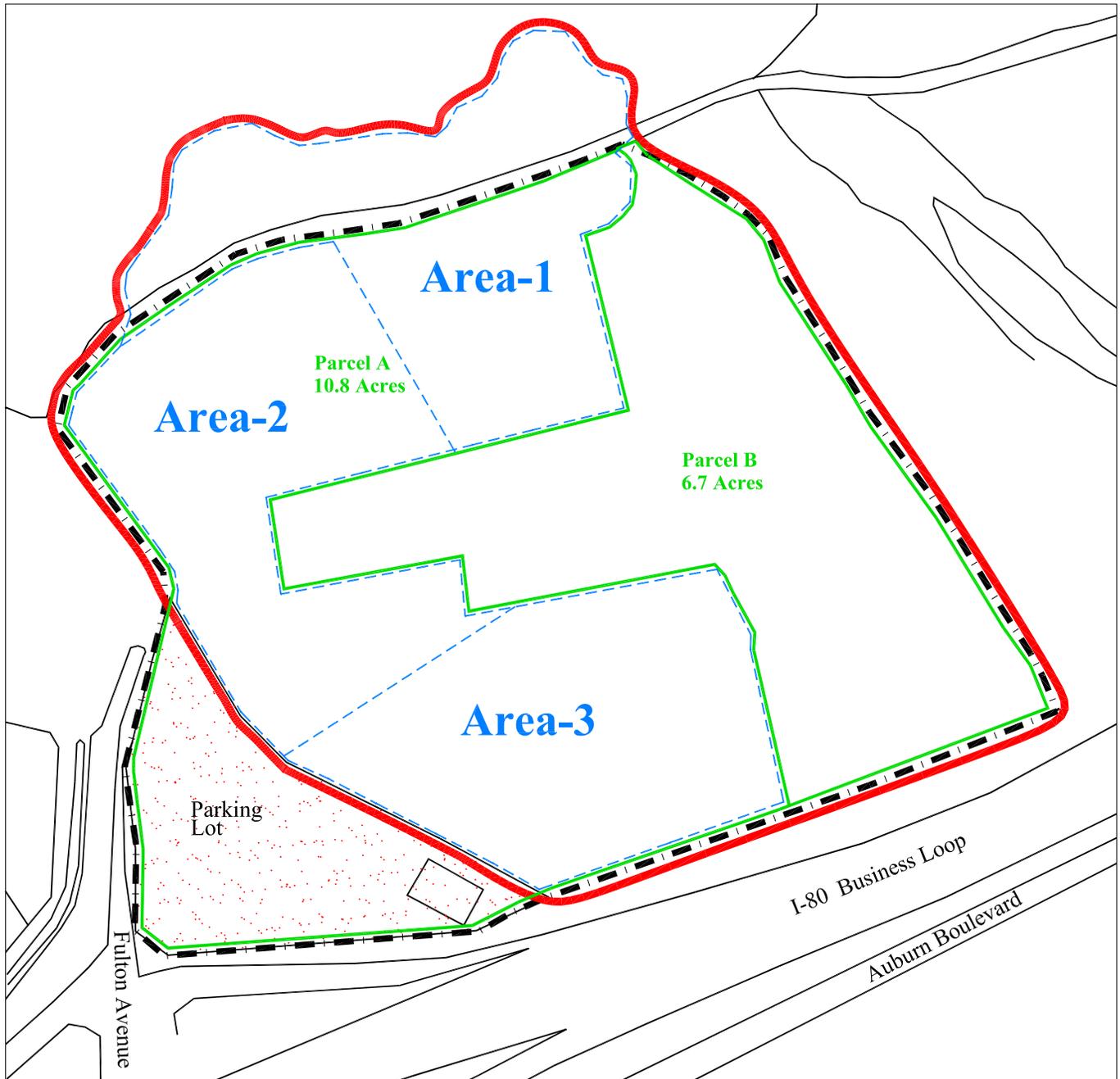
- | | | | |
|---|-------------------------|---|--------------------|
|  | Clay pigeon debris area |  | Shooting station |
|  | Area of contamination |  | Drainage ditch |
|  | Parcel boundaries |  | Leasehold boundary |

Sacramento Trapshooting Club
Sacramento, California



PARCEL A SUB-AREAS

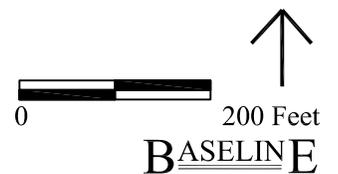
Figure 5



Legend

-  Area of contamination
-  Parcel boundary
-  Leasehold boundary
-  Sub-area boundary

Sacramento Trapshooting Club
Sacramento, California



BASELINE

PROPOSED VERIFICATION SAMPLING LOCATIONS

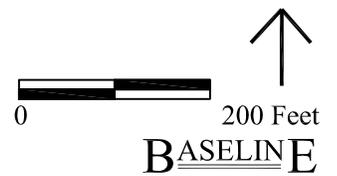
Figure 6



Legend

- Proposed confirmation sample location
- Area of contamination
- Parcel boundary
- - - Leasehold boundary

Sacramento Trapshooting Club
Sacramento, California



TABLES

**TABLE 1: Summary of Background Sampling
Soil Samples
Arsenic (mg/kg dry weight)
Sacramento Trapshooting Club
June 2005**

Sample ID	Arsenic Results
Samples from Surface; 0.0-0.5 feet bgs	
AS-BG-01@SURFACE	1.7
AS-BG-02@SURFACE	1.9
AS-BG-03@SURFACE	1.9
AS-BG-04@SURFACE	2.4
AS-BG-05@SURFACE	4.4
AS-BG-06@SURFACE	2.0
AS-BG-07@SURFACE	2.1
AS-BG-08@SURFACE	1.3
Samples from 2.0-2.5 feet bgs	
AS-BG-01@2-2.5	8.1
AS-BG-02@2-2.5	1.4
AS-BG-03@2-2.5	1.2
AS-BG-04@2-2.5	1.9
AS-BG-05@2-2.5	0.96
AS-BG-06@2-2.5	1.5
AS-BG-07@2-2.5	ND<0.92
AS-BG-08@2-2.5	2.0

Notes:

Samples collected on 16 June 2005.

Analyzed by EPA Method 6020.

mg/kg = milligram per kilogram.

ND = not detected above the laboratory reporting limit, which is the value following the less-than sign.

bgs = below ground surface.

TABLE 2: Summary of ARARs and TBCs
 Draft Implementation Plan
 Sacramento Trapshooting Club

ARARs and TBCs	Description	Applicable Action
Chemical-Specific ARARs and TBCs		
U.S. EPA Region IX Preliminary Remediation Goals	U.S. EPA Region IX PRGs are risk-based screening levels for evaluating a chemical's impacts to human health.	Use of PRGs in the development of cleanup goals.
RWQCB Recommended Numerical Limits	A summary of generally applicable or relevant limits used to determine compliance with water quality standards.	Not applicable because contaminants in the shallow soils will not impact groundwater and development will include a stormwater conveyance system that will minimize migration of contaminants in stormwater runoff into surface waters.
Location-Specific ARARs and TBCs		
Clean Water Act	The Clean Water Act of 1972 is the principal federal law governing discharges to surface waters and adjoining shorelines.	Not applicable because development will include a stormwater conveyance system that will minimize migration of contaminants in stormwater runoff into surface waters.
Porter-Cologne Water Quality Act	Porter-Cologne requires that each of the nine regional boards adopt Water Quality Control Plans, which are applicable to groundwater and non-point sources.	Not applicable because contaminants in the shallow soils will not impact groundwater and development will include a stormwater conveyance system that will minimize migration of contaminants in stormwater runoff into surface waters.
RWQCB Water Quality Control Plan	Sets specific water quality objectives for maintenance of beneficial uses of surface waters and groundwater.	Not applicable because contaminants in the shallow soils will not impact groundwater and development will include a stormwater conveyance system that will minimize migration of contaminants in stormwater runoff into surface waters.
California Toxics Rule	Numeric water quality criteria for priority toxic pollutants and other provisions for water quality standards promulgated by the U.S. EPA for waters of the State of California.	Not applicable because contaminants in the shallow soils will not impact groundwater and development will include a stormwater conveyance system that will minimize migration of contaminants in stormwater runoff into surface waters.

TABLE 2: Summary of ARARs and TBCs
Draft Implementation Plan
Sacramento Trapshooting Club

ARARs and TBCs	Description	Applicable Action
U.S. Army Corps of Engineers Section 404 Permit	Section 404 of the Clean Water Act requires that a Department of the Army Permit be obtained prior to discharging dredged or fill material into waters of the United States, including wetlands.	Section 7 Consultation between the Corps of Engineers and the U.S. Fish and Wildlife Service will be required as part of the processing of an application for authorization to perform the remediation pursuant to Nationwide Permit No. 38 (Cleanup of Hazardous and Toxic Waste). The Section 7 Consultation must be concluded before the Corps confirms that the project can be constructed under the authority of this nationwide permit.
Endangered Species Act	The Endangered Species Act was passed in 1973, with amendments in 1978, to provide protections to various species of fish, wildlife, and plants in the United States in danger of, or threatened with, extinction as a consequence of economic growth and development.	A Biological Assessment for the purpose of identifying any endangered or threatened species will be performed as part of the Section 404 permit process.
National Historic Preservation Act of 1966	The federal National Historic Preservation Act (“NHPA”) requires consideration of the potential effects that remedial actions may have on historic properties included, or eligible for inclusion on the National Register of Historic Places (“National Register”).	A cultural resource evaluation, which will identify any structures of historical significance, will be performed as part of the Section 404 permit process.
Lake or Streambed Alteration Agreement	Under CCR Title 14, Section 669.5, any person, governmental agency, or public utility proposing any activity that will divert or obstruct the natural flow or change the bed, channel, or bank of any river, stream, or lake, or proposing to use any material from a streambed, must first notify the California Department of Fish and Game (“DFG”) of such proposed activity.	The DFG will be notified as part of the Nationwide Permit No. 38 process.
Action-Specific ARARs and TBCs		
SWRCB Resolution No. 92/49	Section 13304 of the Porter-Cologne Water Quality Act authorizes the Regional Boards “to require complete cleanup of all waste discharged and the restoration of affected water to background conditions (i.e., the water quality that existed before the discharge).”	Not applicable because contaminants in the shallow soils will not impact groundwater and development will include a stormwater conveyance system that will minimize migration of contaminants in stormwater runoff into surface waters.

TABLE 2: Summary of ARARs and TBCs
 Draft Implementation Plan
 Sacramento Trapshooting Club

ARARs and TBCs	Description	Applicable Action
Hazardous Waste Requirements (CCR Title 22 and HSC Section 25157.8)	The Resource Conservation and Recovery Act (“RCRA”) Subtitle C (40 CFR Sections 260-299) sets forth criteria for defining federal hazardous wastes, and specifies minimum national requirements for facilities that generate, transport, store, or dispose of hazardous wastes. The DTSC has promulgated regulations in California Code of Regulations (“CCR”) Title 22 that govern the management of wastes that are hazardous under RCRA or are hazardous under criteria specific to California.	All wastes will be characterized in accordance with state and federal statutes and regulations and disposed of at appropriately permitted facilities.
Non-hazardous Waste Requirements under CCR Title 27	RCRA Subtitle D (40 CFR Section 257-258) specifies minimum national requirements for municipal solid waste landfills that apply to new and existing waste management units that have received such wastes after 9 October 1991.	All wastes will be characterized in accordance with state and federal statutes and regulations and disposed of at appropriately permitted facilities.
Cal/OSHA	Cal/OSHA requires that workers exposed to contaminants above permissible exposure limits at hazardous waste sites have undergone appropriate training (CCR Title 8 Section 5192).	The remedial action will be performed by workers with 40-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) training in accordance with 29 CFR 1910.120 and CCR Title 8 Section 5192.
California Environmental Quality Act	California Environmental Quality Act (“CEQA”) requires that a project receiving a discretionary permit by a permit-issuing agency must undergo environmental review in accordance with CCR Title 14 Sections 15000-515387.	The development of the leasehold area for commercial use has undergone environmental review. The project as defined in the EIR consists of remediation of the AOC, rezoning, and development of the leasehold.
NPDES Permits	Federal regulations for controlling discharges of pollutants from municipal separate sewer systems, construction sites, and industrial activities, were brought under the NPDES permit process by the 1987 amendments to the CWA, and the subsequent 1990 promulgation of federal storm water regulations issued by the U.S. EPA. The U.S. EPA regulations require municipal and industrial storm water discharges to comply with an NPDES permit. In California, the U.S. EPA delegated its authority to issue NPDES permits to the RWQCB.	Construction activity resulting in a land disturbance of one acre or more must obtain the Construction Activities Storm Water General Permit (“General Permit”). The remedial activities will be subject to his requirement. A complete Notice of Intent (“NOI”) application will be submitted to the RWQCB and a Storm Water Pollution Prevention Plan (“SWPPP”) will be prepared in accordance with Section A of the General Permit prior to the commencement of soil disturbing activities.

**TABLE 2: Summary of ARARs and TBCs
Draft Implementation Plan
Sacramento Trapshooting Club**

ARARs and TBCs	Description	Applicable Action
Land Use Controls (“LUCs”)	In California, the DTSC, through their Management Memo #EO-02-002-MM, “Response Action for Sites Where Future Use May Include Sensitive Uses,” provides guidance for evaluating LUCs as part of remedial alternatives. The DTSC expects that any remedial alternative that includes leaving contaminants at levels not suitable for unrestricted use, include LUCs that protect human health and the environment.	This remedial action will include LUCs in the form of the Risk Management Plan, the Deed Restrictions, the Operation and Maintenance Plan, and the Model Health and Safety Plan to: 1) restrict activities that could expose the public or the environment to residual contamination; 2) provide notice to interested parties regarding the presence of residual contamination and restrictions; and 3) specify long-term responsibilities to assure compliance with the restrictions.

ARARs = Applicable or relevant and appropriate requirements.

TBCs = To be considered.

RWQCB = Regional Water Quality Control Board.

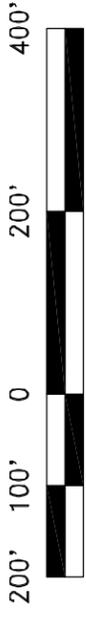
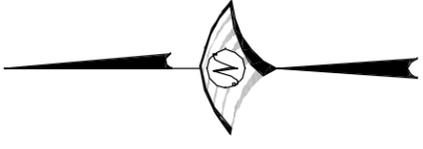
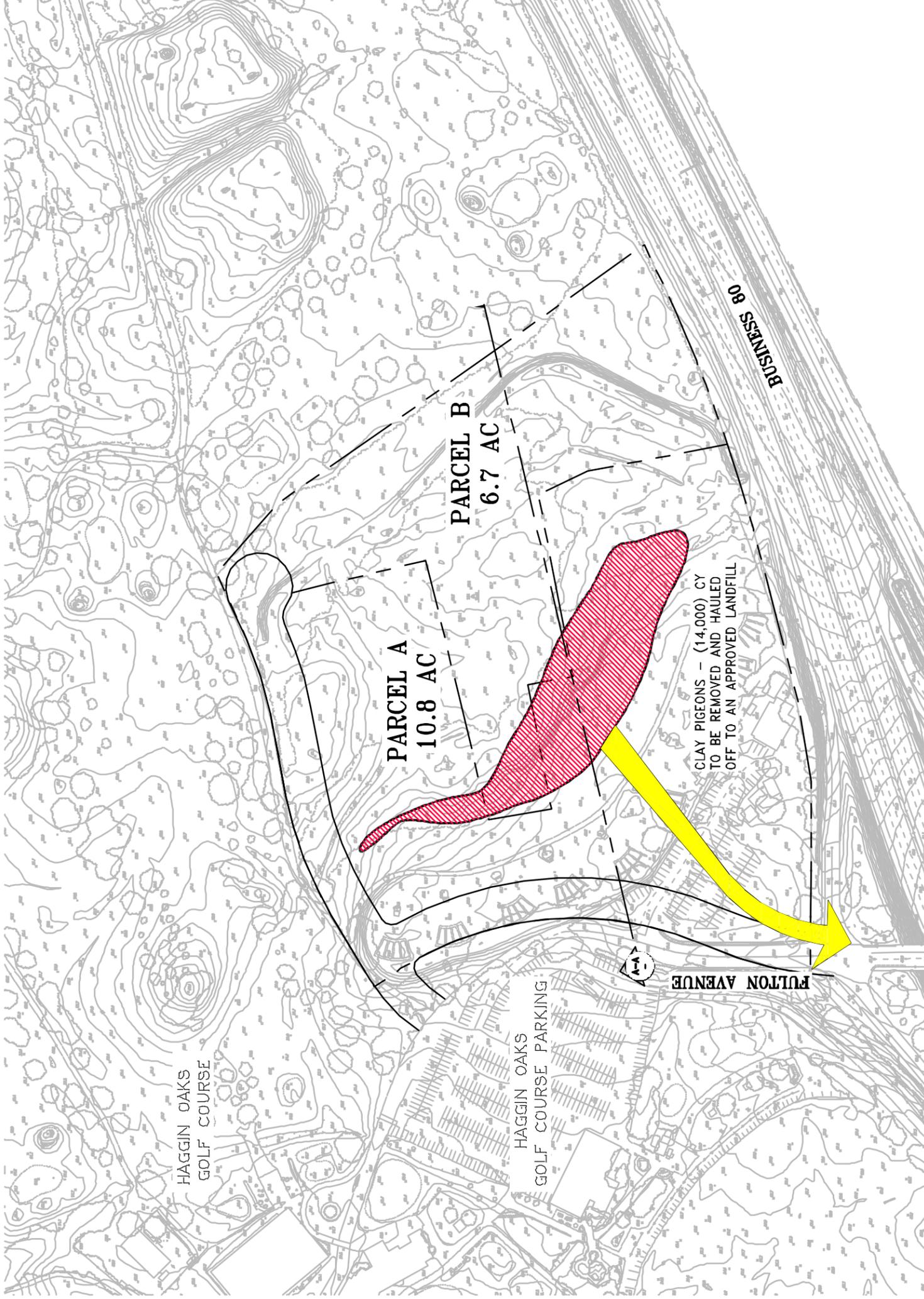
DTSC = Department of Toxic Substances Control.

