THE CITY OF NOVATO CALIFORNIA

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PLANNING COMMISSION STAFF REPORT

MEETING DATE: May 17, 2017

STAFF: Steve Marshall, Planning Manager
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SUBJECT: **HAMILTON SQUARE**
CEQA MITIGATED NEGATIVE DECLARATION
P2013-040; USE PERMIT
970 C STREET; APN 157-980-05

REQUESTED ACTIONS

1. Conduct a public hearing to consider and adopt:

   A. a resolution recommending to the City Council approval of a Revised Initial Study/Mitigated Negative Declaration prepared for Hamilton Square;

   B. a resolution recommending the approval of a use permit authorizing and applying conditions of approval to the removal of 2,800 cubic yards of contaminated soil and its replacement with uncontaminated fill soil at Hamilton Square;

2. Consider providing preliminary comments on the residential condominium project proposed at Hamilton Square.

The Planning Commission will not be making a formal recommendation or taking action on the residential condominium proposal at Hamilton Square at this meeting. A separate noticed public hearing of the Planning Commission will be scheduled for consideration of the residential condominium proposal subsequent to the soil remediation activity, if such remediation activity is approved.

EXECUTIVE SUMMARY

Hamilton Square, LLC (hereafter "Applicant") has submitted applications to remediate contaminated soil and subsequently construct a 31-unit residential townhome project on 2.67-acre property located at 970 C Street ("Project Site"). The project involves two planning permit phases associated with these applications:

Phase I – Use Permit for Contaminated Soil Remediation

Phase II – Consideration and Possible Approval of Residential Condominiums

Phase I - Use Permit for Contaminated Soil Remediation

The Project Site was formerly used by the U.S. Navy as a gas station with on-site auto repair. These activities led to petroleum based contaminants being released into the soil and groundwater beneath areas of the Project Site. The Project Site was remediated by the U.S. Navy to a level acceptable for commercial or industrial use. The Navy then sold the Project Site to the Applicant with a deed covenant prohibiting use of the property for residences, schools, daycare facilities, and hospitals.

The Navy's deed restriction must be removed or revised to allow residential use before the City can consider granting development entitlements for the Applicant's proposed residential condominium project. To remove or revise the deed covenant, the Applicant must remediate the Project Site to a point where post-remediation testing indicates the property is suitable for residential use based on a review by the Regional Water Quality Control Board ("Regional Board'), California Department of Toxic Substances Control ("DTSC"), and Department of the Navy ("Navy").

The Applicant is proposing to remove approximately 2,800 cubic yards of contaminated soil over a period of 6-days. The contaminated soil would be sent to facilities certified to dispose of such material. The excavation pits would be filled with clean soil and re-compacted, a process requiring an additional week's time to complete. A post-remediation human health risk assessment, including soil, soil vapor, and ground water testing would be conducted to determine if conditions at the Project Site meet residential environmental screening levels established by the Regional Board.

The implementation of Phase I requires a use permit from the City to allow the movement of more than 200-cubic yards of soil, as well as approval of a Remedial Action Plan ("RAP") by the Regional Board. The City will first take action on the environmental review documentation prepared for Phase I and II of the project and the requested use permit for Phase I. The Regional Board will then consider the RAP and the environmental determination adopted by the City. The City and Regional Board have closely coordinated on the review of the City's environmental document to ensure it is acceptable for use in the Regional Board's review process. Similarly, both agencies coordinated on the development of mitigation measures applicable to the soil remediation proposal.

Phase II – Consideration and Possible Approval of Residential Condominiums

Phase II of the project would involve consideration of development entitlements to construct 31 residential condominiums at Hamilton Square. The entitlements include:

- General Plan Amendment – application to amend the land use designation assigned to the Project Site from Neighborhood Commercial (CN) to Medium Density Multiple Family Residential (R10);

- Master Plan Amendment – application to amend the Hamilton Reuse Plan/Master Plan to recognize residential use in the Exchange Triangle Planning Area (Planning Area 5) and increasing an existing building height limit from 30-feet to 34-feet.

- Precise Development Plan – application to adopt a site specific precise development plan specifying development standards (those not addressed in the Hamilton Reuse/Master Plan) addressing the project's design and operation, including setbacks, required level of parking, and so on;

- Tentative Map – application to adopt a subdivision map establishing and delineating one (1) common area parcel and 31 condominiums (air space rights), as well as utility alignments, infrastructure improvements, and easements required to serve the proposed residential units; and

- Design Review – application to approve the project's site design (physical arrangement of development), building height and massing, and conceptual architecture and landscaping.

Assuming permits for Phase I are approved and the soil remediation is successful, the Applicant would return to the City to complete Phase II.