APPENDIX A
GRADING EXHIBIT DRAWINGS

PRELIMINARY REMEDIATION GRADING EXHIBIT - PHASE 1
DEL PASO PARK

CITY OF SACRAMENTO, CALIFORNIA

JUNE 2006



SCALE: 1" = 200'

LEGEND

- PROJECT BOUNDARY
- CLAY PIGEON LOCATION



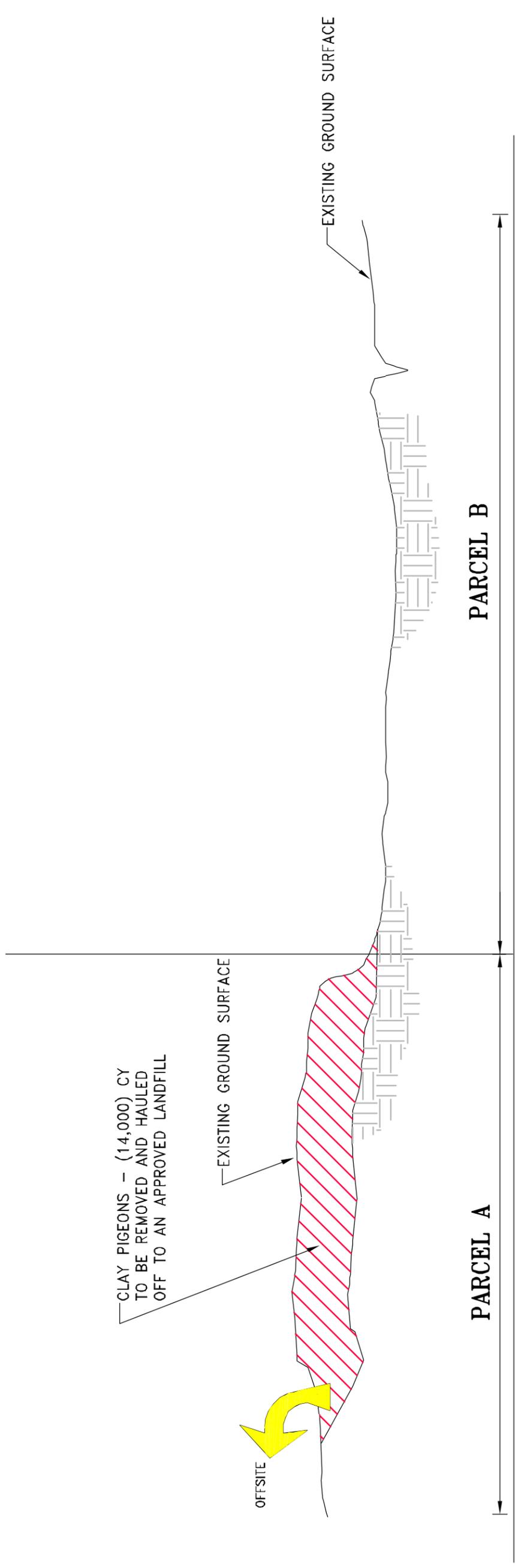
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PRELIMINARY REMEDIATION GRADING EXHIBIT - CROSS SECTION A-A PHASE 1
DEL PASO PARK

CITY OF SACRAMENTO, CALIFORNIA

JUNE 2006



CROSS SECTION A-A

NOT TO SCALE



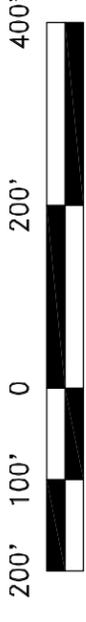
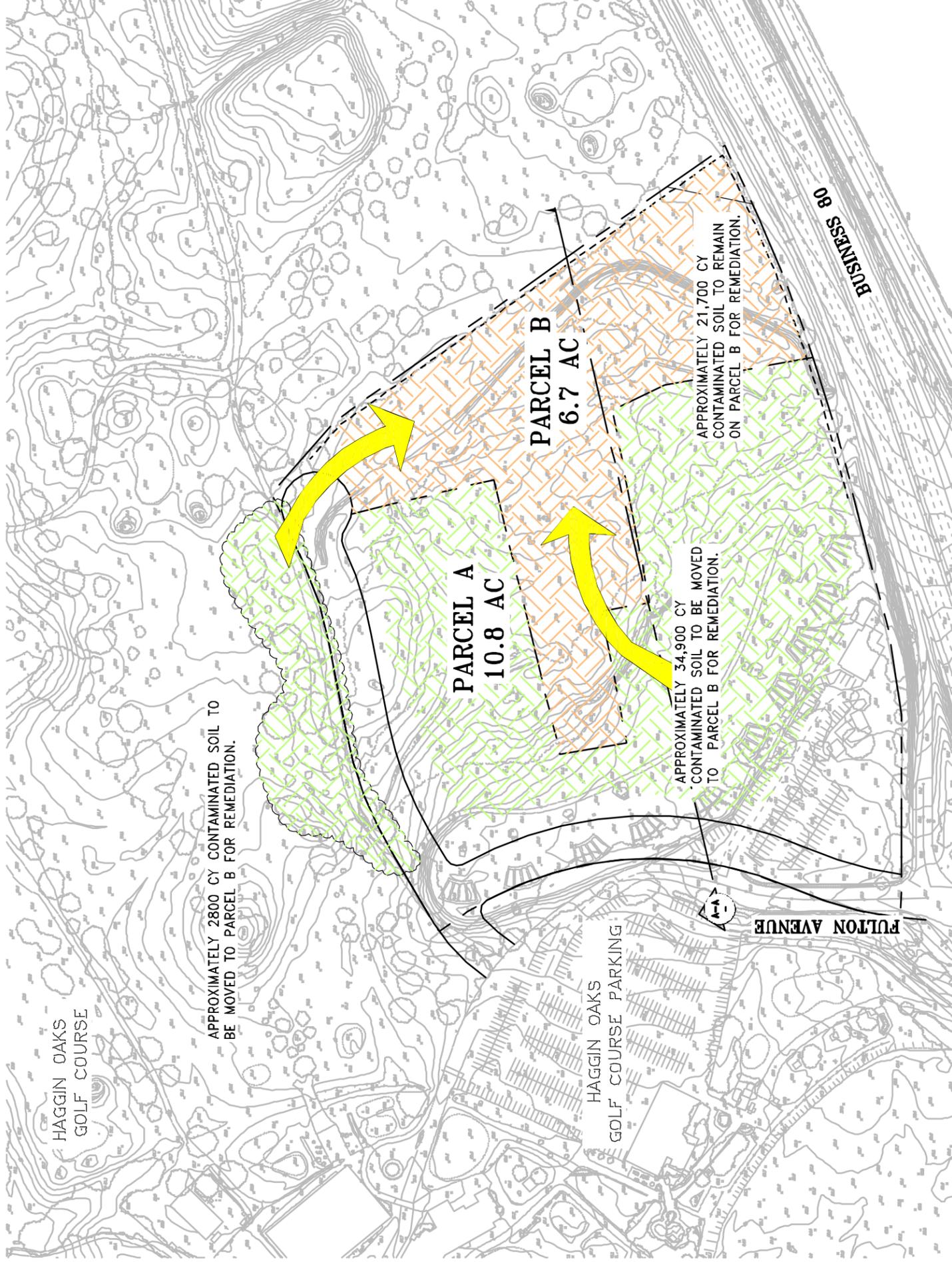
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PRELIMINARY REMEDIATION GRADING EXHIBIT - PHASE 2
DEL PASO PARK

CITY OF SACRAMENTO, CALIFORNIA

JUNE 2006



SCALE: 1" = 200'

LEGEND

- PROJECT BOUNDARY
- ▨ CONTAMINATED SOIL PARCEL A / OFF LEASEHOLD
- ▨ CONTAMINATED SOIL PARCEL B



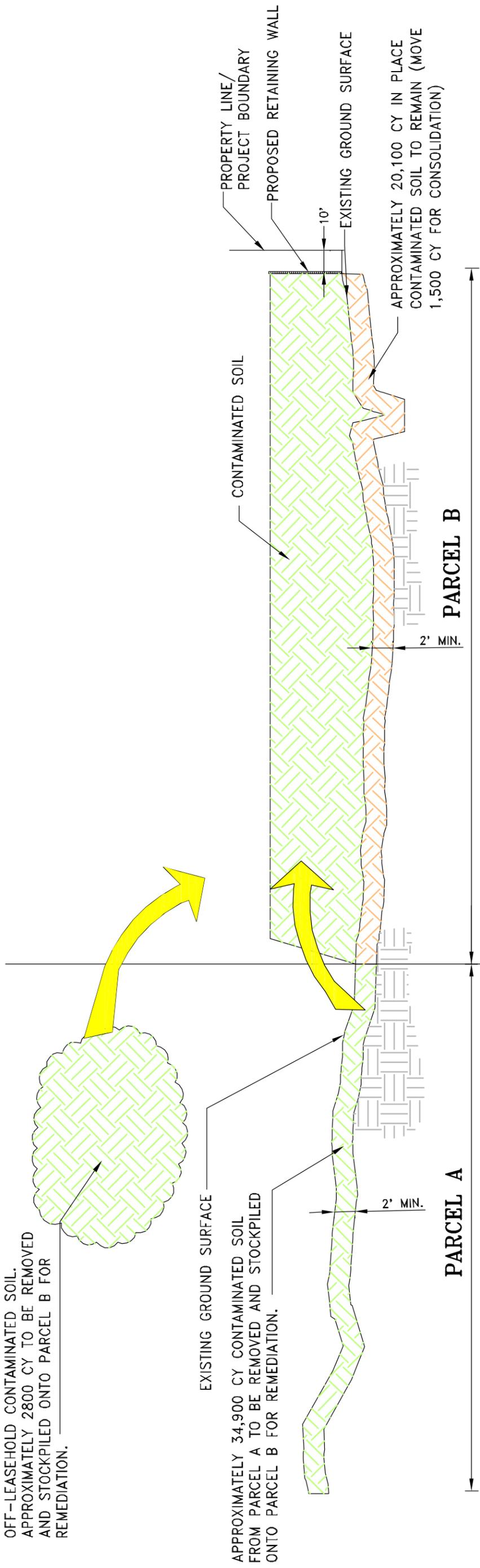
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PRELIMINARY GRADING EXHIBIT - CROSS SECTION A-A PHASE 2
DEL PASO PARK

CITY OF SACRAMENTO, CALIFORNIA

JUNE 2006



CROSS SECTION A-A

NOT TO SCALE



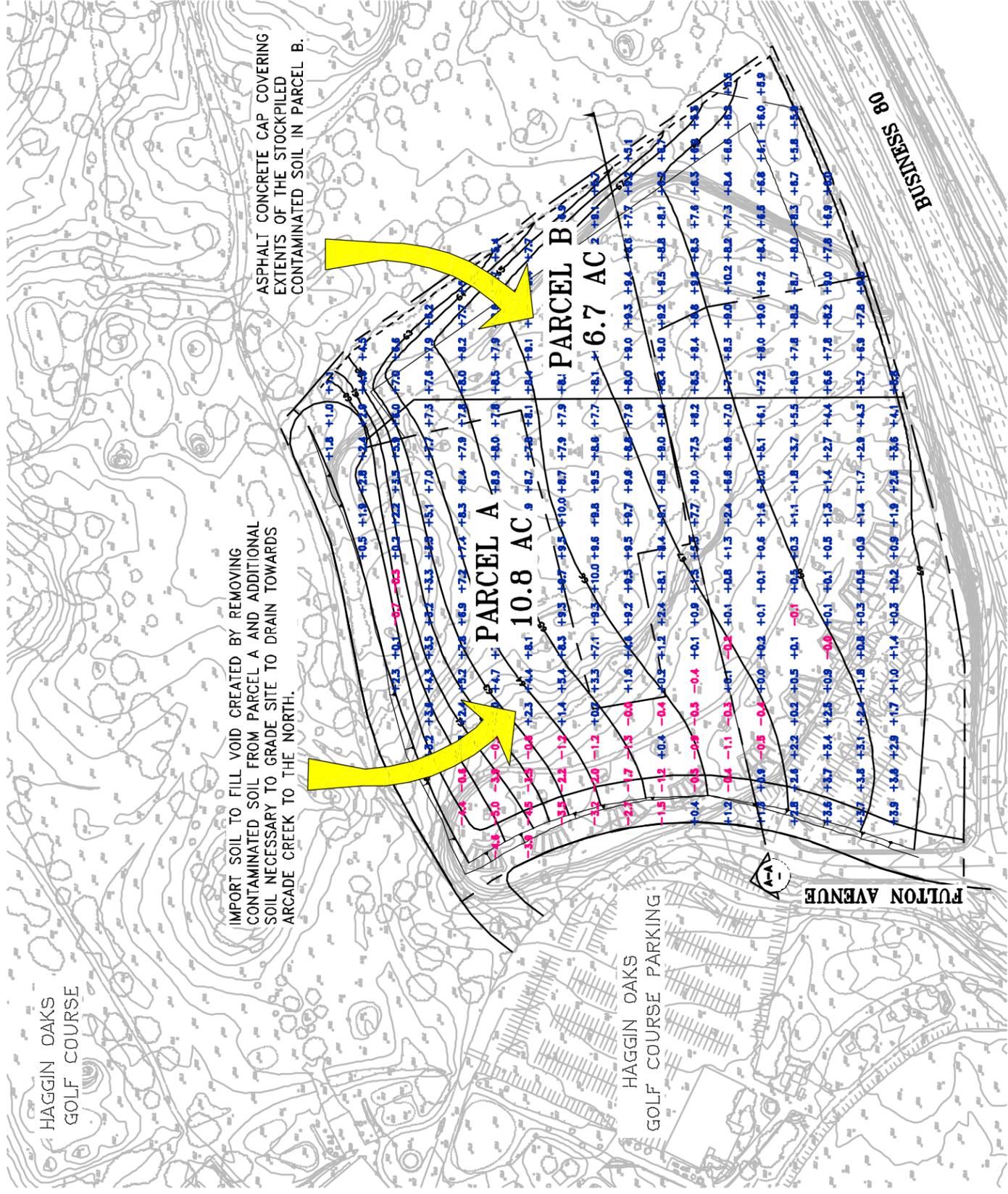
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PRELIMINARY REMEDIATION GRADING EXHIBIT - PHASE 3 DEL PASO PARK

CITY OF SACRAMENTO, CALIFORNIA

JUNE 2006



TRAPSHOOT CLUB - BUSINESS 80 & FULTON AVENUE SITE
PRELIMINARY EARTHWORK - SITE GRADE ANALYSIS
JUNE 08, 2006

SITE VOLUME TABLE: UNADJUSTED (RAW) VOLUMES

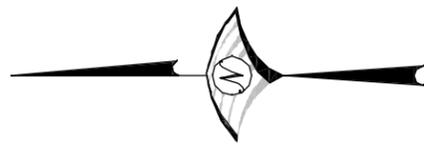
CUT (CY)	FILL (CY)	NET (CY)	CALC. METHOD
-------------	--------------	-------------	-----------------

SITE: CIVIL - PRELIM GRADING PLAN
STRATUM: SITE GRADE 7
(SITEGRADE7/EG OVERALL) 5,000 140,500 135,500 (F) GRID

INTERNAL EARTHWORK DETAIL
ASSUME 37,700 CY CONTAMINATED SOIL TO MOVE TO PARCEL B.
ASSUME 20,100 CY CONTAMINATED SOIL TO REMAIN IN PARCEL B.

EXTERNAL IMPORT DETAIL
ASSUME 2,800 CY CONTAM SOIL FROM OFF LEASEHOLD TO BE PLACED ON PARCEL B.
ASSUME 20,100 CY (2' THICK CLEAN FILL) TO BE PLACED ON PARCEL B.
ASSUME 34,900 CY TO FILL PARCEL A (VOID FROM CONTAMINATED SOIL).
ASSUME ADDITIONAL 77,700 CY TO GRADE ENTIRE SITE TO DRAIN.

135,500 CY - 2,800 CY = 132,700 CY
20,100 CY + 34,900 CY + 77,700 CY = 132,700 CY
132,700 CY (IMPORT FILL) (REQUIRED)



LEGEND

--- PROJECT BOUNDARY

0.1 + INDICATES FILL FROM OG

0.3 - INDICATES CUT FROM OG



SCALE: 1" = 200'



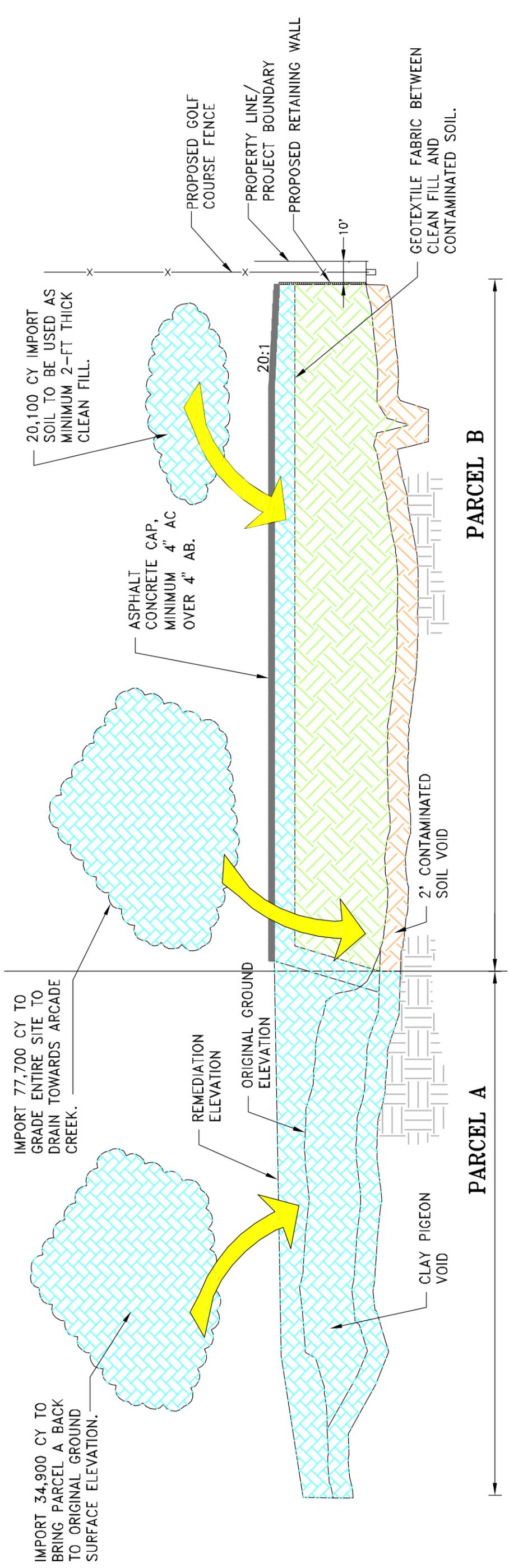
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PRELIMINARY GRADING EXHIBIT - CROSS SECTION A-A PHASE 3
DEL PASO PARK

CITY OF SACRAMENTO, CALIFORNIA

JUNE 2006



CROSS SECTION A-A

NOT TO SCALE



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APPENDIX B

EIR MITIGATION MEASURES

TABLE B-1: Summary of Significant Proposed Project Impacts and Mitigation Measures

Impact	Level of Significance without Mitigation	Mitigation Measure	Resulting Level of Significance
<p>Biological Resources</p> <p>3.2-1R: Remediation would result in the permanent removal of seasonal wetland swales and channel from the project site, which could result in impacts to special-status vernal pool invertebrates.</p>	<p>S (Remediation)</p>	<p>MM 3.2-1R(a): The wetlands identified as potential habitat for federal-listed branchiopods (vernal pool fairy shrimp and vernal pool tadpole shrimp) are presumed occupied by these branchiopods, unless written documentation is provided from the U.S. Fish and Wildlife Service that the negative results of protocol surveys have been accepted. Therefore, prior to ground disturbance, the following measures shall be included on all grading plans:</p> <ul style="list-style-type: none"> • No grading shall occur within 50 feet of wetlands occupied by or assumed to be occupied by federally listed branchiopods until the U.S. Fish and Wildlife Service has issued a Biological Opinion to authorize the take of the listed species. • It is the Contractors responsibility to comply with all applicable state and federal laws and regulations including the Federal Endangered Species Act and Clean Water Act. • Temporary fencing shall be installed around the 50-foot buffer surrounding wetlands occupied by or assumed to be occupied by federally listed branchiopods to exclude construction equipment until the U.S. Fish and Wildlife Service has either accepted negative results of protocol surveys or has issued a Biological Opinion to authorize the take of the listed species. <p>MM 3.2-1R(b): The City shall provide compensatory mitigation as required by the U.S. Fish and Wildlife Service for federally listed branchiopods.</p> <p>M 3.2-1R(c): During Section 7 consultation process with the U.S. Fish and Wildlife Service, the City is required to prepare a mitigation plan for submittal to U.S. Fish and Wildlife Service. The mitigation plan will be required to include the following components for direct and indirect impacts:</p> <p>Avoidance Component. Demonstrate how the project has been designed to minimize impacts to federal-listed vernal pool crustaceans and their habitat (e.g., biological monitoring and special-status species training for construction personnel).</p> <p>MM 3.2-2R: Prior to ground disturbance, the City shall complete the process with the U.S. Army Corps of Engineers for the discharge of fill into potential waters of the U.S.</p> <p>MM 3.2-3R: Implement MM 3.2-1R(a - c)</p>	<p>LTS</p>
<p>3.3.2R: Remediation could result in the discharge of fill into Federally protected wetlands or other waters of the US.</p>	<p>S (Remediation)</p>	<p>Avoidance Component. Demonstrate how the project has been designed to minimize impacts to federal-listed vernal pool crustaceans and their habitat (e.g., biological monitoring and special-status species training for construction personnel).</p> <p>MM 3.2-2R: Prior to ground disturbance, the City shall complete the process with the U.S. Army Corps of Engineers for the discharge of fill into potential waters of the U.S.</p> <p>MM 3.2-3R: Implement MM 3.2-1R(a - c)</p>	<p>LTS</p>

TABLE B-1 : Summary of Significant Proposed Project Impacts and Mitigation Measures- *continued*

Impact	Level of Significance without Mitigation	Mitigation Measure	Resulting Level of Significance
<p>3.2-3R: Remediation could impact nesting and/or foraging Swainson’s hawk and other special-status raptors.</p>	<p>S (Remediation)</p>	<p>MM 3.2-4R(a): Prior to ground disturbance, a pre-construction survey shall be completed by a qualified biologist, within 30 days prior to construction, to determine whether any Swainson’s hawk nest trees will be removed on-site, or active Swainson’s hawk nest sites occur within ½ mile of the development site. These surveys shall be conducted according to the Swainson’s Hawk Technical Advisory Committee’s (May 31, 2000) methodology or updated methodologies, as approved by the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG), using experienced Swainson’s hawk surveyors.</p> <p>MM 3.2-4R(b): If breeding Swainson’s hawks (i.e., exhibiting nest building or nesting behavior) are identified, no new disturbances (e.g., heavy equipment operation associated with construction) shall occur within ½ mile of an active nest between March 1 and September 15, or until a qualified biologist, with concurrence by CDFG, has determined that young have fledged or that the nest is no longer occupied. If the active nest site is located within ¼ mile of existing urban development, the no new disturbance zone can be limited to the ¼ mile versus the ½ mile.</p> <p>MM 3.2-4R(c): If construction or other project related activities which may cause nest abandonment or forced fledging are proposed within the ¼ mile buffer zone, intensive monitoring (funded by the project sponsor) by a Department of Fish and Game approved raptor biologist will be required. Exact Implementation of this measure will be based on specific site conditions.</p> <p>MM 32-4R(d): Trees on the site that need to be removed to accommodate construction shall be felled between September 15 and January 31, outside of the general nesting season for raptors and other birds. Alternately, a pre-construction survey for nesting birds shall be conducted prior to tree removal between February 1 and September 15. Temporal restrictions shall be determined by a qualified biologist.</p> <p>MM 3.2-5R: Prior to ground disturbance, the City shall be required to purchase compensatory Swainson’s hawk foraging habitat credits for each developed acre, at the required ratio, from an approved mitigation bank, or develop other arrangements acceptable to and approved by the CDFG.</p>	<p>LTS</p>

TABLE B-1 : Summary of Significant Proposed Project Impacts and Mitigation Measures- *continued*

Impact	Level of Significance without Mitigation	Mitigation Measure	Resulting Level of Significance
<p>3.24R: Remediation would result in impacts to trees protected under the City's Heritage Tree Ordinance.</p>	<p>S (Remediation)</p>	<p>MM 3.2-6R: Prior to initiation of remediation activities, the City shall submit a landscape plan for the review and approval of the Urban Forest Services Division indicating the planting of 47 48-inch box trees. Species selection shall be approved by the City Arborist prior to planting.</p> <p>OR</p> <p>If the project site cannot accommodate the planting of these trees, the City shall purchase the trees and plant at a specified location approved by the City Arborist. Species selection shall be approved by the City Arborist prior to planting.</p> <p>MM 3.2-7R: During grading and construction activities, the City (or designee) shall provide an ISA certified arborist to periodically monitor the project site to ensure that the required tree preservation techniques are being implemented, and also to coordinate with planning and construction staff. All heritage size trees identified for removal shall be posted not less than 30 days prior to removal.</p> <p>MM 3.2-8R: Prior to construction, the City (or designee) shall submit a tree preservation plan for the review and approval of the Urban Forest Services Division. The tree preservation plan shall be based on the recommendations within the Arborist Report prepared by Sierra Nevada Arborists (August 2006). The tree preservation plan shall also include the following measure identified by the City Arborist:</p> <p>The City, or designee, shall construct and maintain protective fencing around tree root zones for trees 40, 77, 85, 88, 90, 94, and 95, as well as any tree within Caltrans right-of-way. Using a (6) six foot high cyclone fences, the project arborist shall ensure that drip zone areas are protected. The drip zone of each preserved tree shall remain empty during the project. No tools, vehicles, and building material shall be stored within the protective fencing. No dumping of solutions, chemicals and construction slurries shall occur in the drip zone of each tree.</p> <p>MM 3.29R: Prior to issuance of a grading permit, the Urban Forest Services Division shall review the grading plan to ensure that grade changes greater than 12-inches above or below original grade would not occur within the drip line of trees 40, 77, 85, 88, 90, 94, and 95, or any tree within Caltrans right-of-way. If grade changes greater than 12-inches are indicated on the grading plan, the City Arborist shall provide additional requirements for specialized aeration and/or drainage systems to aid in tree survival.</p>	<p>LTS</p>

TABLE B-1 : Summary of Significant Proposed Project Impacts and Mitigation Measures- *continued*

Impact	Level of Significance without Mitigation	Mitigation Measure	Resulting Level of Significance
		<p>MM 3.2-10R: Trees 40, 77, 85, 86, 90, 94, and 95 shall be appropriately irrigated (twice per week) during the period of April 1st to Oct 30th. If irrigation is not currently accessible, irrigation shall be installed or otherwise provided.</p> <p>MM 3.2-11R: All root pruning shall be performed by an International Society of Arboriculture, (ISA) certified arborist. Exposed roots greater than 2-inches in diameter shall be inspected and pruned prior to backfill/installation of hardscape. Once exposed, the project arborist shall determine if tree removal is required due to excessive root pruning, and shall immediately notify the City Arborist with the determination.</p>	
<p>Cultural Resources</p> <p>3.3-2R: Remediation activities could impact known and/or unknown archeologic resources.</p>	S (Remediation)	<p>MM 3.3-1R(a): In the event that any prehistoric subsurface archeological features or deposits, including locally darkened soil (“midden”), that could conceal cultural deposits, animal bone, obsidian and/or mortars are discovered during construction-related earth-moving activities, all work within 50 meters of the resources shall be halted, and the City shall consult with a qualified archeologist to assess the significance of the find. Archeological test excavations shall be conducted by a qualified archeologist to aid in determining the nature and Integrity of the find. If the find is determined to be significant by the qualified archeologist, representatives of the City and the qualified archeologist shall coordinate to determine the appropriate course of action. All significant cultural materials recovered shall be subject to scientific analysis and professional museum curation. In addition, a report shall be prepared by the qualified archeologist according to current professional standards.</p> <p>MM 3.3-1R(b): If a Native American site is discovered, the evaluation process shall include consultation with the appropriate Native American representatives.</p> <p>If Native American archeological, ethnographic, or spiritual resources are involved, all identification and treatment shall be conducted by qualified archeologists, who are certified by the Society of Professional Archeologists (SOPA) and/or meet the federal standards as stated in the Code of Federal regulations (36 CFR 61), and Native American representatives, who are approved by the local Native American community as scholars of the cultural traditions.I</p>	LTS

TABLE B-1 : Summary of Significant Proposed Project Impacts and Mitigation Measures- *continued*

Impact	Level of Significance without Mitigation	Mitigation Measure	Resulting Level of Significance
<p>Hazards and Hazardous Materials</p> <p>3.4-1R: Remediation would result in activities that could expose people to contaminated soil.</p>	<p>S (Remediation)</p>	<p>In the event that no such Native American is available, persons who represent tribal governments and/or organizations in the locale in which resources could be affected shall be consulted. If historic archeological sites are involved, all identified treatment is to be carried out by qualified historical archeologists, who shall meet either Register of Professional Archeologists (RPA), or 36 CFR 61 requirements.</p> <p>MM 3.3-2R: If a human bone or bone of unknown origin is found during construction, all work shall stop within 50 meters of the find, and the County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission, who shall notify the person most likely believed to be a descendant. The most likely descendant shall work with the contractor to develop a program for re-interment of the human remains and any associated artifacts. No additional work is to take place within the immediate vicinity of the find until the identified appropriate actions have taken place.</p>	<p>LTS</p>
		<p>MM 3.4-1R(a): Dust control measures shall be implemented during remediation activities, which may include one or more of the following:</p> <ul style="list-style-type: none"> a) Use of water spraying over soil when performing dust-creating activities. b) Limiting the number of soil disturbing activities being performed at one time such that no visible dust is observed. c) Minimizing drop heights while loading or unloading soil. d) Covering soil stockpiles when not being added to or removed. e) Limiting vehicle speeds in the remediation area to five miles-per-hour. f) Sweeping paved roadways on-site and off-site near exit routes daily, or more frequently, if necessary. g) Stopping soil disturbing activities when wind speed exceeds 25 miles per hour. <p>MM3.4-1R(b): The following measures shall be used to minimize the potential for contaminants to be transported outside the site on equipment or vehicles:</p> <ul style="list-style-type: none"> a) All vehicles must be scraped or brushed to remove soil prior to leaving the remediation area. b) Use of a stabilized construction entrance (gravel site exits) to assist in the removal of soil from tires... 	

TABLE B-1 : Summary of Significant Proposed Project Impacts and Mitigation Measures- *continued*

Impact	Level of Significance without Mitigation	Mitigation Measure	Resulting Level of Significance
		<p>c) If soil cannot be removed effectively by brushing or scraping, high-pressure washing may be employed to remove soil from equipment. Water used in washing operations shall be contained and managed in with applicable federal, state, and local waste regulations.</p> <p>MM3.4-1R(c): The following mitigation measures shall be used to minimize potential exposures due to spills or runoff:</p> <p>a) A vehicle staging area will be set up in the southwest corner of the proposed project area, which will be used for parking heavy equipment and storage of hazardous materials (fuels, lubricants, etc.) that may be used during the remediation. Materials will be stored in appropriate containers.</p> <p>b) Hazardous materials releases, such as spills of oil, petroleum fuels, and hydraulic fluids, or releases of contaminated soil/sediment will be managed through use of Best Management Practices to manage storm water and other discharges, as required by City of Sacramento Municipal Code (Chapter 13.16). The contractor shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP), which must contain procedures for responding to hazardous materials releases, such as use of absorbent material and proper management of the resultant waste.</p> <p>c) The staging area will have secondary containment as appropriate for materials being used, and equipment/supplies needed to handle spills and disposal of contaminated materials.</p> <p>MM3.4-1R(d): The remediation contractor is required to prepare a site-specific health and safety plan that discusses procedural end minimum equipment requirements for worker protection in accordance with Federal OSHA 29 CFR 1910 and 1926. All employees and site visitors will be subject to the provisions of the Plan. The Plan shall also include provisions for dust monitoring along the site perimeter and define applicable action levels that would trigger additional dust control measures if the action levels are exceeded.</p> <p>MM 3.4-1R(e): After recordation of the parcel map and prior to occupancy of the buildings, a Deed Restriction shall be recorded for Parcel B that includes at a minimum the following provisions:</p> <p>a) The Deed Restriction must run with the land and be imposed in perpetuity and shall restrict land uses on the site (no single family residential or other sensitive land uses).</p>	

TABLE B-1 : Summary of Significant Proposed Project Impacts and Mitigation Measures- *continued*

Impact	Level of Significance without Mitigation	Mitigation Measure	Resulting Level of Significance
<p>3.4-2R: Activities associated with remediation of the site could expose people to asbestos-containing materials, lead-based paint, PCBs, and other hazardous materials.</p>	<p>S (Remediation)</p>	<p>b) Identify the continuing presence of hazardous materials and describe the use limitations on the property. c) Every year the landowner or lessee shall conduct an inspection of the integrity of the cap. d) The inspection shall consist of visual inspections along longitudinal (north to south) traverses every 100 feet. e) Observations shall be made as to cap cracking, erosional damage, settlement, sloughing, seepage, or other damage to the cap. f) Any deterioration of the cap shall be noted and repairs must be implemented.</p> <p>The inspection shall be documented and submitted to the County annually in January.</p> <p>MM 3.4-2R: Prior to building demolition, an Asbestos Building Materials Survey will be conducted by an AHERA Accredited Asbestos Consultant or Site Surveillance Technician certified by the State of California. A Lead-Based Paint Survey Will be conducted by a certified lead inspector accredited by the State of California Department of Health Services (DHS). If such materials are found, and prior to any demolition that could disturb the materials, the City will retain a qualified abatement contractor to property remove and dispose of these materials. in accordance with applicable regulations.</p>	<p>LTS</p>
<p>Traffic and Circulation 5.13.6R: Remediation could result in short-term impacts on traffic due to the removal of the clay pigeon debris.</p>		<p>MM 5.13.6R: Dust control measures shall be implemented during remediation activities, which may include one or more of the following: A Traffic Management Plan (TMP) shall be prepared prior to removal of the clay pigeon debris. The TMP shall be reviewed and approved by the California Department of Transportation (Caltrans) and the City's Department of Transportation (DOT). During construction, the State shall monitor compliance with the TMP on I-80 (Business) and the City shall monitor compliance on Fulton Road. The TMP shall include, but is not limited to, the following items: a) Identification of areas requiring encroachment with the public right of way. b) Identification of any necessary signing.</p>	<p>LTS</p>

TABLE B-1 : Summary of Significant Proposed Project Impacts and Mitigation Measures- *continued*

Impact	Level of Significance without Mitigation	Mitigation Measure	Resulting Level of Significance
		<ul style="list-style-type: none"> c) Identification of conditions that would trigger the need for flag persons and the locations that are needed to direct traffic flows. d) Identification of routes and hours for the movement of construction vehicles that would minimize the impacts on circulation of vehicular traffic in the project study area to avoid hindrance of the general flow of traffic in the vicinity of the project (i.e., avoiding peak hour traffic conditions). e) Use of the project site for placement or staging of construction equipment, vehicles, and materials to avoid additional trips to the project site. <p>Designation of an on-site complaint and enforcement manager to respond to complaints and on-site posting of contact information (name and phone number) for the enforcement manager.</p>	

Source: City of Sacramento Economic Development Department, 2006, *Draft Environmental Impact Report, Fulton Avenue Development Project, Sacramento, California*, October 6.

Note: S - Significant

APPENDIX C
TRANSPORTATION PLAN

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FIGURES

- C1: Regional Transportation Route
- C2: Transportation Route from Sacramento Trapshooting Club
- C3: Route to Forward Landfill

TRANSPORTATION PLAN
Sacramento Trapshooting Club Site
3701 Fulton Avenue, Sacramento, California

1.0 TRANSPORTATION PLAN

1.1 Background

The Sacramento Trapshooting Club (“Club”) formerly leased approximately 20.5 acres (“leasehold”) located immediately north of the Interstate 80 (“I-80”) Business Loop and east of the entrance to the Haggin Oaks Golf Complex from the City of Sacramento (“City”) since the early 1900s. The Haggin Oaks Golf Complex and the leasehold are adjacent to Del Paso Park, a recreational area near Arcade Creek.

Use of the leasehold for recreational shotgun practice has resulted in lead, arsenic, and polynuclear aromatic hydrocarbons (“PAH”) deposits on the ground surface from lead shot and clay pigeons on and around the leasehold. Soil investigations conducted between 2004 and 2006 defined the area of contamination (“AOC”), which is confined to the upper two feet of soil on the leasehold and one foot of soil in an area north of the leasehold boundary. In addition, there is a substantial accumulation of clay pigeon debris within the center of the leasehold.

The City intends to remove the clay pigeon debris, and then consolidate and cap the impacted soil on a portion of the leasehold. The City will sub-divide the leasehold into two parcels, excavate the soil containing lead, arsenic, and PAH from the western area (Parcel A) and the area north of the leasehold boundary, and consolidate the contaminated soil onto the eastern part of the leasehold (Parcel B). Parcel B will then be capped with a minimum of two feet of clean fill soil and both parcels will be surfaced with approximately four inches of asphalt as described in the Implementation Plan, Sacramento Trapshooting Site, Sacramento, California (“IP”).

Transportation of the clay pigeon debris will be conducted in accordance with all federal, state, and local regulations. The clay pigeon debris will be excavated from the leasehold loaded onto trucks, and transported to a landfill permitted to accept non-hazardous waste for disposal.

1.2 Purpose and Objective

The purpose and objective of this transportation plan is to provide protocols to minimize the potential health, safety, and environmental risks resulting from transporting clay pigeon debris excavated from the leasehold. Transportation will occur when moving the clay pigeon debris from the leasehold to a permitted waste disposal facility.

1.3 Characteristics of Waste

The clay pigeon debris has been characterized based on chemical and bio-assay data from samples collected at the site. The results of chemical analysis indicated that the clay pigeon debris did not contain PAHs at concentrations exceeding the total threshold limit concentration (“TTL”) and soluble lead at concentrations exceeding the soluble threshold limit concentration (“STL”).

("STLC"). The California Code of Regulations, Title 22 Chapter 11, Article 3 defines waste exceeding these values as California hazardous waste.

The clay pigeon samples did not contain soluble lead at or above the level defined as federal hazardous waste when tested using the toxicity characteristic leachate procedure ("TCLP") in accordance with Resource Conservation and Recovery Act ("RCRA") regulations Code of Federal Regulations, Title 40 Sections 261 and 262.11.

Therefore, the clay pigeon debris has been characterized as non-hazardous waste. The summary of the clay pigeon sample results may be found in the Draft Final Response Plan dated 31 March 2006.

1.4 Disposal Facility

The excavated clay pigeon debris will be disposed of at Forward Landfill, owned and operated by Allied Waste North America. Forward Landfill is located at 9999 South Austin Road, approximately seven miles south of the City of Stockton in San Joaquin County. Forward Landfill occupies approximately 157 acres and is permitted by the Regional Water Quality Control Board in accordance with Title 27 CCR to receive designated and non-hazardous solid waste. The facility accepts nonhazardous industrial waste, including non-friable asbestos, contaminated soil, municipal wastewater treatment sludge, oil exploration and production waste, construction and demolition wastes, and other industrial and special wastes.

The contractor will be required to provide the City with documentation in the form of waste manifest and bills of lading and weight tickets to document the proper disposal of the clay pigeon debris.

1.5 Clay Pigeon Debris Transportation

Excavated clay pigeon debris will be placed in trucks for transportation to the landfill. These trucks will be loaded adjacent to the clay pigeon debris area. The clay pigeon debris will be covered with tarps and the trucks will be decontaminated in a Decontamination Zone prior to leaving the site to prevent clay pigeon debris from being deposited off-site during transportation. The trucks will be decontaminated by dry sweeping any loose soil or rocks off of the trucks surfaces and removing any soil that is adhering to the sides or tires.

A transportation contractor, meeting all licensing laws and requirements of appropriate regulatory agencies in the State of California, will transport the soil to the Forward Landfill facility. Loading trucks will take place daily 7:00 AM to 3:30 PM until the clay pigeon debris off-haul is completed.

1.6 Transportation Route

Trucks transporting the clay pigeon debris will exit the leasehold into Fulton Avenue. From Fulton Avenue, the trucks will proceed to Forward Landfill using the following route (Figures C1, C2, and C3):

- Head southeast from Fulton Ave 0.1 mile;
- Turn right into the I-80 Business Route westbound entry ramp to Sacramento;

At 7.1 miles to merge onto CA-99 heading south;
Proceed south for 46 miles and then take the Mariposa Road exit to Escalon;
At 0.3 mile, bear right at East Mariposa Road;
At 3.2 miles, turn right at Austin Road; and
At 1.1 miles the road will become South Austin Road and after 1.5 miles, arrive at Forward Landfill, 9999 South Austin Road.

1.7 Traffic Control and Loading Procedures

The City of Sacramento or their contractors will provide personnel to direct truck traffic and ensure that the trucks exit and enter Fulton Avenue. Eighteen to twenty yard capacity trucks are expected to be used during the clay pigeon debris excavation. These trucks will enter near the northwestern corner of the leasehold. The personnel present will assist the driver in passing in a safe manner.

Excavated clay pigeon debris will be loaded into the trucks using an excavator, backhoe, or front-end loader. The truckloads will be covered, and the pigeon debris transported to Forward Landfill. Prior to leaving the loading area, the trucks will be dry swept to remove all impacted materials on the exterior of the trucks. No pigeon debris will be deposited on the public roads.

Dust control measures that will be implemented during response action include: 1) minimizing drop heights while loading/unloading soil; 2) watering disturbed unpaved areas at least twice a day; 3) trucks transporting hazardous soils will be equipped with a visqueen bed liner and cover tarp to prevent the release of dust once the trucks leave the site; 4) applying water at least 3 times a day to all unpaved access roads, parking areas, and staging areas; 5) sweeping adjacent streets daily if pigeon debris is carried onto the street; and 6) minimizing vehicle speeds to 5 miles-per-hour on unpaved portions of the site.

1.8 Record Keeping

The City of Sacramento or their designee will keep daily field notes. The daily log will include the date, time, weight/volume of soil, soil classification, trucking company, driver, and type of vehicle used.

The soil will be transported using a waste manifest or bill of lading. An individual manifest or bill of lading will be filled out for each truckload. The manifests and bill of lading will be completely filled out prior to leaving the site. Certified scale weights of trucks arriving at the landfill will be used to determine tonnage for billing purposes. The manifests, bills of lading, and weight tickets will be provided to the City of Sacramento upon completion of pigeon debris removal.

2.0 CONTINGENCY PLAN

If an unauthorized spill or discharge of contaminated soil occurs, the Safety Officer (“SO”) must notify the following organizations within 24-hours of the incident:

City of Sacramento	Mr. Dean Peckham	916 808-7063
Site Safety Officer	Mr. Bill Scott	510 612-7153
California Highway Patrol (CHP)	Emergency	911

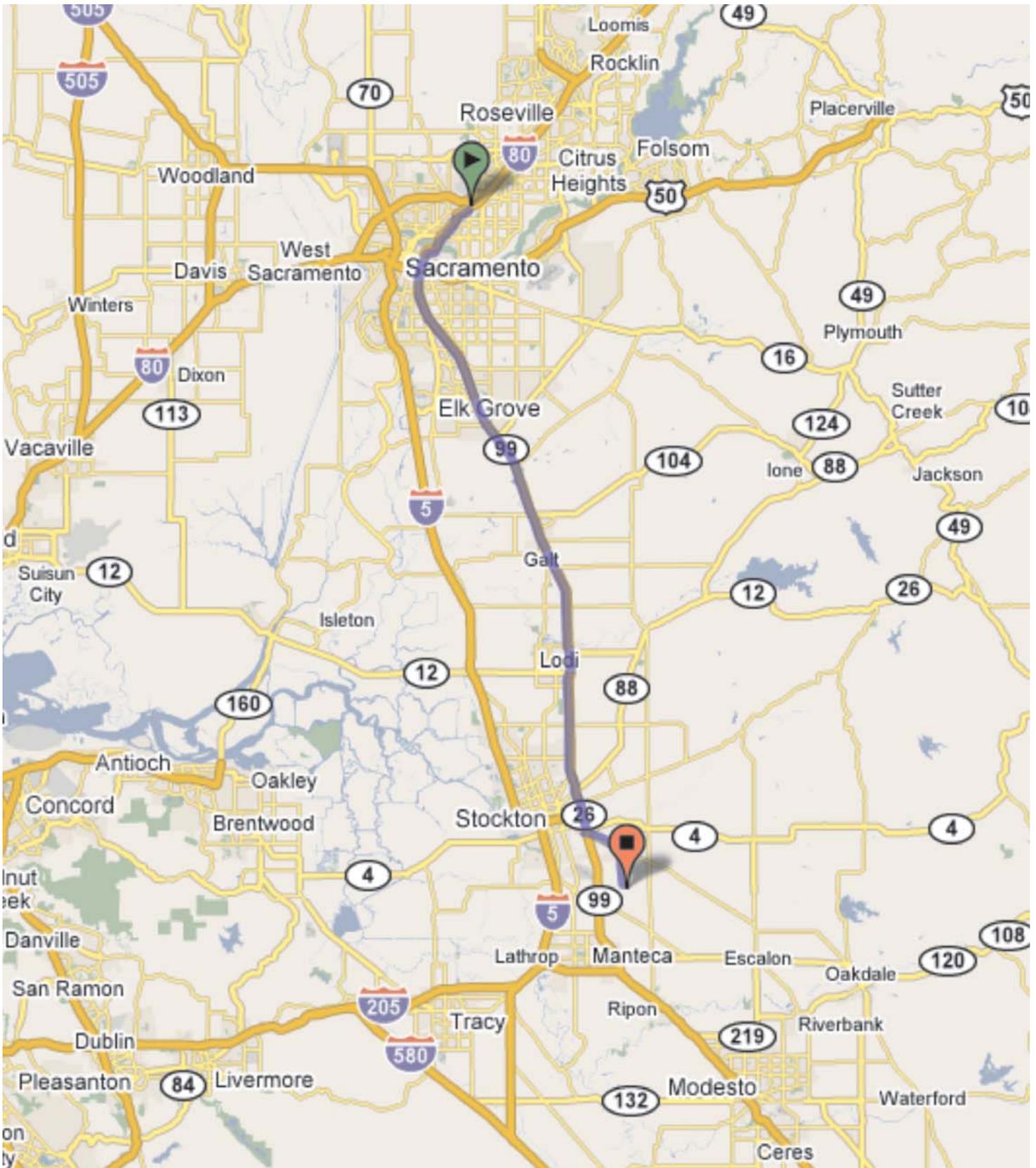
In case of an accident, the driver will request emergency services such as fire, medical, or law enforcement, either over the truck radio or by calling 911.

The most likely potential for spillage would be airborne release of dust during transit, due to the tarp coming loose. If this occurs, the driver will stop immediately and re-secure the tarp. If the tarp has ripped and cannot be used, the driver may use the back-up tarp, if available, or will call their trucking company for a replacement tarp to be delivered and installed. Trucks will not proceed until a new tarp is securely installed.

FIGURES

REGIONAL TRANSPORTATION ROUTE

Figure C1

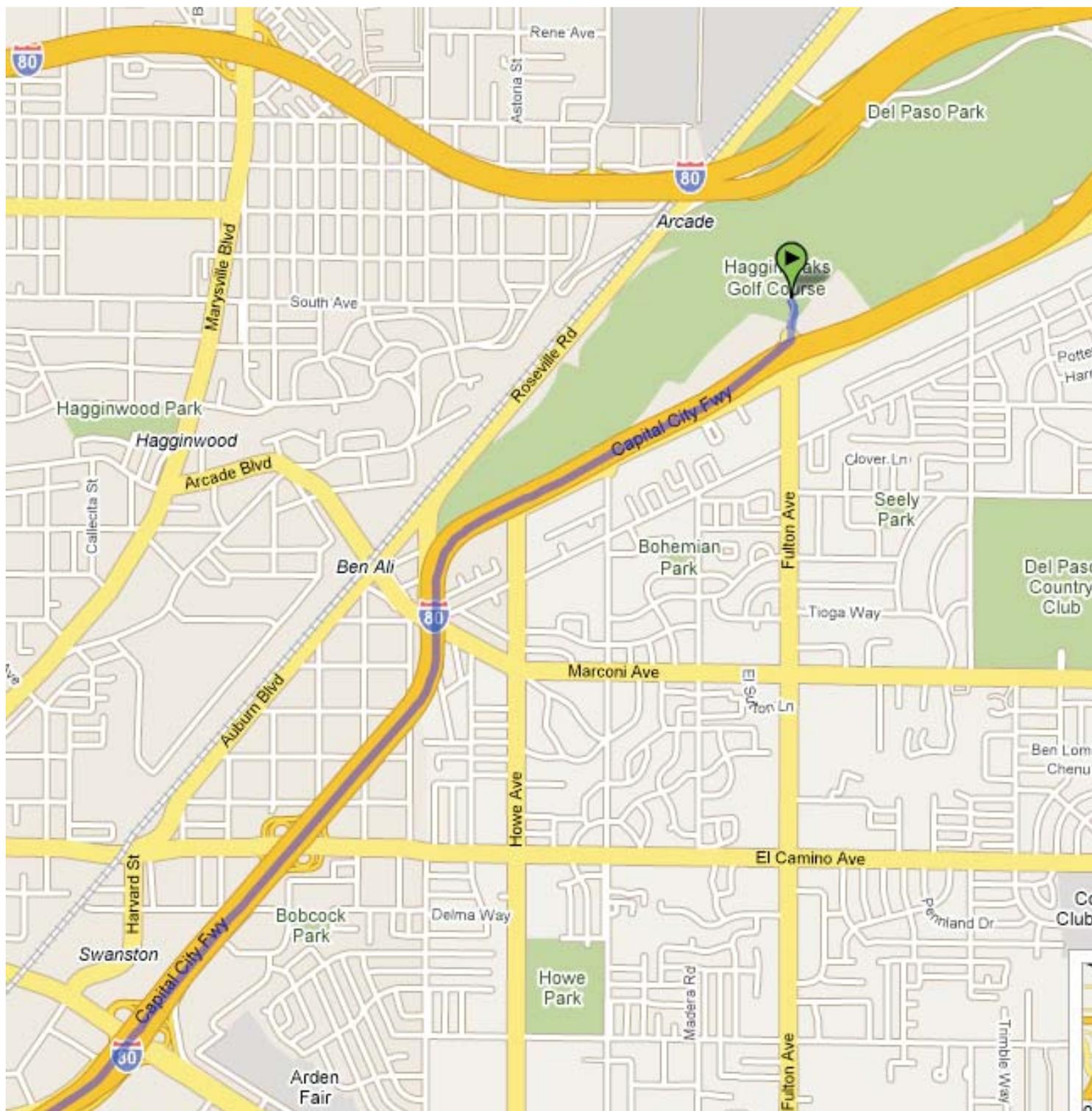


Sacramento Trapshooting Club
Sacramento, California



TRANSPORTATION ROUTE FROM SACRAMENTO TRAPSHOOTING CLUB

Figure C2

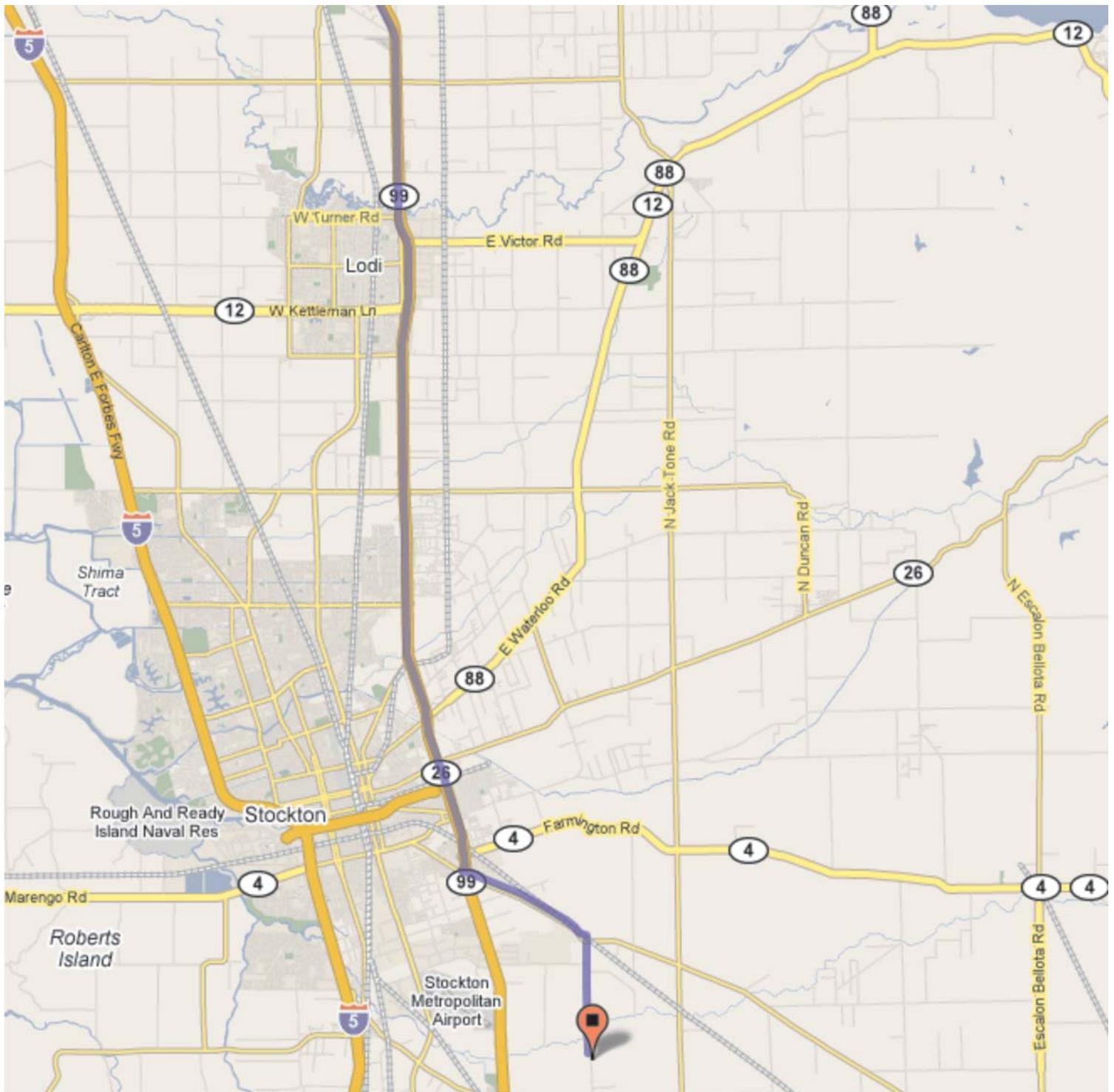


Sacramento Trapshooting Club
Sacramento, California



TRANSPORTATION ROUTE TO FORWARD LANDFILL

Figure C3



Sacramento Trapshooting Club
Sacramento, California



APPENDIX D

MODEL HEALTH AND SAFETY PLAN

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MODEL HEALTH AND SAFETY PLAN

Sacramento Trapshooting Club Site

3701 Fulton Avenue, Sacramento, California

1.0 INTRODUCTION

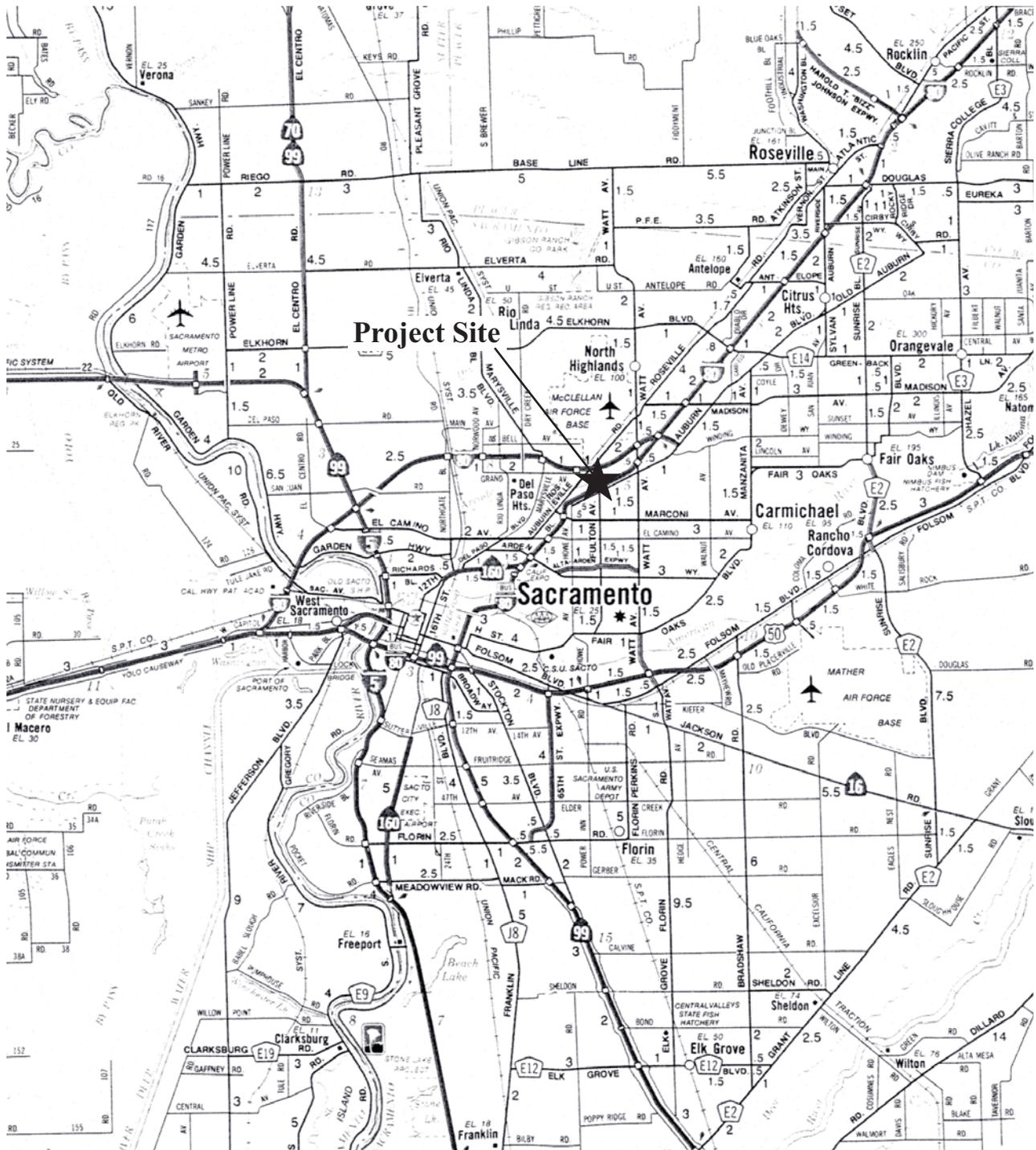
The Sacramento Trapshooting Club (“Club”) formerly leased approximately 20.5 acres (“leasehold”) located immediately north of the Interstate 80 (“I-80”) Business Loop and east of the entrance to the Haggin Oaks Golf Complex (Figure D1) from the City of Sacramento (“City”) since the early 1900s (Figure D2). The Haggin Oaks Golf Complex and the leasehold are adjacent to Del Paso Park, a recreational area near Arcade Creek.

Use of the leasehold for shotgun practice has resulted in lead, arsenic, and poly nuclear aromatic hydrocarbons (“PAH”) deposits on the ground surface from lead shot and clay pigeons on and around the leasehold. Soil investigations conducted between 2004 and 2006 defined the area of contamination (“AOC”), which is confined to the upper two feet of soil on-site and one foot of soil in an area north of the leasehold boundary (Figure D2). In addition, there is a substantial accumulation of clay pigeon debris within the center of the leasehold (Figure D2).

The City intends remove the clay pigeon debris, and then consolidate and cap the impacted soil on a portion of the leasehold. The City will sub-divide the leasehold into two parcels, excavate the soil containing lead, arsenic, and PAH from the western area and the area north of the leasehold boundary, and consolidate the contaminated soil onto the second parcel (Parcel B) in the eastern part of the leasehold. Parcel B will then be capped with a minimum of two feet of clean fill soil and both parcels will be surfaced with approximately four inches of asphalt as described in the Implementation Plan, Sacramento Trapshooting Site, Sacramento, California (“IP”).

The purpose of this Model Health and Safety Plan (“Plan”) is to describe the potential chemical hazards, the health and safety procedures that will be followed to protect workers/visitors and the surrounding community, and emergency response procedures for incidents involving hazardous substances. The contractor may adapt this Plan or prepare a health and safety plan that is at least as stringent as this Plan.

Based on analytical data from clay pigeon samples collected at the leasehold, the clay pigeon debris is a non-hazardous waste. However, excavation of the debris may generate dust containing lead, arsenic, or PAHs that may pose a health and safety hazard to workers, visitors, and to the surrounding community during excavation and removal. This is also possible during excavation of soil during the consolidation phase of the response action. Therefore, the focus of this Plan is to reduce exposure to potentially harmful dust particles through a combination of air monitoring, engineering controls, and personal protective equipment.



Sacramento Trapshooting Club Sacramento, California





**Sacramento Trapshooting Club
Sacramento, California**

Source: City of Sacramento, 2004.

Y4368-B0.00443.FigD2.cdr 12/21/06



In addition to the dust exposure hazard, this Plan provides guidance to protect the worker from incidental ingestion of contaminants through material handling procedures. Other hazards associated with construction work will be addressed under the construction contractor's standard health and safety plan for earthwork activities.

This Plan has been prepared in accordance with 29 Code of Federal Regulations ("CFR") Part 1910.120 Hazardous Waste Operations and Emergency Response and Title 8 California Code of Regulations ("CCR") Section 5192. Although the Plan requires personal protection measures that, in some cases, assume worst-case exposure conditions, it is anticipated that these worst-case conditions will not occur. To the maximum extent possible, site control measures will be taken to ensure worker health and safety without unduly impeding removal activities.

This Plan is intended to act as an extension of the contractor's in-house Health and Safety Program. All contractor employees must receive initial and annual training in the contents of the Health and Safety Program. BASELINE employees will follow this Plan during oversight of the removal actions, on behalf of the City and during verification soil sampling collection. BASELINE's Health and Safety officer will be responsible for BASELINE employees and the contractor's Health and Safety Officer will be responsible for the contractor's workers.

2.0 SITE LOCATION

The AOC is located immediately north of the Interstate 80 ("I-80") Business Loop and east of the entrance to the Haggin Oaks Golf Complex (Figure D2). The Haggin Oaks Golf Complex and the AOC are adjacent to Del Paso Park, a recreational area near Arcade Creek. The AOC extends beyond the leasehold boundary to the north (Figure D2).

3.0 REMOVAL ACTION

The removal action will consist of removing the clay pigeon debris and transporting it to a landfill permitted to accept non-hazardous waste containing PAH for disposal. Approximately 37,900 cubic yards (cy) of soil from the western portion of the leasehold and approximately 2,800 cy from the area north of the leasehold will be excavated and consolidated onto the eastern portion of the leasehold. The consolidated material will be capped with two feet of clean soil and approximately four inches of asphalt.

4.0 IDENTIFICATION OF POTENTIAL CHEMICAL HAZARDS

During removal action, construction workers, visitors, and the surrounding community may be exposed to lead, arsenic, or PAH contaminated soils or dusts generated by removal actions or wind erosion of exposed soils. Exposure may occur through inhalation of dust and/or ingestion of dust/soils on hands, clothing, beard, food, drink, or cigarettes.

4.1 Lead Toxicity Profile

Ingestion is the most significant route of lead uptake by humans. Gastrointestinal absorption varies with age, diet, and nutritional status as well as the chemical species. Absorption in adults is estimated as ranging from 7 to 15 percent, and in children from 40 to 50 percent. Fasting increases the amount of lead absorbed by a factor of three to five. Inhalation is also a significant

route of exposure. lead, except for certain organic leads such as tetraethyl lead, is not absorbable through human skin.

The major target organs for lead include the blood and blood-forming system, the kidneys, the gastrointestinal tract, the central nervous system, and the reproductive system. lead can also affect the immune system and produce gingival lead lines. Epidemiological studies have indicated that chronic lead exposure may be associated with increased blood pressure in adult males.

The major health effects associated with lead are associated with the target organs. Acute exposure to lead may result in malaise, insomnia, eye irritation, mild hand tremors, anemia, nausea, loss of appetite, and constipation. Chronic exposure is related to more serious effects, including nephropathy, reproductive system disorders, and kidney dysfunction. lead is classified by U.S. EPA as a Class B2, or probable human carcinogen, based on long-term animal studies showing increased incidence of kidney tumors (U.S. EPA, 1984).

Chronic exposure can affect the reproductive system or possibly result in cancer. Symptoms from exposure through inhalation or ingestion include lassitude, insomnia, palpitations, malaise, convulsions, eye irritation, mild hand tremors, anemia, nausea, constipation, and loss of appetite.

The California Department of Industrial Relations, Occupational Safety and Health (“CalOSHA”) establishes in Title 8 CCR, Section 1532 the maximum permissible exposure limit (“PEL”) for respirable lead as an eight-hour time weighted average (“TWA”) of 0.05 milligram per cubic meter (“mg/m³”). The CalOSHA Action Level for respirable lead is 0.030 mg/m³ TWA. If there is a possibility of any employee exposure at or above the Action Level, regulations require the employer to conduct monitoring that is representative of the exposure for each employee in the workplace who is exposed to lead. The respiratory level at which lead is found to be immediately dangerous to life and health (“IDLH”) is 100 mg/m³ (NIOSH, 2000).

Ingestion is the most significant route of lead uptake by humans. Gastrointestinal absorption varies with age, diet, and nutritional status as well as the chemical species. Absorption in adults is estimated as ranging from 7 to 15 percent, and in children from 40 to 50 percent. Fasting increases the amount of lead absorbed by a factor of three to five. Inhalation is also a significant route of exposure. Lead, except for certain organic leads such as tetraethyl lead, is not absorbable through human skin.

4.2 Arsenic Toxicity Profile

The toxicity of inorganic arsenic (As) depends on its valence state (-3, +3, or +5). Trivalent (As+3) compounds are generally more toxic than pentavalent (As+5) compounds, and the more water soluble compounds are usually more toxic and more likely to have systemic effects than the less soluble compounds, which are more likely to cause chronic pulmonary effects if inhaled. In humans, the skin, vascular system, and peripheral nervous system are the primary target organs.

The primary symptoms of acute inorganic arsenic poisoning in humans are nausea, anorexia, vomiting, epigastric and abdominal pain, and diarrhea. Oral doses as low as 20-60 grams per kilogram weight per day (“mg/kg/day”) have been reported to cause toxic effects in some

individuals (ATSDR, 1989). The acute *lethal* dose to humans has been estimated to be about 0.6 mg/kg/day (ATSDR, 1989). Acute inhalation exposures to inorganic arsenic can damage mucous membranes (U.S. EPA, 1984).

General symptoms of chronic arsenic poisoning in humans are weakness, general debility and lassitude, loss of appetite and energy, loss of hair, hoarseness of voice, loss of weight, and mental disorders (RAIS, 1992). Primary target organs are the skin, nervous system, and vascular system. Chronic inhalation exposures can cause Arsenic to rhino-pharyngo-laryngitis, tracheobronchitis; dermatitis, hyperpigmentation, and hyperkeratosis; leukopenia; peripheral nerve dysfunction; and peripheral vascular disorders (RAIS, 1992).

The CalOSHA PEL for respirable arsenic is 0.010 $\mu\text{g}/\text{m}^3$ 8-hour TWA (NIOSH, 2000). The National Institute for Occupational Safety and Health (“NIOSH”) recommended exposure limit (“REL”) for respirable arsenic is 0.002 mg/m^3 15 minute TWA (NIOSH, 2000).

4.3 PAH Toxicity Profile

Probable routes of human exposure to PAHs are inhalation, ingestion, and dermal contact. The respiratory hazards are based on the health effects to 667 workers in a rubber factory from inhalation exposure to PAHs, specifically, benzo[a]pyrene. Workers were found to exhibit radiographic abnormalities including patch opacities, prominent bronchovascular markings, and pleural effusions. Other symptoms included bloody vomit, breathing problems, chest pains, chest irritation, throat irritation, and cough (ATSDR, 1995).

Epidemiologic studies have shown increased mortality due to lung cancer in humans exposed to coke oven emissions, roofing-tar emissions, and cigarette smoke (ATSDR, 1995). Each of these mixtures contains benzo[a]pyrene, chrysene, benz[a]anthracene, benzo[b]fluoranthene, and dibenz[a,h]anthracene as well as other potentially carcinogenic PAHs and other carcinogenic and potentially carcinogenic chemicals, tumor promoters, initiators, and co-carcinogens such as nitrosamines, coal tar pitch, and creosote. It is thus impossible to evaluate the contribution of any individual PAH to the total carcinogenicity of these mixtures in humans because of the complexity of the mixtures and the presence of other carcinogens. However, reports of this nature provide qualitative evidence of the potential for mixtures containing PAHs such as benzo[a]pyrene, chrysene, benz[a]anthracene, benzo[b]fluoranthene, and dibenz[a,h]anthracene to cause cancer in humans.

The State of California has determined under Proposition 65 that several PAH compounds (including benzo[b]fluoranthene, benzo[j]fluoranthene, benzo[k]fluoranthene, benzo[a]pyrene, chrysene, indeno[1,2,3-cd]pyrene, 3,7-dinitrofluoranthene, and 3,9-dinitrofluoranthene) are carcinogens (CalEPA, 2006).

Polynuclear aromatic hydrocarbons include hundreds of different chemicals that commonly occur as mixtures in the environment. Limited toxicological data are available on PAH mixtures; therefore, individual PAHs are typically evaluated as separate chemicals for risk characterization. The combined or cumulative risks for more than one PAH may be estimated using Potency Equivalency Factors (“PEFs”) developed by CalEPA (CalEPA, 2001). The following PAHs have been reported in soil samples collected within the AOC:

Of these, the eight following have been reported at levels above the residential PRGs:

- Benzo(a)anthracene;
- Benzo(a)pyrene;
- Benzo(b)fluoranthene;
- Benzo(k)fluoranthene;
- Chrysene;
- Dibenz(a,h)anthracene;
- Fluorene; and
- Indeno(1,2,3-cd)pyrene

The CalOSHA PEL for respirable PAHs (coal tar pitch volatiles) is 0.2 mg/m³ 8-hour TWA (NIOSH, 2000). The NIOSH REL for respirable PAHs is 0.1 mg/m³ 10-hour TWA (NIOSH, 2000).

4.4 Hazard Analysis

The respiratory protection and air monitoring strategy for this removal action was formulated by calculating the potential airborne lead, arsenic, or benzo(a)pyrene equivalent concentration in dust using the maximum concentration found in soil samples collected from the site. The actual concentrations in airborne dust are likely to be less than that calculated using the maximum reported value. This conservative assumption provides an inherent safety factor in the development of an air monitoring strategy during removal action operations.

The maximum concentration of lead reported in soil samples from within the AOC was 9,000 milligrams per kilogram (“mg/kg”) and the maximum arsenic concentration in soil was reported to be 49 mg/kg.

In order to evaluate the hazard presented to workers exposed to PAHs, the PAH concentrations from the sample containing the highest total PAHs (STCB-12@2-2.5) were converted to benzo(a)pyrene using the following pyrene equivalent factors (“PEFs”):

benzo[a]pyrene	1.0
benzo[a]anthracene	0.1
benzo[b]fluoranthene	0.1
benzo[k]fluoranthene	0.1
indeno[1,2,3-cd]pyrene	0.1
chrysene	0.01
dibenz[a,h]anthracene ¹	0.4

Source: CalEPA, 2001

¹ PEF determined by dividing the inhalation unit risk factor for the PAH by the inhalation unit risk factor for benzo(a)pyrene.

The benzo(a)pyrene equivalent concentration was calculated to be 273 mg/kg.

The CalOSHA PEL for total dust is 10 mg/m³ and 5 mg/m³ for respirable dust. Assuming that engineering controls will keep dust concentrations below the respirable dust action level, the maximum lead concentration in the air would be 0.045 mg/m³, which is above the action level for respirable lead of 0.03 mg/m³.

$$5 \text{ mg/m}^3 \text{ dust} \times \text{contaminant concentration (mg/kg)} \times 10^{-6} \text{ kg/mg} = \text{contaminant concentration in air (mg/m}^3\text{)}$$

Contaminant	Maximum Reported Concentration in Soil (mg/kg)	Concentration in the Air ¹ (mg/m ³)	Exposure Limit ² (mg/m ³)
lead	9,000	0.045	0.03
Arsenic	49	0.00025	0.002
PAHs	273	0.0014	0.1

¹ At a dust level of 5 mg/m³.

² NIOSH REL for arsenic and PAHs, Cal OSHA Action Level for lead.

This exposure evaluation indicates that if the concentration of dust in the breathing space of workers is maintained below the respirable dust Action Level, exposure above the Action Level for respirable lead would be exceeded, but the Reference Exposure Levels (“RELs”) for arsenic or PAHs (as benzo(a)pyrene equivalent) would not likely be exceeded. This MHSP will require that respirators be worn during the initial phase of excavation until air monitoring performed by the Health and Safety Officer, or personnel under their supervision, indicates dust levels are below the dust Action Level of 5 mg/m³ and therefore respiratory protection is not warranted. Real-time air monitoring instruments will be used to evaluate the need to upgrade or downgrade respiratory protection as set forth in Section 8.0 for this Plan.

5.0 PHYSICAL HAZARDS

Fire and explosion, noise, lifting, aboveground utilities, open excavations, heat/cold stress, tripping and falling hazards, falling objects, and heavy equipment/vehicles have been identified as potential physical hazards during removal actions covered by this Health and Safety Plan. The consultant/contractor, subconsultants, and subcontractors, and other on-site personnel (regulators, and/or City personnel) will observe the following precautions, as appropriate:

1. Watch for slippery ground;
2. Barricade or clearly identify all unattended excavations to prevent unauthorized entry; follow procedures below for preventing physical injury and excavation and construction safety procedures;
3. Wear personal protective equipment (“PPE”) (particularly traffic safety vests) and be mindful of moving equipment/vehicles and work areas at all times;
4. Prevent strain by using small shipping containers and/or material handling aids;
5. Contact the Underground Service Alert (USA) prior to any site excavation work. In addition, contact the City Engineering Department, as described below, for the location of underground utilities prior to excavation;

6. Maintain fire extinguishers on-site and call 911 immediately in the event of a fire/explosion (see the emergency response plan below);
7. Follow recommendations below to avoid heat stress;
8. Secure items on vehicles when they are not in use on field vehicles;
9. Follow recommendations below to prevent mechanical injury.

5.1 Mechanical Injury

Only trained and qualified contractors will operate heavy equipment. If contractors are observed to be operating equipment in an inappropriate or incompetent manner, the Health and Safety Officer will immediately notify the contractor, who will take appropriate action to correct any deficiencies. All workers will be notified about safety precautions to be taken when working near large machinery used on-site for removal activities (e.g., backhoes and excavators). The contractor will ensure that warning devices on machinery used on-site are in proper working order.

5.2 Heat Stress

The potential for heat stress exists whenever PPE, such as chemical-resistant overalls or respirators, is worn, particularly when ambient temperatures exceed 70° Fahrenheit (“F”). The equipment may restrict the body's ability to cool itself resulting in heat rash, heat cramps, heat stroke, heat exhaustion, or even death. It is not likely that heat stress will be a significant hazard at the site since removal activities take place during the fall months. Ambient temperatures during these months are not expected to exceed 70° F. Work-break cycles will be based on standardized work-rest cycle tables and will be modified as necessary to take into account personal protective gear, workload, and degree of acclimatization.

In the event that unseasonably warm weather is experienced, the Health and Safety Officer will institute monitoring and prevention measures. Monitoring measures may include measurement of atmospheric temperature and metabolic indicators. Preventive measures include training (during tailgate safety meetings), work-rest schedules, work slowdowns, personnel rotation, consumption of liquids, and shelter. The contractor will ensure that at least one person trained in first aid will be on-site during removal action activities.

5.3 Physical Injury

To avoid physical injury, workers will be prohibited from working in or entering any unshored trench or excavation greater than five feet deep, or excavations where shoring or other protection from cave-ins is required but not supplied (even if less than five feet deep). Stockpiles from excavation activities will be created greater than two feet from the excavation edge to prevent physical injury.

Workers on the site may also be subject to an Injury and Illness Prevention Program that meets the requirements of Title 8 CCR, Sections 1590 and 3203. The contractor must demonstrate the establishment of Injury and Illness Prevention Programs, as required by these regulations.

5.4 Noise

The major source of noise at the site will be heavy equipment operation. Noise that exceeds 85 A-weighted decibels (“dBA”) averaged over an eight-hour workday is considered excessive by Cal OSHA and would trigger the requirement for the contractor to implement a Hearing Conservation Program. The Cal OSHA permissible exposure limit (“PEL”) for noise exposures is 90 dBA eight-hour TWA. In addition, employees must not be exposed to impulsive or impact noise that exceeds a peak sound pressure level of 140 dB. Removal activities will temporarily raise noise levels above current existing levels, however, impulse noise is not expected.

6.0 BIOLOGICAL HAZARDS

Because of the undeveloped nature of the site and the existence of native and non-native vegetation, biological hazards such as snakes, poisonous or stinging insects, or ticks may be present at the site. Workers will be cautioned to be observant when working in an area that has not previously been actively worked and to take care to the placing of their hands or feet around bushes, holes, or rock piles.

6.1 Snakes

There are over 130 different varieties of snakes in the United States. The severity of a snakebite depends on the type of snake, location of the bite, whether the snake is poisonous or not and, if so, the amount and type of venom injected. Snakebites are rarely fatal if treated within an hour or two, but they can cause pain and illness and may severely damage a bitten hand or foot. Although not all snakes inject venom, even non-poisonous snakes may carry tetanus (lockjaw). Therefore, anyone bitten by a snake, whether poisonous or nonpoisonous, should receive immediate medical attention.

The only poisonous snake native to California is the rattlesnake. A rattlesnake bite produces a severe burning pain, along with discoloration and swelling around the fang marks. The hemotoxin destroys blood cells, which causes the discoloration of the skin. Blisters and numbness in the affected area follow this reaction. The venom attacks the circulatory system, possibly causing weakness, rapid pulse, and shortness of breath, as well as nausea, vomiting, and shock.

One of the most important parts of treating a snakebite is identifying the type of snake making the bite. The type of anti-venom used in medical treatment of snakebites varies depending on the type of venom injected. If you can identify the type of snake causing the injury, let Emergency Medical Services know when you call for help or phone the information ahead to the hospital if you plan to transport the victim yourself.

To treat poisonous snake bites:

1. Get the victim away from the snake.
2. Reassure and keep the victim quiet and still. This will keep circulation to a minimum and keep the venom from spreading.
3. Immobilize the affected part in a position below the level of the heart.
4. Remove rings, bracelets, watches, and other jewelry from any affected limb.

5. Wash the bite thoroughly with soap and water. Do not apply any ointments.
6. Place an ice bag or freeze pack, if available, over the area of the bite. Do not place ice directly on the skin or wrap the limb with ice. You are only trying to cool the bite area, not freeze it.
7. For bites to the arms, legs, hands, or feet, apply constricting bands two to four inches away from the bite. For an arm or leg bite, place one band above and one below the bite. For a hand or foot bite, place one band above the wrist or ankle. To ensure a band is not too tight, you should be able to insert a finger between the band and the skin.
8. If swelling from the bite reaches the band, tie another band a few inches farther away from the bite and the old band, then remove the old band.
9. Do not give the victim any food, alcohol, tobacco, medication, or drinks with caffeine.
10. Seek medical aid immediately.

6.2 Insects

Workers may come in contact with various types of biting and stinging insects; bees, mosquitoes, ticks, fleas, spiders, etc. Most of these insect bites and stings result in minor reactions, such as itching, redness, swelling, and irritation. However, certain spiders can inject powerful poisons when they bite, and some people may have an allergic reaction to an insect bite or sting, particularly made by bees or wasps. In these cases, seek medical treatment immediately.

The black widow and brown recluse spiders are the poisonous insects that the workers on-site are most likely to encounter. Venom from the black widow is neurotoxic and may cause stomach and muscle cramps, breathing difficulties, nausea, sweating, vomiting, and convulsions. The brown recluse spider can produce severe tissue damage around the bite, possibly leading to gangrene. In most cases, bee and wasp stings produce minimal swelling, pain, redness, itching, and burning at the site of the sting. Multiple stings may cause headaches, fever, muscle cramps, and drowsiness. Symptoms from an allergic reaction may include:

1. Extreme pain at the site of the sting
2. Itching and hives
3. Weakness
4. Anxiety
5. Headache
6. Breathing difficulties
7. Nausea and vomiting
8. Diarrhea
9. Collapse, shock, and even death from a serious allergic reaction.

Take the following basic first aid measures regardless of what caused the bite or sting:

Remove any stinger left in the skin by scraping the skin's surface with a fingernail or knife. Do not squeeze the stinger because it may inject more venom.

1. For tick bites, remove the tick with your fingers if it will come off the skin easily. Do not pull the tick off if it will not come out easily; this may leave the head of the tick in the skin which can cause infection. Instead, cover the tick with Vaseline or thick oil to make it let go, then remove it.

2. Wash the area of the bite/sting with soap and water. Apply an antiseptic, if available, to minimize the chances for infection.
3. Use ice or cold compresses on the site of the bite/sting to help reduce swelling. Do not apply the ice directly to the skin.
4. Apply calamine lotion or a baking soda and water paste to the bite to relieve pain and itching.
5. Treat more serious allergic reactions as you would a snakebite.
Apply constricting bands above and below the site.
 - a. Be prepared to perform basic life support measures.
 - b. To positively identify the insect, attempt to capture it without putting yourself at risk.
 - c. Seek medical aid right away.
6. If signs of infection like pus, red streaks leading away from the bite, swollen glands, or fever occur within hours or several days after an insect bite, seek medical attention.

At the end of each work day, worker will be encouraged to inspect areas where ticks often attach, such as in body folds, behind ears and in the hair.

7.0 ENGINEERING CONTROLS, WORK PRACTICES, AND PERSONAL PROTECTIVE EQUIPMENT

Engineering controls, work practices, and/or PPE will be implemented to protect workers from exposure to hazardous substances and health and safety hazards. Engineering controls and work practices may include wetting down dusty operations, locating workers upwind of possible hazards, and use of specially designed equipment to minimize exposure(s).

Key factors considered in selecting personal protective equipment include the known or suspected hazards, their potential routes of entry and hazard to workers, performance of PPE in providing a barrier to these hazards, and worker's work requirements and task-specific conditions. All workers who must receive 40-hour OSHA training (Table D1 in Section 8.0) and who may enter the exclusion zone will be required to be equipped with and familiar with the use of Level C personal protective equipment as established by the U.S. Environmental Protection Agency ("U.S. EPA"). Level C equipment will consist of the following:

- NIOSH-approved half-face air purifying respirators N-100 filter cartridges
- disposable overalls (e.g., Tyvek) or reusable overalls laundered daily by employer
- gloves
- steel toed boots
- hard hat
- eye protection
- traffic safety vest
- hearing protection

Level C equipment is not considered an acceptable level of protection if the respirable dust levels exceed 5.0 mg/m³.

Persons who must enter an exclusion zone (to be designated by the Health and Safety Officer) for limited purposes (e.g., City supervisors or resident engineer) must receive 24-hour OSHA training (Table D1 in Section 7.0) and will be required to be familiar with the use of the above personal protective equipment, listed above, except for respiratory protection. These workers will not be permitted to enter areas of the exclusion zone that require use of respiratory protection. The level of protection that these workers are qualified to wear is classified by U.S. EPA as Level D, and may be used only when:

- The atmosphere contains no significant hazard; and
- Work functions preclude splashes, immersion, or the potential for unexpected inhalation of or contact with hazardous levels of any chemicals.

The protective clothing listed above **MUST BE WORN** at all times during removal activities in contaminated soils (the exclusion zone) by all persons entering this area. The respirators will be worn (by 40-hour trained personnel), unless air monitoring performed by the Health and Safety Officer (or by personnel under their supervision) indicates that workers are not being exposed to airborne contaminants at or above applicable exposure limits/action levels.

Workers designated as being at no risk of exposure, i.e., workers who will not enter the exclusion zone, will wear only the safety equipment normally required for their work activities (including traffic safety vests).

The PPE described above is the minimum necessary; workers designated for Level D may upgrade to Level C protection if desired, provided their work is not unduly affected. PPE use may be downgraded only with the approval of the Health and Safety Officer. Workers not certified, trained, or fitted to wear respirators must be reassigned if the Health and Safety Officer determines that use of respirators is necessary.

On-site personnel must be trained, as provided by their employer, in PPE use, care, proper fitting, donning and doffing, and decontamination on at least an annual basis. All PPE must be properly maintained and stored to ensure it is in good working condition at the time of use. All PPE must be inspected prior to, and following, use and decontaminated (see decontamination procedures below). In addition to the required PPE described above, a first aid kit, water supply for decontamination and for drinking, and a fire extinguisher will be maintained on-site. Sports fluid with electrolytes, e.g., Gatorade™, will also be provided. The effectiveness of the PPE will be evaluated by the Health and Safety Officer during the course of the removal actions.

The Health and Safety Officer may make adjustments to the PPE identified in this Plan, as necessary, based site conditions.

7.1 Dust Control

Dust control measures will be implemented to reduce the potential for worker exposure to lead borne dust above the respirable lead Action Level and to minimize potential transport of contaminant-laden dusts off-site.

Dust control measures that will be implemented during the removal action include: 1) watering disturbed unpaved areas at least twice a day; 2) covering soil or other loose materials hauled by trucks before leaving the site; 3) applying water at least three times a day to all unpaved access roads, parking areas, and staging areas; and 4) sweeping adjacent public streets daily if visible soil is carried onto the streets. Additional measures would be implemented, as necessary.

7.2 Hearing Protection

The typical noise levels for heavy construction equipment, such as backhoes or scrapers, range from 85 to 88 dBA at a distance of 50 feet (Salter, 1998). Considering the additive effect of multiple pieces of equipment, it is likely that workers will be exposed to noise levels in the 80 to 90 dBA range. While these exposures are not likely to exceed 85 dBA on a time weighted average, as a precautionary measure, the contractor will administer an effective hearing conservation program. The hearing conservation program will include training in the use and care of hearing protectors, the use of hearing protection, an audiometric testing program, and record-keeping in accordance with the requirements of Title 8 CCR Section 5097. Personnel working within 100 feet of operating heavy equipment or other noise emitting sources will wear hearing protection with a noise reduction rating of 32 dBA.

7.3 Smoking and Eating

Smoking and eating will be prohibited in the exclusion and contamination reduction zones.

7.4 Fire Extinguishers, First Aid

Fire extinguishers and first aid equipment will be maintained on the site throughout the course of the project.

8.0 EXPOSURE ASSESSMENT AND TRAINING REQUIREMENTS

Four types of training will be required for workers who may come into contact with contaminated soils on the site: 1) initial training (commonly referred to as “HAZWOPER” training), 2) pre-entry briefing(s), 3) respirator training, and 4) tailgate safety meetings.

8.1 Initial (HAZWOPER) Training

Requirements for initial training in hazardous substances and supervised field experience contained in 29 CFR 1910.120 and Title 8 CCR Section 5192 vary with the degree of anticipated exposure to hazardous substances. The initial training requirements for workers involved in construction activities that may involve exposure to contaminated soils are summarized in Table D1.

TABLE D1: OSHA Initial Training and Field Experience Requirements

Activity	Trade(s) and/or Function	Initial Training (hours)	Field Experience (days)
Excavation and earth moving	Equipment operators, backhoe operator, laborer	40	3
Utilities	Laborer, mason, plumber, electrician	40	3
Consultant	Environmental	40	3
Health and safety	Health and safety officer, technician	40	3
City Engineer, Supervisor	Construction oversight	24	1
Utility Pole Replacement	Utility lineman	-- ¹	-- ¹

Note: General site workers (equipment operators, laborers, and supervisory personnel) engaged in hazardous substance removal or other activities that expose workers are required to receive a minimum of 40 hours of initial training, and at least 3 days of supervised field experience. Occasional workers who will not be exposed over permissible exposure limits (PELs) are required to receive a minimum 24 hours of initial training and a minimum 1 day supervised field experience. Workers regularly on-site working in areas where air monitoring indicates that PELs are not exceeded and respirators are not necessary must receive a minimum of 24 hours initial training and 1 day supervised field experience. Management and supervisory personnel must receive 40 hours training, 8 hours supervisory training, and 1 to 3 days of supervised field experience. Employers who can certify equivalent training do not have to provide the 40 hours of initial training. Certified employees will still require site-specific training and supervised field experience.

¹ Utilities will be notified of chemical hazards on-site and will be responsible for providing for the health and safety of their employees.

Certification of 40- or 24-hour Occupational Safety and Health Administration (“OSHA”) initial training by the contractor(s) must be provided to the City before work on the site. Certification records must indicate the type and period of training. Certification of supervised field experience must also be provided for previous work. If not available, supervised field experience may be obtained at the site. In addition, workers must demonstrate the completion of annual 8-hour refresher training, as necessary.

8.2 Pre-Entry Briefings

Pre-entry briefings (in addition to 40-hour OSHA initial training) will be provided by the Health and Safety Officer to site workers and visitors before they work on, or visit designated exclusion areas. Pre-entry briefings will include the names of personnel and alternates responsible for site safety and health; safety, health, and other hazards at the site; general scope of planned site work; use of personal protective equipment; work practices that the employee can use to minimize risks from hazards; safe use of engineering controls and equipment; medical surveillance requirements, including recognition of symptoms and signs that might indicate an exposure to hazards; safety or health risk analysis for each task; employee training requirements; frequency of monitoring; communication procedures; site control measures and location of emergency/safety equipment; decontamination procedures; and emergency response procedures. Additional briefings (post-entry) will be performed, as necessary, to ensure that procedures are being followed.

8.3 Respirator Training

All workers designated as having a high exposure risk must receive respirator training that covers fitting, maintenance, and use. This training typically would be provided as part of OSHA

40- and 24-hour training. The consultant/contractor will maintain a written respirator program, in compliance with Title 8 CCR Section 1531.

8.4 Noise and Hearing Protection Training

All workers involved in removal actions within 100 feet of heavy equipment (backhoes, excavators, trucks, etc.) will receive hearing protection training in accordance with 29 CFR 1910.95. The training will ensure that the workers are aware of the effects of noise on hearing, the purpose of hearing protections, and the various types of hearing protection available. The workers will be trained in the proper use and maintenance of hearing protection. The purpose and procedures for audiometric testing will also be explained.

8.5 Tailgate Safety Meetings

Discussion of hazardous substances health and safety will be covered at tailgate safety meetings performed by or under the supervision of the Health and Safety Officer (see Health and Safety Responsibilities in Section 18.0) during the period of removal actions where native soil is disturbed. Attendance and meeting date will be documented.

8.6 Medical Evaluation

All employees involved in the removal action are required to be subject to a medical surveillance program in accordance with 29 CFR 1910.120. Medical examinations will include a medical and work history with special emphasis on symptoms related to the handling of hazardous substances and health hazards, and to fitness for duty including the ability to wear any required PPE under conditions (i.e., temperature extremes) that may be expected at the work site. Employees will also be subjected to an audiometric testing program.

All workers required to wear a respirator at the site (i.e., high exposure risk) are required to receive a medical evaluation of fitness to wear respirators. Certification of such evaluation must be provided to the contractor before work on the site begins. Certification must be by a licensed and qualified physician. All other personnel who will be required to wear a respirator at the site are subject to a medical evaluation of fitness to wear a respirator by a licensed physician and must demonstrate proof of their medical surveillance program to the contractor.

9.0 AIR MONITORING

Air monitoring will be conducted during all tasks involving handling of contaminated soil to monitor for potential exposure to respirable dust and lead over their respective Action Levels. Air monitoring will be performed on-site by the Health and Safety Officer (or by personnel under their supervision) to determine appropriate personal protective or dust control measures. The Health and Safety Officer (or personnel under their supervision) will also perform air monitoring at the site boundaries to ensure public health protection for the surrounding community when work.

A dust meter capable of measuring airborne particulate matter 10 microns or smaller in size (PM10), such as an MIE Miniram PDM-3 or equivalent, will be used to monitor for respirable dust. Dust measurements will be taken from within the workers' breathing zone in the downwind direction of construction activities. In addition to monitoring in the work zone, the

upwind perimeter and downwind perimeter will be monitored periodically. The Action Level for dust leaving the site will be the 0.5 mg/m³, 1/10 the respirable dust PEL. The monitoring frequency and action levels are summarized below.

TABLE D2: Air Monitoring

Area	Monitoring Frequency	Action Levels	Actions
Workers' Breathing Zone	Initial readings every 15 minutes for one hour in each newly excavated zone; once per hour thereafter.	< 5 mg/m ³ dust	Reduce to hourly monitoring.
		≥ 5 mg/m ³ dust	Increase dust controls measures. Increase to monitoring every 15 minutes until at least 3 readings are below action level. Don respirator in interim (N-100 filters).
Site Perimeter	Upwind and downwind perimeter once per hour.	Upwind minus downwind >0.5 mg/m ³	Increase dust controls measures and measure every 15 minutes until at least three readings are below Action Level.

Confirmatory sampling using NIOSH-approved personal sampling methods may be implemented at the discretion of the Health and Safety Officer (or by personnel under their supervision).

Dust suppression would be sufficient to ensure that there is no visible off-site migration. Dust generation from any single source shall not be darker than the No. 1 shade on the Ringelmann chart for periods aggregating more than three minutes in one hour.

The results of air monitoring will be relayed verbally to on-site personnel. A daily air monitoring log will be completed by the Health and Safety Officer (or personnel under their supervision) to include the following information: 1) date, 2) location and/or tasks monitored, 3) approximate wind speed and direction, 4) instruments used and settings, 5) instrument readings, and 6) comments or additional information.

9.1 Air Monitoring Equipment Calibration

All equipment and instruments used during the removal action will be maintained and calibrated to operate within the manufacturer's specifications. A copy of the available operating manuals for the field instruments will be kept with those instruments. The Health and Safety Officer is responsible for ensuring proper maintenance and calibration procedures for field equipment and for maintaining field equipment in proper operating condition.

The operation, calibration, modifications, adjustments, and repairs of each field instrument will be kept in a log book kept with the instrument. The equipment will be recalibrated and tested following any modifications prior to continued use if required.

10.0 SITE CONTROL MEASURES

Site control measures will be implemented during the removal action to minimize contamination of workers and to protect the public. Measures will be used to control dust emissions and runoff; restrict public access; inform workers and public of the presence of hazardous substances; establish exclusion zones; and minimize potential off-site contamination by vehicles encrusted with site soils.

10.1 Work Zones

Before beginning construction activity, the Health and Safety Officer and contractor will identify the following site work zones: 1) exclusion zone, where contamination is known or expected to occur, 2) the contamination reduction zone, or transition area where heavy equipment and workers are decontaminated and temporary worker rest facilities are located, and 3) the support zone, where clean personal protective equipment is stored and respirators are cleaned. Zones will be delineated by barricades, tape, or other means.

Only properly trained and qualified workers will enter the exclusion zone. Heavy equipment used in the exclusion zone will remain there until completion of the task, at which time the equipment must be decontaminated. Other workers may go as far as the contamination reduction zone, which will entirely surround the exclusion zone. An area will be established in the support zone to temporarily store clean or unused protective equipment. Smoking and eating will be allowed in the support zone only.

10.2 Site Security

The construction contractor will use temporary fencing to control access to the site during the removal action.

10.3 Signs

In accordance with California Health and Safety Code 25249.6 ("Proposition 65"), signs will be posted on the fence facing public areas, stating that a substance known to cause cancer and/or birth defects or other reproductive harm is present on the site. Signs will be posted at the gate stating that entrance to the site is prohibited unless authorized by the site owner or the owner's representative and that a hard hat must be worn on-site at all times. Signs will be posted in the support zone notifying workers of emergency procedures.

10.4 Excavation and Construction Safety

The contractor is responsible for seeing that all removal action activities are carried out under the requirements of Title 8 CCR, Division 1, Chapter 4, Article 6, other appropriate sections of Cal OSHA's General Industrial Safety Orders (Title 8 CCR, Division 1, Chapter 4), and other applicable regulations.

10.5 Respirator Maintenance

Respirators will be cleaned daily after each work shift if respirators are used. Each worker required to be equipped with respirators will be assigned a bag for storing his/her personal protective equipment. The bags will be stored on-site in a designated location for safekeeping.

10.6 Decontamination Procedures

Workers who work in the exclusion zone must follow decontamination procedures as they proceed through the contamination reduction zone to the support zone. The contamination reduction zone will be located in an area that will minimize exposure of uncontaminated employees or equipment and will be located between the exclusion and support zones. A clean

change area will be established in the support zone for storage of food, drink, clean equipment, and clothing. Heavy equipment will be decontaminated as it exits the exclusion zone.

The equipment to be used for decontamination of sampling equipment, boots, and PPE may include three five-gallon buckets (TSP and Alconox/tap water, tap water rinse, and deionized rinse, to be completed in that order) and brushes (for first bucket). Larger equipment will be swept of visible signs of dust and dirt prior to leaving the exclusion zone.

Decontamination procedures will be monitored by the Health and Safety Officer to determine their effectiveness. When decontamination procedures are found to be ineffective, steps will be taken to correct any deficiencies. The following decontamination procedures will be implemented:

In Contamination Reduction Zone (exiting the Exclusion Zone):

- Clean boots and gloves of loose soil with brush.
- Remove gloves and coveralls.
- Dispose of coveralls in assigned container.

For heavy equipment leaving exclusion zone, sweep off visible signs of dust and dirt prior to leaving the exclusion zone.

In Support Zone:

Clean hands with soap and water or disposable towelettes.

10.7 Waste Generation

The contractor is responsible for seeing that all waste produced in the field is stored in approved containers and is appropriately labeled. Labels will include a description of the waste, the generator's name and telephone number, hazardous or non-hazardous labels, and the accumulation start date.

Site operations will be organized to minimize the amount of drum or container movement. Prior to the movement of drums or containers, all employees exposed to the transfer operation will be warned of the potential hazards associated with the contents of the drums or containers and the integrity of the drums will be inspected. Staging areas for waste pickup and transportation will be provided with adequate access and egress routes.

10.8 Surface Runoff

Surface runoff will be prevented or controlled in accordance with the Storm Water Pollution Prevention Plan (“SWPPP”) for the site.

11.0 RECORD KEEPING

All records of air monitoring, medical evaluation (for respirator use), training, and respirator maintenance will be maintained by the contractor.

12.0 ILLUMINATION AND SANITATION

As it is anticipated that all construction activities will be conducted during daylight hours, illumination will not be required on-site. However, illumination, if needed, will meet the minimum illumination intensities for specific on-site operations as listed in Title 8 CCR Section 5192. Sanitation facilities (including toilets and potable water) will be provided for workers on the site. The sanitation facilities will include an emergency eyewash station. As shower facilities are not available on-site, workers are urged to shower immediately upon returning home or at the nearest available facility.

13.0 EMERGENCY RESPONSE PLAN

13.1 Contractor

In the event of an emergency involving hazardous materials, the contractor's workers will be requested to contact their immediate supervisor or the site foreman if the supervisor is not available and the Health and Safety Officer. The Health and Safety Officer will notify on-site workers that he/she is implementing the Emergency Response Plan by verbal communication to request evacuation if on-site personnel are within immediate voice contact, and by honking the car horn repeatedly to notify on-site personnel who are not within immediate voice contact (as necessary). The honking will continue until such personnel are within immediate voice contact and can be notified of the emergency. Since work at the site may vary in location from day to day, the Health and Safety Officer will be responsible for identifying an evacuation route and reassembly area/place of safe refuge prior to each day of field work. The Health and Safety Officer will account for all on-site personnel following evacuation.

The contractor superintendent will have a two-way radio for communication with field personnel and with the site office for telephone contact with emergency response agencies.

13.2 Consultants and Contractors

First aid/CPR, if needed, will be conducted by trained personnel, or off-site emergency responders (paramedics, fire fighters). Many personnel with 40-hour Hazardous Waste Operations and Emergency Response training will have completed CPR and first aid courses as part of their training. The consultant/contractor is responsible for identifying and informing workers of designated first aid trained personnel.

The nearest hospital is Mercy San Juan Medical Center, 6501 Coyle Avenue in Carmichael. Decontamination of personnel, such as removal of coveralls and boots, will be conducted prior to evacuation unless injured personnel was not working in the exclusion zone and do not require decontamination or if the decontamination may cause further injury.

Following evacuation, the Health and Safety Officer will request on-site personnel to maintain security of the site (by preventing unauthorized entry) until the site is released to off-site emergency responders (fire fighters, police, etc.). Evacuated personnel will direct emergency responders to the emergency and inform them of site hazards and the emergency. Other emergency notifications may be required in addition to those described below. The need for emergency notifications will be determined by the Health and Safety Officer, contractor

superintendent, and client, based on the emergency at hand. All notifications will be documented.

Following the emergency, the Health and Safety Officer will be responsible for preparing a post-incident critique for the purpose of identifying the cause of the emergency, response initiated, and need for additional training procedures or equipment. The Health and Safety Officer will take corrective action to prevent recurrence of the emergency.

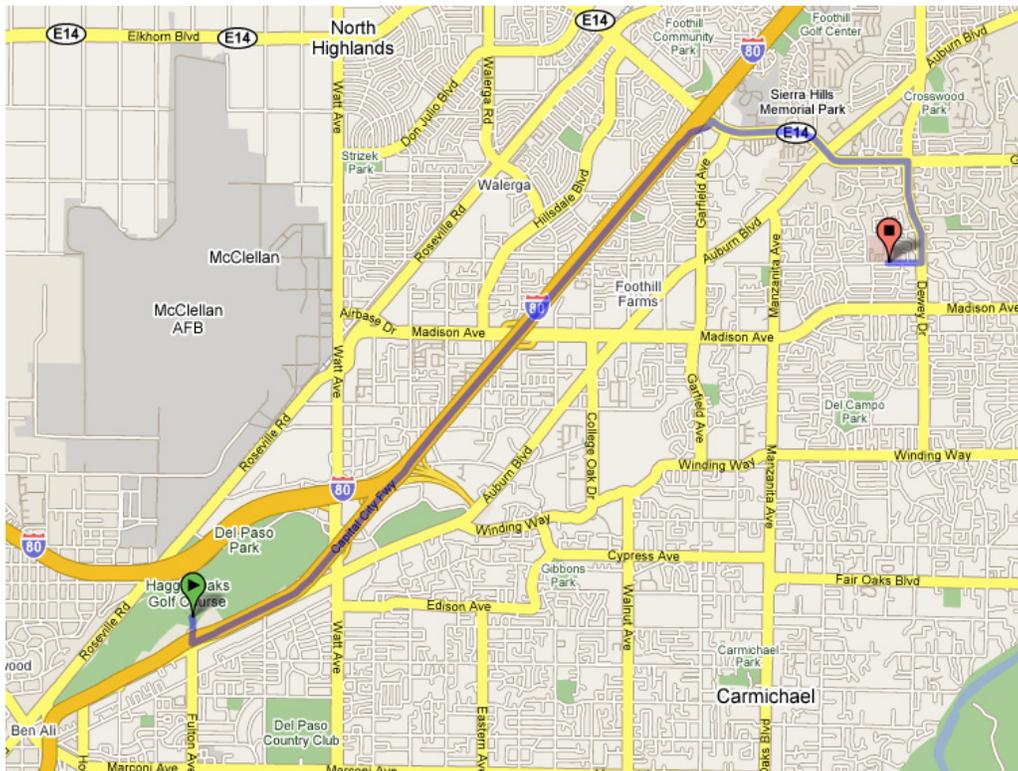
13.3 Emergency Response Procedures

All supervisory personnel will be equipped with walkie-talkies (or cellular phones) to allow for continuous radio contact between the exclusion zone and the support zone. In case Emergency Services are needed, you should contact the following hospital:

Mercy San Juan Medical Center
6501 Coyle Avenue, Carmichael, CA 95608
Phone: (916) 537-5000

Directions from site:

Head 0.2 mile southeast from Fulton Avenue, turn left onto I-80 Business Route heading east toward Roseville 1.6 miles. Merge onto I-80 east. Take the Greenback Lane exit 98 to Elkhorn Boulevard. After approximately 1.4 miles, turn right at CR-E14/Greenback Lane. Turn right at Dewey Drive and proceed for approximately 0.7 mile. Turn right at Coyle Avenue; the hospital is approximately 0.2 mile.



Emergency Response Phone Number		
Paramedics/Fire/Police		911
Private Ambulance Service		
Palm Valley Care Services	2717 Cottage Way # 19 Sacramento, CA	(916) 972-7429
Sacramento Police Department	3550 Marysville Blvd Sacramento, CA	(916) 264-5471 (non emergency)
Citrus Heights Fire Department	2101 Hurley Way Sacramento, CA	(916) 566-4000 (non emergency)

14.0 SPILL CONTAINMENT PROGRAM

In the event of a spill of soil during loading or transfer of lead impacted soil from one container to another, the contractor will institute the following procedures. The spilled soil will be recovered using available equipment (shovels, brooms, backhoe, excavator, etc.). The soil will either be replaced in the container or moved to a temporary stockpile area until a container is available. Over excavation will be performed if necessary to ensure complete removal of spilled material. If the spill occurs on paved surfaces, the material will be swept up in its entirety.

15.0 GENERAL SAFETY

No intoxicating substances of any kind are permitted on a job site. Drinking of alcoholic beverages during working hours by employees engaged in field activities is strictly prohibited. In addition, no worker will knowingly be permitted or required to work while his/her ability or alertness is impaired by fatigue, illness, or other reason to a degree that their condition might unnecessarily expose him/her or others to injury. Workers will use the "buddy system" when working on-site.

16.0 PLAN DISTRIBUTION

Copies of this Plan will be provided to the Department of Toxic Substances Control, contractor, affected subcontractors, affected workers, City staff, and the public (upon request).

17.0 HEALTH AND SAFETY PLAN DEFICIENCIES

This Plan was developed based on information obtained to date regarding site conditions. This Plan may be amended, as necessary, to address actual site conditions encountered during removal actions. Any deficiencies in this Plan, identified by the Health and Safety Officer, will be immediately corrected. On-site personnel identifying any deficiencies in this Plan will immediately notify the Health and Safety Officer of such deficiencies.

18.0 DEFINITION OF HEALTH AND SAFETY RESPONSIBILITIES

This Plan has been prepared for consultant(s) or contractor(s) or City staff involved in the removal action described in the Implementation Plan. This Plan is considered the minimum required for removal action work at the site. The contractor(s), consultant(s), and City staff are responsible for preparing and implementing their own site-specific Health and Safety Plan, considering the minimum requirements of this Plan; they may also adopt this Plan for the removal action. Contractors or consultants wishing to adopt this plan must notify the City in writing prior to removal action activities. The DTSC is responsible for reviewing this Plan to ensure compliance with Title 8 CCR Section 5192. Table D3 contains a list of emergency contact numbers.

TABLE D3: Emergency Contact Phone Numbers

Agency/Consultant	Title	Name	Phone Number
City of Sacramento	Project Manager	Dean Peckham	(916) 808-7063
SCEMD	Case Worker	Charley Langer	(916) 875-8474

The City, consultant(s), and contractor(s) are responsible for: 1) assigning a Health and Safety Officer for their respective employees, 2) implementation of this Plan, or equivalent, 3) maintaining emergency response and communication equipment, 4) ensuring that workers in the exclusion zone are properly trained and equipped, 5) maintaining records on training, respirators, and air monitoring, 6) informing public agencies of any mishaps or incidents involving hazardous materials, and 7) providing PPE or ensuring that workers are properly equipped before entering the designated exclusion zone.

The Health and Safety Officer is responsible for: 1) monitoring implementation of the Plan, or equivalent, 2) identifying any deficiencies, 3) evaluating air monitoring results, 4) determining appropriate levels of protection, or personal protective equipment, for site workers, (i.e., upgrading or downgrading levels of protection), 5) conducting briefings (and site safety meetings), 6) providing information to site employees on potential hazardous materials, 7) providing assistance in the establishment of work zones, particularly the exclusion zone, 8) monitoring respirator maintenance, 9) monitoring the supply of PPE in the change area before the beginning of each work shift, 10) documenting respirator use for all workers (when respirators are required to be used), 11) stopping field operations if personnel safety and health may be jeopardized, 12) requesting site evacuation, if necessary, and 13) ensuring the effectiveness of this Plan and seeing that deficiencies of this Plan are remedied.

Consultants, contractors, and the City will be responsible for ensuring that their employees: 1) attend the pre-entry briefings, 2) are properly trained and equipped for entry into the exclusion zone, if required, and 3) provide SOPs for inclusion in the Plan.

Affected subcontractors will be responsible for: 1) being familiar with the Plan, 2) ensuring that their employees who work in the exclusion zone are properly trained and adhere to the health and safety procedures described in this Plan (as amended during the project), 3) providing respirator medical evaluation records to the contractor for those employees required to don respirators (prior to employees working on the site), and 4) providing SOPs to the consultant, contractor, or the City for inclusion in the Site Health and Safety Plan.

19.0 REFERENCES

Agency for Toxic Substances and Disease Registry (“ATSDR”), 1989, Toxicological Profile for Arsenic, U.S. Public Health Service, Atlanta, GA. ATSDR/TP-88/02.

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APPENDIX E
QUALITY ASSURANCE PROJECT PLAN (“QAPP”)

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QUALITY ASSURANCE PROJECT PLAN

1.0 INTRODUCTION

This Quality Assurance Program Plan (QAPP) describes a systematic plan, which will be used to collect, interpret, and report data from the remedial action for the Sacramento Trapshooting Club. This QAPP defines the criteria used in establishing quality assurance objectives and describes the implementation of controls to ensure the collection of representative samples, the appropriate review of technical data, and the preparation of accurate documentation. This document has been prepared using the EPA Guidance for Quality Assurance Project Plans.¹

2.0 ORGANIZATION AND RESPONSIBILITIES

Responsibility for implementing and ensuring compliance with this QAPP lies with the principal, the project managers, and the individual employees of BASELINE. The principal, Yane Nordhav, is responsible for ensuring that this document is available to all employees and that appropriate procedures are implemented. Project managers are responsible for ensuring that project team members (including BASELINE subcontractors) working on the project implement the appropriate procedures outlined in this document. It is the responsibility of each BASELINE employee to perform job tasks in compliance with this QAPP.

The principal is responsible for ensuring that project and technical personnel are qualified to perform their assigned job functions. Each staff member shall have the education, training, technical knowledge, and experience required to perform their assigned tasks.

3.0 QUALITY ASSURANCE OBJECTIVES

The overall quality assurance objective is to ensure that all technical data generated during the verification sampling are accurate, representative, technically and legally defensible, and appropriate for project objectives. The criteria commonly used to specify quality assurance (QA) goals are precision, accuracy, representativeness, completeness, and comparability. These terms are briefly described below.

- Precision is a measure of the reproducibility of data when multiple samples are collected and analyzed under the same set of conditions.
- Accuracy is the difference between a measured value and an accepted reference or true value. The difference is usually expressed as a percentage.
- Representativeness is the degree to which data accurately and precisely represent an environmental condition.
- Completeness is a measure of the amount of valid data collected from a location compared to the amount that was expected to be obtained under normal conditions.

¹ EPA, 2001, EPA Requirements for Quality Assurance Project Plans, EPA QA/R-5, March.

- Comparability is a measure of the confidence with which one data set can be compared to another.

4.0 FIELD PROCEDURES

The sample types, quantity, locations, sampling techniques, and analytical test methods to be used during the verification sampling will conform to applicable regulations and/or guidance documents relevant to the project investigation. Quality assurance during field operations will be implemented by conducting all fieldwork in accordance with BASELINE's Standard Operating Procedures (SOP). The project manager is responsible for ensuring that all field personnel have access to, and have read the SOPs relevant to the activities they are to perform prior to the start of activities, and that the SOPs are followed in the field. Furthermore, the project manager should ensure that appropriate sampling techniques and sample containers are used.

Field personnel are responsible for recording any deviations from the SOPs on a field log sheet or in a field notebook and reporting the deviations to the project manager. The project manager should ensure that all such deviations are documented and a copy placed in the project file. Any permanent changes or modifications to the SOPs must be made in writing, reviewed and signed by the principal, and included as a supplement to the QAPP until the SOPs are revised to reflect new procedures.

After field sampling activities, the field documents will be checked by field personnel and then reviewed by the project manager to confirm that correct sampling procedures were adhered to and that field data are coherent.

The samples will be collected from the upper six inches of soil using a stainless steel slide hammer equipped with a six-inch by two-inch stainless steel tube. The soil samples will be handled and preserved in accordance with the protocol under Soil Sample Handling and Preservation. All the sample equipment will be cleaned in accordance with the protocol under Decontamination Procedures.

4.1 Soil Sample Handling and Preservation

BASELINE will handle the soil samples using the following guidelines:

- The person(s) handling the sample will don clean protective gloves, appropriate for the chemicals of concern, prior to contact with the sample.
- A sample label will be filled out immediately after the sample has been capped.

The label should have the following information:

- BASELINE's phone number and address
- Project name and number
- Sample identification number
- Sampler(s) initials
- Time and Date of sample collection

Once the sample has been labeled it will be sealed into a zip-lock bag and placed into a cooled ice chest.

4.2 Decontamination Procedures

These protocols describe the procedures BASELINE will follow for decontaminating sampling equipment. These procedures are intended to be typical protocols and may be modified to address a site-specific work plan and/or site safety plan. They may also be modified during work progress, if warranted by site conditions and approved by the project manager. The procedures may be superseded by applicable regulatory requirements.

All sampling equipment used during sample collection will be decontaminated by washing them using the triple rinse method. The equipment will be washed in a sequence starting with 1) a solution of either Alcanox or trisodium phosphate mixed with clean water, 2) clean water, and 3) final rinse in de-ionized water. Anytime the water becomes visibly dirty, it will be replaced.

5.0 QUALITY CONTROL SAMPLING

Additional samples will be collected for quality control (QC) purposes. The field QC samples for soil sampling will consist of equipment blank samples. Equipment blanks will be collected after the sampling equipment has been through the decontamination process by retaining deionized water that is poured over the sampling equipment. The resultant water sample will be submitted for lead, arsenic, and PAH analyses. A minimum of one field equipment blank sample will be collected and submitted to the laboratory for every ten field samples collected.

6.0 SAMPLE CUSTODY

Sample custody will be documented and maintained from the time of sample collection through completion of laboratory analyses. A chain-of-custody record will be prepared following sample collection and must accompany the sample at all times. The sampler and each responsible individual (BASELINE employee, sample courier, laboratory) must sign the chain-of-custody at the time of release of the samples to another responsible individual. A copy of the chain-of-custody form must be maintained at the BASELINE office until the original is returned from the laboratory with the analytical results.

6.1 Chain-of-Custody Procedures

The Chain-of-Custody Record documents the transfer of custody of the samples from the time the samples are collected in the field by the BASELINE personnel to the time they are received by the laboratory. Each sample collected for analysis will be included on the Chain-of-Custody Record, which will provide the following information

- Project Number
- Project Name and Location

- Samplers signature
- Turn-around time
- Laboratory name
- Sample ID
- Date, time, media type (soil or water), depth, number of containers
- Analyses required
- Remarks including detection limits and composites
- Condition of samples upon arrival at the laboratory
- The time, date, and signature of any person relinquishing the custody of the samples
- The time, date, and signature of any person receiving the custody of the samples.

A copy of the Chain-of-Custody Record will be retained by BASELINE personnel after the laboratory has received the samples. A copy of the Chain-of-Custody Record will be given to the project manager and the original will remain at the laboratory with the samples.

7.0 LABORATORY QUALITY CONTROL

All analytical laboratories employed by BASELINE for sample analyses will be California certified for the analyses they are requested to perform. The laboratories must maintain an internal QA/QC program as required by their certification to ensure that their results are accurate, precise, and repeatable as defined by the EPA (SW-846) standards.

BASELINE Principal or designated staff will ensure that the laboratory maintains current certification by the California Department of Health Services for all analytical methods for which samples would be submitted for analyses.

8.0 SUBCONTRACTORS

All field subcontractors must be qualified and maintain the appropriate licenses and/or certifications for their professions. The project manager must notify and ensure that all work performed by subcontractors is in compliance with the goals and procedures specified in this QAPP. Subcontractors are responsible for maintaining their equipment in good operating condition and providing appropriate equipment for the job.

9.0 DATA VALIDATION AND REPORTING

The original records from field activities and laboratory reports will be kept in the permanent project file. All data will include the date, initials of the sampler/analyst, and relevant information. The acceptability of the data is determined by the precision, accuracy, and completeness criteria stated above. The results of this evaluation will be documented by the project manager as part of the Quality Control Checklist for Review of Laboratory Reports (QA/QC checklist) and placed in the permanent project file with the original laboratory reports. A copy of the Quality Control Checklist for Review of Laboratory Reports is attached. If the evaluation indicated noncompliance with an established procedure or requirement, a recommendation for corrective action will be

documented on the checklist. The specific criteria for accepting sample data will be as follows:

- Sample data will be accepted without qualification for all data reviewed by BASELINE with favorable responses on the QA/QC checklist. The definition of favorable is the answer selected that does not indicate a problem with the data and/or that the data is not flagged with any qualifier described below. For all questions on the QA/QC checklist, the favorable answer is “YES”;
- For J-qualified data, the associated numerical value is an estimated quantity. Data will be acceptable, but will be appropriately flagged as an estimated value. Re-sampling or re-analysis will not be performed.
- For E-qualified data, the associated value is estimated due to matrix interferences. The data will be deemed acceptable, but will be appropriately flagged as an estimated value. Re-sampling or re-analysis will not be performed. However, the laboratory will be contacted to see if the sample can be 'cleaned up' prior to analysis (as appropriate) or analyzed using a different method to eliminate matrix interferences and flagging of the data. Contact of the laboratory on E flagged data will be indicated on the QA/QC checklist, as appropriate.
- For U-qualified data, the analyte was analyzed for but not detected above the laboratory reporting limit. Data will be deemed acceptable, and 1/2 the laboratory reporting limit will be used in statistical and risk assessment calculations, as applicable.
- For R-qualified data, the quality control review indicates that the data are unusable (compound may or may not be present). Data will not be accepted for R flagged data and will be considered 'rejected.' Re-sampling or re-analysis will be performed, as necessary. Re-sampling and/or re-analysis of the data will be subject to completion of the BASELINE QA/QC checklist above.

9.1 Analytical Results

The project manager must check analytical results against historical data, and review both field quality control data and laboratory internal quality control data to assess whether the results are within acceptable ranges established by the laboratory. This shall be done by completion of a Quality Control Checklist for Review of Laboratory Report for all analytical results. Quality control limits established by the laboratory typically meet or exceed control limits established by the EPA. If data vary by an order of magnitude from historical data, or if data are outside laboratory control limits, the project manager must contact the analytical laboratory to investigate the validity of the results. If no reason for the discrepancy can be determined, the project manager may request that the sample analyses be reviewed and/or repeated. If the analytical results remain suspect, a new sample may be collected at the direction of the project manager. Suspect data included in a report will be flagged to indicate the suspect status.

10.0 TECHNICAL REVIEW

The project manager will monitor the data, calculations, and figures needed for reports. The project manager will assign qualified geologists or engineers to review geologic analyses, calculations, computer models, and analytical data for completeness, accuracy, and precision. All reports, including tables, figures, conclusions, and recommendations, will be reviewed by a peer reviewer to ensure that the document is accurate, representative, able to withstand scientific scrutiny, legally defensible, and appropriate for the project objectives. Following review by the project manager, peer reviewer, and proofreader, the principal will review the report and data.

11.0 CORRECTIVE ACTION

Data that are determined to be invalid or show disagreement with duplicated measurements beyond guidelines specified in EPA SW-846 or other similar document, are followed up with one or more of the following corrective actions:

- Suspect data are annotated.
- Documentation is reviewed for adherence to QA/QC procedures.
- Measurement is repeated to check for error.
- Duplicate sample is analyzed.
- Calibrations are checked and/or repeated.
- Measuring device is repaired or replaced.
- Sample is recollected.
- Analytical laboratory or subcontractor is changed.

The identification, documentation, and correction of nonconformances will be reported. For field data, the project manager is responsible for initiating and approving the appropriate corrective actions.

Quality Control Checklist for Review of Laboratory Report

Job No.: _____

Site: _____

Laboratory: _____

Laboratory Report No: _____

Report Date: _____

BASELINE Review By: _____

	Yes	No	NA
GENERAL QUESTIONS (Describe "no" responses below in "comments" section. Contact the laboratory, as required, for further explanation or action on responses; document discussion in comments section.)			
1a. Does the report include a case narrative? (<i>A case narrative MUST be prepared by the lab for all analytical work requested by BASELINE</i>)			
1b. Is the number of pages for the lab report as indicated on the case narrative/lab transmittal consistent with the number of pages that are included in report?			
1c. Does the case narrative indicate which samples were analyzed by a subcontractor and the subcontractor's name?			
1d. Does the case narrative summarize subsequent requests not shown on the chain-of-custody (e.g., additional analyses requested, release of hold samples)?			
1e. Does the case narrative explain why requested analyses could not be performed by laboratory (e.g., insufficient sample)?			
1f. Does the case narrative explain all problems with the QA/QC data as identified in the checklist (as applicable)?			
2a. Is the laboratory report format consistent and legible throughout the report?			
2b. Are the sample and reported dates shown in the laboratory report correct?			
3a. Does the lab report include the original chain-of-custody form?			
3b. Were all samples appropriately analyzed as requested on the chain-of-custody form?			
4. Was the lab report signed and dated as being reviewed by the laboratory director, QA manager, or other appropriate personnel? (Some lab reports have signature spaces for each page). (This requirement also applies to any analyses subcontracted out by the laboratory)			
5a. Are preparation methods, cleanup methods (if applicable), and laboratory methods indicated for all analyses?			
5b. If additional analytes were requested as part of the reporting of the data for an analytical method, were these included in the lab report?			
6. Are the units in the lab report provided for each analysis consistent throughout the report?			
	Yes	No	NA
7. Are the detection limits (DL) appropriate based on the intended use of the data? (e.g., DL below applicable MCLs for water quality issues?)	X		
8a. Are detection limits appropriate based on the analysis performed? (i.e., not elevated due to dilution effects)	X		

Quality Control Checklist - *continued*

	Yes	No	NA
8b. If no, is an explanation provided by the laboratory?			
9a. Were the samples analyzed within the appropriate holding time? (generally 2 weeks for volatiles, and up to 6 months for total metals)	X		
9b. If no, was it flagged in the report?			
10. If samples were composited prior to analysis, does the lab report indicate which samples were composited for each analysis?			
11a. Do the chromatograms confirm quantitative laboratory results? (petroleum hydrocarbons)			
11b. Is a standard chromatogram(s) included in the laboratory report?			
11c. Do the chromatograms confirm laboratory notes, if present (e.g., sample exhibits lighter hydrocarbon than standard)			
12. Are the results consistent with previous analytical results from the site? (<i>If no, contact the lab and request review/reanalysis of data, as appropriate</i>)			
13a. REVISED LAB REPORTS ONLY. Is the revised lab report or revised pages to a lab report signed and dated as being reviewed by the laboratory director, QA manager, or other appropriate personnel?			
13b. REVISED LAB REPORTS ONLY. Does the case narrative indicate the date of revision and provide an explanation for the revision?			
13c. REVISED LAB REPORTS ONLY. Does the revised lab report adequately address the problem(s), which triggered the need for a revision?			
13d. REVISED LAB REPORTS ONLY. Are the data included in the revised report the same as data reported in the original report, except where the report was revised to correct incorrectly reported data?			
<i>QA/QC Questions</i>			
Field/Laboratory Quality Control - Groundwater Analyses			
14. Are field blanks reported as ND? (groundwater samples) <i>A field blank is a sample of DI water, which is prepared in the field using the same collection and handling procedures as the other samples collected, and used to demonstrate that the sampling procedure has not contaminated the sample.</i>			
15. Are trip blanks reported as ND? (groundwater samples/volatile analyses) <i>A trip blank is a sample of contaminant-free matrix placed in an appropriate container by the lab and transported with the field samples collected. Provides information regarding positive interference introduced during sample transport, storage, preservation, and analysis. The sample is NOT opened in the field.</i>			
16. Are duplicate sample results consistent with the original sample? (groundwater samples) <i>Field duplicates consist of two independent samples collected at the same sampling location during a single sampling event. Used to evaluate precision of the analytical data and sampling technique. (Differences between the duplicate and sample results may also be attributed to environmental variability).</i>			

Quality Control Checklist - *continued*

	Yes	No	NA
<p>Batch Quality Control (Samples are batched together by matrix [soil, water] and analyses requested. A batch generally consists of 20 or fewer samples of the same matrix type, and is prepared using the same reagents, standards, procedures, and time frame as the samples. QC samples are run with each batch to assess performance of the entire measurement process.)</p>			
17. Do the sample batch numbers and corresponding laboratory QA/QC batch numbers match?			
18a. Are method blanks (MB) for the analytical method(s) below the laboratory reporting limits? <i>Used to assess lab contamination and prevent false positive results. MBs should be ND.</i>			
18b. If no, is an explanation provided in the case narrative to validate the data?			
18c. Are analytes which may be considered laboratory contaminants reported below the laboratory reporting limit? <i>Common lab contaminants include acetone, methylene chloride, diethylhexyl phthalate, and di-n-octyl phthalate.</i>			
18d. If no, was the laboratory contacted to determine whether reported analyte could be a potential laboratory contaminant and was an explanation included in the case narrative?			
19. Are laboratory control samples (LCS) and LCS duplicate (LCSD) [a.k.a., Blank Spike (BS) and BS duplicates (BSD)] within laboratory reporting limits? Limits should be provided on the report. <i>LCS is a reagent blank spike with a representative selection of target analyte(s) and prepared in the same manner as the samples analyzed. The LCS should be spiked with the same analytes as the matrix spike (below). The LCS is free from interferences from the sample matrix and demonstrates the ability of the lab instruments to recover the target analytes. Accuracy (recovery information) is generally reported as % spike recovery; precision (reproducibility of results) between the LCS and LCSD is generally reported as the relative percent difference (RPD). LCS/LCSD can be run in addition to or in lieu of, matrix QC data.</i>			
20a. Are the Matrix QC data (i.e., MS/MSD) within laboratory limits? Limits should be provided on the lab report. <i>The lab selects a sample from the batch and analyzes a spike and a spike duplicate of that sample. Matrix QC data is used to obtain precision and accuracy information and is reported in the same manner as LCS/LCSD. If the MS/MSD fails, the results may still be considered valid if the MB and either the LCS/LCSD or BS/BSD is within the lab's limits (failure is probably due to matrix interference).</i>			
20b. If no, is the MB and either LCS/LCSD or BS/BSD within lab limits to validate the data?			

Quality Control Checklist - *continued*

	Yes	No	NA
<i>Sample Quality Control</i>			
21a. Are the surrogate spikes reported within the lab's acceptable recovery limits? <i>A surrogate is a non-target analyte, which is similar in chemical structure to the analyte(s) being analyzed for, and which is not commonly found in environmental samples. A known concentration of the surrogate is spike into the sample or QA sample prior to extraction or sample preparation. Results are usually reported as % recovery of the spike. Failure to meet lab's limits for primary and secondary surrogates results in rebatching and reanalysis of the sample; failure of only the primary or the secondary surrogate may be acceptable under certain circumstances. Failure generally is due to coelution with the sample matrix.</i>			
21b. If no, is an explanation given in the case narrative to validate the data?			

Comments:

APPENDIX F
RISK MANAGEMENT PLAN

RISK MANAGEMENT PLAN

SACRAMENTO
TRAPSHOOTING CLUB
3701 Fulton Avenue
Sacramento, California

MARCH 2007

Prepared for:
CITY OF SACRAMENTO
ECONOMIC DEVELOPMENT DEPARTMENT

Y4368-B0

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RISK MANAGEMENT PLAN
Sacramento Trapshooting Club Site
3701 Fulton Avenue, Sacramento, California

1.0 INTRODUCTION

This Risk Management Plan (“RMP”) has been prepared by BASELINE Environmental Consulting (“BASELINE”) on behalf of the City of Sacramento for Assessor’s Parcel No. _____ at _____ Fulton Avenue in Sacramento (“site”) (Figure 1). The parcel is ___ acres in size.

The purpose of this RMP is to provide risk management measures to be implemented following site remediation to ensure the health and safety of future construction and maintenance workers, the general public, and the environment. The risk management measures consist of both institutional and engineering controls.

Sacramento County Environmental Management Department (“County”) is the regulatory agency responsible for oversight of the site. The responsibility for implementation of the risk management measures lies with the owner of the site, which is currently City of Sacramento, or its lessees. Future property owners, if any, or their lessees would assume responsibility for implementing the risk management measures. This RMP is required as part of a deed restriction, recorded with the County Clerk, and enforced by the County.

2.0 BACKGROUND

The site was part of a larger (about 20 acres) parcel that was used as a trapshoot range since the early 1900s. The operation of the trapshoot range caused contamination of shallow soils with lead, arsenic, and polynuclear aromatic hydrocarbons (“PAHs”). The metal contamination was a result of lead shot being deposited on the ground and the PAHs originated from the clay pigeons, consisting of crushed limestone and petroleum pitch.

In 2004, 2005, and 2006 BASELINE collected samples on the trapshoot range to characterize the nature and extent of metals and PAH contamination. The results of those investigation defined the area of contamination and indicated that the upper one to two feet of soil was affected by elevated lead and arsenic concentrations that could potentially affect the public health and the environment. As a result, a Draft Response Plan was prepared and submitted to the County in March 2006. The Draft Response Plan identified a number of different response options that would be protective of public health and the environment. A preferred alternative was identified and approved by the County. The preferred response option consist of excavation and consolidation of contaminated soil from the area of contamination on to the site; the site, containing the consolidated contaminated material, will be capped with two feet of clean soil and asphalt (in areas not covered by building foundations), while the utility corridors will contain clean fill. The clay pigeon debris that had accumulated on the surface in the western portion of the area of contamination will be hauled off-site and disposed of at a permitted facility. This will result in one portion of the area of contamination (about eleven acres) being remediated for

unrestricted use, while another area, the site, will contain contaminated soil. The site containing the contaminated soil is subject to the requirements of this RMP.

3.0 RISK MANAGEMENT MEASURES –ENGINEERING CONTROLS

The purpose of risk management measures is to protect future construction and maintenance workers, the general public, and the environment. Below, is a discussion of specific engineering controls that must be implemented if the cap on the site is breached. A cap breach consists of any excavation below the asphalt cap and the two feet of clean soil under the asphalt cap. Whenever the capped is planned to be breached, the landowner or lessee must notify the County 30 days in advance. Following completion of construction or maintenance activities that have resulted in breaching of the cap, the landowner or lessee must provide the County with documentation on how the cap has been restored.

3.1 Health and Safety Plan

All work that involves the breaching of the cap will be undertaken in accordance with a site-specific Health and Safety Plan (HSP), prepared in accordance with Title 8 California Code of Regulations (CCR) Section 5192. This section requires that workers coming into contact with contaminated soils and/or groundwater must have Hazardous Waste Operations and Emergency Response (HAZWOPER) training and medical surveillance.

The HSP preparation and implementation is the responsibility of individual contractors engaged by the City of Sacramento or tenants; the HSP must be submitted to the County prior to any breaching of the cap. The HSP will include, as a minimum the following elements:

- **General Information.** This portion of the HSP will include the name of the preparer of the HSP. A description of the site location and the general hazards that are expected to be present that could affect the health and safety of construction and/or maintenance workers, the public, and the environment.
- **Key Personnel and Responsibilities.** The HSP will include the name of the safety officer who will be responsible for implementation of the provisions of the HSP. Furthermore, the HSP must include the responsibilities of all workers coming into contact with contaminated materials. The HSP must identify those personnel that should be HAZWOPER trained. All personnel that are in contact with contaminated soil, encountered during breaching of the cap must be HAZWOPER trained.
- **Site Information.** The HSP will describe the site history and the contaminants of potential concern “(COPCs”) that have been consolidated at the site or are likely to be encountered based on the site history.
- **Hazard Analysis.** The HSP will include a listing of all COPCs likely to be encountered at the site. The list must include description of the symptoms of exposure and regulatory exposure limits for each COPC. The HSP will describe the methods to be undertaken to eliminate exposure hazards (e.g., personal protective equipment).

- **Air Monitoring Approach.** The HSP will include an air monitoring strategy that will assist in identifying if construction and/or maintenance workers and the public may be exposed to COPCs above specific action levels. The HSP must identify the types of air monitoring instruments to be used, calibration of the equipment, monitoring points, and monitoring frequency. The HSP will also define action levels above which workers must don personal protective equipment, as well as levels above which work must be stopped or engineering or administrative controls employed to eliminate the exposure of workers or the public to COPCs.
- **Personal Protective Equipment.** The HSP will describe the types of personal protective equipment to be donned by workers that come into direct contact with contaminated soil and/or are exposed to dust. The types of appropriate personal protective equipment will be specified by the preparer of the HSP and relate to the specific COPCs that are present at the remediation area.
- **Work Zones and Site Security.** The HSP will identify the work zones where workers may come into direct contact with contaminated soil. The work zones will be delineated by tape, fencing, and/or definitive access controls. Outside the work zone(s), the support zones will be identified in the HSP. The support zone will be large enough to provide opportunities for decontamination of workers and equipment, including removal of dirt from truck tires prior to exiting the site.
- **Decontamination Procedures.** The HSP will identify the decontamination procedures to be employed for workers that have come into direct contact with contaminated soil and also decontamination of equipment (including sampling equipment). The HSP will also include provisions for management of clothes that have been in direct contact with COPCs.
- **Safe Work Practices.** The HSP will include a discussion of general safe work practices to be undertaken at the site. Such safe work practices must include restrictions of site access, tailgate meetings, eating and smoking restrictions, personal hygiene, warning signs, and other conditions that would be unique to the site.
- **Contingency/Emergency Plans.** The HSP will include a description of the procedures to be followed during emergencies. Specifically, the HSP will describe the locations of emergency equipment (including eyewash, first aid kit and fire extinguisher), and emergency routes to hospital(s), and emergency telephone numbers.
- **Medical Surveillance.** The HSP will include requirements for medical surveillance of those workers that will be involved in activities that involve “cleanup operations” or “hazardous substance removal work,” as defined in the California and federal regulations.

3.2 Dust Control Measures

Construction or maintenance activities that breach the cap may generate visible dust, especially during the dry season. Dust emissions may result from excavation and grading activities, vehicle or equipment movement, wind blowing across the site or over soil stockpiles, and loading or unloading of soil. Dust control would minimize worker exposure to dust containing

contaminants and reduce off-site migration of both contaminants and nuisance dust. The following dust control measures will be implemented during remediation activities:

- Dampen soil by spraying water over soil when performing dust-creating activities.
- Limit the number of soil disturbing activities being performed at one time.
- Minimize drop heights while loading or unloading soil.
- Cover all soil stockpiles when not being added to or removed. This measure will include providing an effective technique of ensuring that the cover is not blown off the stockpile (if generated) by the wind (e.g., sand bags, tires).
- Limit vehicle speeds in the remediation area to five miles-per-hour.
- Sweep paved roadways on-site and off-site near exit routes daily, or more frequently, if necessary.
- Cease soil disturbing activities when wind speed exceeds 25 miles per hour.

Additional dust control measures may be required if air monitoring or observation indicates that dust emissions from the site exceed levels defined in the HSP or exceed the legally permissible discharge limits, if any, established by state or local code.

3.3 Decontamination of Equipment and Vehicles

Construction equipment and vehicles used during the breach of the cap may have deposits of soil containing contaminants adhering to surfaces, particularly on the wheels and wheel wells. Removal of these soil deposits will be considered prior to the equipment or vehicles leaving the site. The following measures will be considered to minimize the potential for the contaminants to be transported outside the site on equipment or vehicles.

- Scraping or brushing equipment and vehicles to remove soil prior to leaving the remediation area.
- The use of gravel site exits to assist in the removal of soil from tires.

If necessary, high-pressure washing may be employed to remove soil. Water used in washing operations will be contained and managed in accordance with applicable federal, state, and local waste regulations.

3.4 Storm Water Pollution Controls

Storm water runoff from the site during a breach of the cap may contain sediment due to exposure of surface soils, excavations, and the modification of established drainage patterns. Construction sites one acre or larger are required to manage storm water in accordance with California's National Pollutant Discharge Elimination System (NPDES) General Construction

Permit. Contractors must file a Notice of Intent (NOI) with the state and have a Storm Water Pollution Prevention Plan (SWPPP). The General Construction Permit requires construction contractors to implement best management practices (BMPs) designed to reduce sediments in storm water runoff to the extent possible. Because of the potential for sediments in the soil to contain contaminants remediation activities must include development of a SWPPP and implementation of BMPs to control sediment in storm water discharge. The SWPPP must also satisfy the requirements of the City of Sacramento's Erosion And Sediment Control Plans. The SWPPP must be prepared by the City of Sacramento or lessee or the contractor prior to breaching the cap. The SWPPP must be submitted to the County prior to.

Selected BMPs should be based on the September 2004 California Stormwater Association, Stormwater Best Management Practice Handbook, Construction, and updates, such as the following:

- The use of silt fences around the perimeter of the site to impede off-site migration of sediment.
- Sediment basin or traps where sediments can settle out of storm water runoff.
- Gravel bag berms to control storm water flow directions
- Sandbag or straw bale barriers around storm drain inlets to prevent sediments from entering the storm drain system.
- Covering stockpiles with plastic sheeting and ensuring that stockpiles do not accumulate water.

In addition to sediment control, hazardous materials releases, such as any spills of oil, petroleum fuels, or hydraulic fluids must be considered. The SWPPP must contain procedures for responding to hazardous materials releases, such as use of absorbent material and proper management of the resultant waste.

If proposed construction involving the breaching of the cap is less than one acre in size, the contractor is not required to file an NOI or prepare a SWPPP; however, erosion and sediment control plans will still be prepared and implemented to ensure control of stormwater runoff from the area where the cap is breached. The plan must be prepared by the landowner or lessee or the contractor and submitted to the County prior to breaching the cap.

3.5 Management of Stockpiles, Soil Characterization, and Disposal

Future development of the site may include excavation and stockpiling of contaminated soil. The contaminated stockpiled soil may either be reused under the cap or characterized for off-site disposal. If the soil is reused on-site, it must be subsequently covered with two feet of clean soil and the asphalt cap.

The contaminated stockpiled soil must be managed separately from other soil generated during earthwork activities. The contaminated soil must be placed on 10-mil visquene or other impermeable material and then covered with secured visquene when not being actively worked

(i.e., added to or loaded onto vehicles for off-site disposal). Soil must be characterized prior to off-site disposal in accordance with disposal facility requirements.

Characterization of the soil must be conducted in accordance with EPA publication SW-846, entitled Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, third edition. The stockpile samples analytical results should be statistically evaluated to determine whether the soil is non-hazardous, Resource Conservation and Recovery Act (RCRA) hazardous, or non-RCRA hazardous waste based on Title 22 CCR criteria. The material must be disposed of at a permitted disposal facility.

3.6 Landscaping

Irrigation associated with landscaping may introduce water that could percolate through the consolidated contaminated material. The percolation of irrigation water through the material could increase leaching rate of contaminants downward toward the groundwater, located at a depth of more than 65 feet. To prevent downward leaching of contaminants, landscaping should preferably be in boxes above the cap. Landscaping that breaches the cap must be placed in planter boxes with an internal drainage that does not release water to areas below the planter boxes (e.g., drains to the storm sewer system); any drainage lines must be within utility corridors that consist of clean fill. Any landscaping plans that penetrate the cap must be submitted to the County for review.

3.7 Clean Fill

Clean fill can be imported onto the site and used in utility corridors and as part of the cap. The source of the fill must be from uncontaminated areas and the City must approve the source of the fill prior to importation.

3.8 Cap Inspections

The landowner is responsible for ensuring that an inspection of the integrity of the cap is conducted yearly. The inspection must be performed by a Professional Civil Engineer and will consist of visual inspections along longitudinal (north to south) traverses every 100 feet. Observations will be made as to cap cracking, erosional damage, settlement, sloughing, seepage, or other damage to the cap. Any deterioration of the cap will be noted and repairs must be implemented. An inspection report will be prepared, stamped by a Professional Civil Engineer, and submitted to the County annually in January.

4.0 RISK MANAGEMENT MEASURES – INSTITUTIONAL CONTROLS

The consolidation of consolidated material on the site requires certain land use restrictions to protect the public health. A deed restriction will be placed on the parcel to restrict the following land uses: single-family residences, hospitals for humans, public or private schools for persons under the age of 21, daycare center for children, un-capped park or open space that exposes contaminated soil.

EXHIBIT E
DIAGRAM OF UTILITIES

EXHIBIT E DIAGRAM OF UTILITIES

CITY OF SACRAMENTO, CALIFORNIA
MAY, 2007

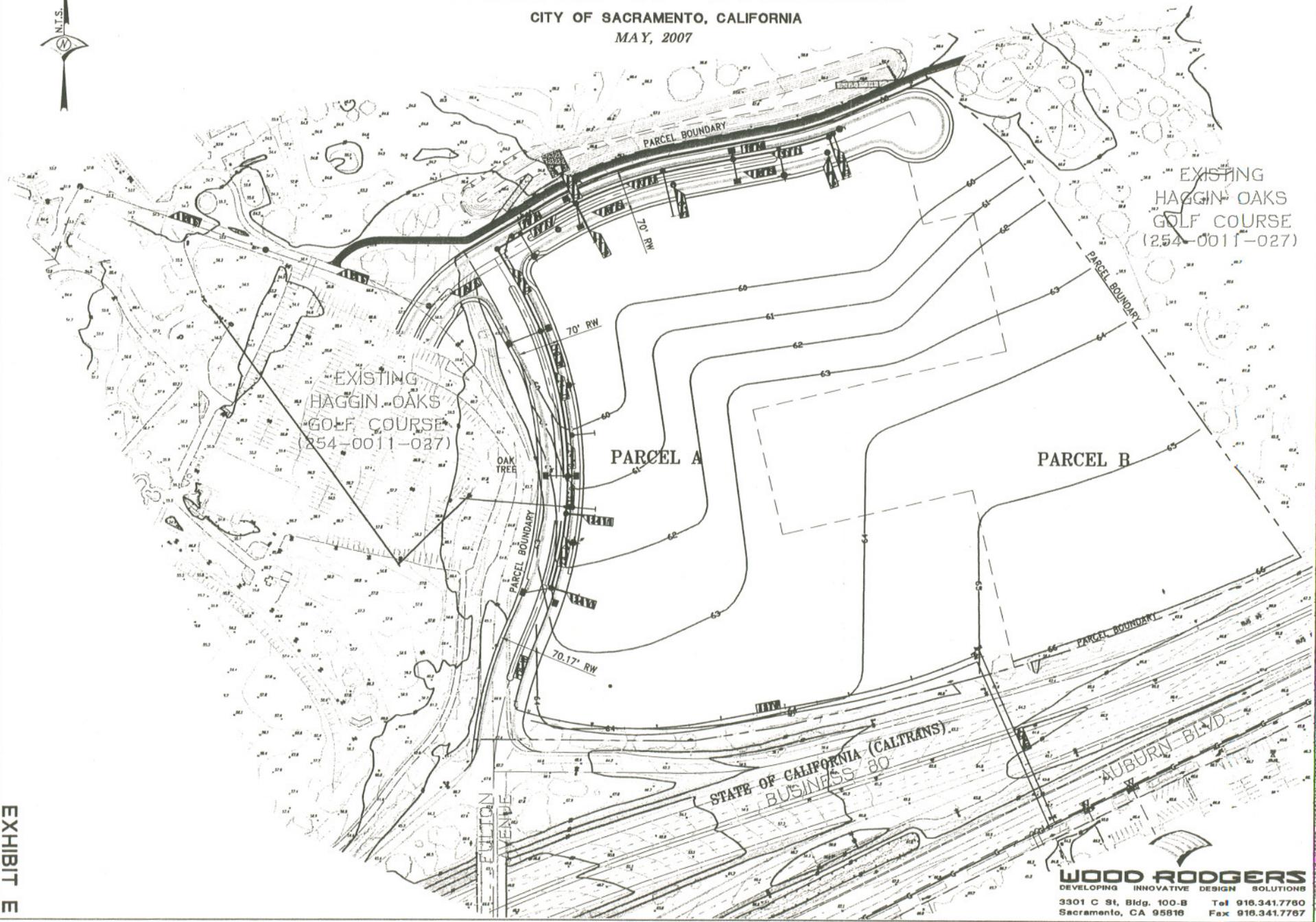


EXHIBIT E

WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS
3301 C St, Bldg. 100-B Tel 916.341.7760
Sacramento, CA 95816 Fax 916.341.7767

WOOD RODGERS PROJECT NUMBER: SACRAMENTO, CALIFORNIA, PROJECT: "AUBURN BLVD" - 07/07/07

EXHIBIT F

NON-DISTURBANCE AGREEMENT

Exhibit F

Recording requested by:

And when recorded mail to:

Law Offices of Gregory D. Thatch
1730 "I." Street, Suite 220
Sacramento, California 95814

Attn: Michael Devereaux, Esq.

(Space above line for Recorder's use only)

Non-disturbance Agreement

This Non-disturbance Agreement, dated _____, 20____, is between the City of Sacramento, a California municipal corporation ("Landlord"); Rpton Investment Group LLC, a California limited-liability company ("Tenant"); and _____, a _____ ("Subtenant").

Background

- A. Landlord owns the fee title of certain lands in the City of Sacramento, County of Sacramento, State of California (the "Premises").
- B. Landlord and Tenant are parties to a Ground Lease dated _____, 20____, under which Landlord leases the Premises to Tenant (the "Lease").
- C. Tenant and Subtenant have entered into a written sublease, dated _____, 20____ (the "Sublease"), under which Tenant has leased all or a portion of the Premises to Subtenant as described on **Exhibit A** to this agreement (the "Subleased Premises").

With these background facts in mind, the parties agree as follows:

- 1. In exercising its rights under the Lease (or under any instrument that amends or replaces the Lease) while the Sublease is in effect—
 - (a) Landlord shall not disturb Subtenant in, or deprive Subtenant of, its possession of the Subleased Premises or its right to possess all or part of the Subleased Premises under the Sublease; and
 - (b) Landlord shall not disturb Subtenant in, or deprive Subtenant of, any right or privilege granted to, or inuring to the benefit of, Subtenant under the Sublease.

Exhibit F

2. If , while the Sublease is still in effect, the Lease is terminated or expires for any reason, and if the Sublease would continue in effect but for the termination or expiration of the Lease, then the following will apply:
 - (a) Landlord shall not make Subtenant a party in any action or proceeding to remove or evict the Tenant and shall not evict or remove Subtenant from the Subleased Premises or disturb or in any way interfere with Subtenant's possession or right of possession while the Sublease is in effect and Subtenant is not in breach or default.
 - (b) The Sublease will continue in full effect as a direct lease from Landlord to Subtenant, effective as of the date the Lease is terminated or expires. Subtenant shall pay Landlord rent equal to the rent Tenant would have paid Landlord for the Subleased Premises were the Lease still in effect; if Tenant prepaid rent under the Lease before the Lease terminated or expired, then Landlord will credit Subtenant for up to 31 days of the prepaid rent.
3. If Landlord and Tenant amend the Lease or replace it with another instrument, then the amendment or replacement instrument will not bind the Subtenant to the extent it—
 - (a) conflicts with the Sublease;
 - (b) imposes any obligations on Subtenant that are more onerous than those imposed by the Sublease;
 - (c) deprives Subtenant of any rights under the Sublease; or
 - (d) deprives Subtenant of any rights under the Lease that the Subtenant is privileged to enjoy under the Sublease.
4. Tenant and Subtenant shall not, without Landlord's prior written consent, enter into any agreement modifying the Sublease that would—
 - (a) reduce Subtenant's obligations with respect to the payment and amount of rent, taxes, insurance, repairs, or restoration of damage;
 - (b) terminate or shorten the term of the Sublease; or
 - (c) increase Subtenant's privileges or reduce its obligations with respect to condemnation.
5. A modification, amendment, waiver, or release of any provision of this agreement or of any right, obligation, claim, or cause of action arising under this agreement will not be valid or binding for any purpose unless set forth in a writing duly executed by the party against whom it is asserted.

Exhibit F

6. This agreement binds and inures to the benefit of the parties and their heirs, legal representatives, successors, assigns.
7. This agreement is to be interpreted and applied in accordance with California law. It sets forth the parties' entire understanding regarding the matters addressed, and it supersedes all prior or contemporaneous agreements, representations, and negotiations (written, oral, express, or implied). Exhibit A is part of this agreement. Any litigation concerning this agreement must be brought and prosecuted in the Sacramento County Superior Court.
8. The parties may execute this agreement in counterparts, each of which will be considered an original, but all of which will constitute one and the same instrument. Signature pages and any acknowledgment pages may be detached from the counterparts and attached to a single copy of this document. In addition, facsimile or electronic counterparts of this agreement will be considered for all purposes as an original, and the parties shall deliver counterparts of this agreement containing original signatures as soon as possible.

City of Sacramento

By: _____

Name: _____

Title: _____

Approved for Legal Form
City Attorney

By: _____

Rapton Investment Group LLC

By: _____

Name: _____

Title: _____

[Name of Subtenant]

By: _____

Name: _____

Title: _____