The project plans may be downloaded at: www.novato.org/hamiltonsquare

Environmental Review & Remedial Action Plan

A revised Initial Study/Mitigated Negative Declaration and a supporting Errata (collectively "Revised IS/MND") were prepared, pursuant to the California Environmental Quality Act ("CEQA") for Phase I and II of the project. These documents identify potentially significant environmental impacts related to Phases I and II of the project, including possible exposure of sensitive receptors (e.g., infants and children) to air quality and hazardous materials impacts. The Revised IS/MND includes proposed mitigation measures reducing all potential impacts to a less than significant level. The mitigation measures addressing air quality and hazardous materials during Phase I focus on maintaining diligent dust control procedures, installation of precautionary measures (e.g., tarping surfaces), performing perimeter air quality monitoring, and close oversight of the remediation work by a third-party environmental monitor hired by the City.

The Revised IS/MND is based, in part, on the recommendations contained in the draft RAP submitted by the Applicant to the Regional Board. The draft RAP provides a detailed history of contamination at the Project Site and presents a plan describing the measures that are proposed to be implemented to remediate the site to residential screening levels. The RAP consists of three parts, the RAP itself, Sampling and Analysis Plan, and Soil Management Plan. All of these documents combine to provide a management framework for conducting the soil remediation at the Project Site with appropriate safety measures to protect the public, remediation workers, and the environment. On February, 23, 2016, the Regional Board issued a letter of conditional concurrence indicating the agency was generally satisfied with the Applicant's RAP, but requested additional revisions be made to the RAP prior to approval based on the mitigation measures

proposed in the Revised IS/MND. The Planning Commission should review the draft RAP and Regional Board's letter to understand the specifics of soil remediation activities.

Copies of the Revised IS/MND, Errata, and draft RAP, including a Soil Management Plan and Sampling and Analysis Plan, may be downloaded at: www.novato.org/hamiltonsquare

Staff Recommendation

At this time, the Planning Commission is asked to consider making a recommendation on the Revised IS/MND addressing Phases I and II of the project, providing a recommendation on a use permit to allow the soil remediation work proposed under Phase I, and providing preliminary comments regarding the proposed development of the Project Site with residential condominiums. A recommendation to adopt the Revised IS/MND and grant a use permit does not constitute endorsement of the Applicant's residential condominium proposal.

Staff is of the opinion the Revised IS/MND accurately discloses the potential environmental impacts of implementing Phases I and II of the project and provides feasible mitigation measures that are directly related and proportional to the potential impacts of each project phase and reduce all impacts to a less than significant level. Accordingly, staff recommends the Planning Commission approve the attached resolution (Attachment No. 1) recommending the City Council adopt the Revised IS/MND.

Staff believes the Planning Commission can make the findings required to recommend approval of a use permit to conduct Phase I of the project based on the analyses and mitigation measures contained in the Revised IS/MND. Staff recommends the Planning Commission adopt the attached resolution (Attachment No. 2) providing a favorable recommendation to the City Council regarding granting a use permit to conduct Phase I of the project.

PROJECT DESCRIPTION

The Applicant has submitted requests to remediate contaminated soil and construct a 31-unit residential townhome project on 2.67-acre property located at 970 C Street ("Project Site"). The project involves two permitting phases:

Phase I – Use Permit for Contaminated Soil Remediation

Phase II – Consideration and Possible Approval of Residential Condominiums

Each phase is described below; Phase II is described for information purposes only and is not the subject of any action by the Planning Commission at this time.

Phase I – Use Permit for Contaminated Soil Remediation

History of Contamination

The Project Site is the former location of a gas station operated by the U.S. Navy (hereafter "Navy"). The property hosted three underground gasoline storage tanks and one waste oil tank. The gasoline storage tanks leaked fuel leading to the contamination of surrounding soil and ground water. Contaminants identified at the site include the gasoline-related volatile organic compounds (VOCs) benzene, toluene, ethylbenzene, and xylenes (commonly referred to as BTEX) and methyl-tertiary-butyl ether (MTBE - gasoline additive). The gasoline storage tanks were removed in 1995 and remediation efforts for MTBE and BTEX began in 1998.

Soil at the Project Site was also impacted by hydraulic fluid and oil that leaked from three vehicle lifts and two oil/water separators located inside a former service station building. In 2000 the Navy remediated the hydraulic lift and oil/water separator areas; contaminated soil was over-excavated to the extent possible, but full removal was limited by the service station's foundation.

The Navy performed a human health risk assessment in 1999 and two revised risk assessments in 2001 and 2003 to determine the effectiveness of the remediation processes. Based on these assessments, the Navy and California Department of Toxic Substances Control (DTSC) concluded that, "…use of the Property [Project Site] for commercial and/or industrial use does not pose an unacceptable cancer risk, or non-cancer hazard to the users or occupants of the Property."

Property Sale & Deed Covenants

In September 2003 the Navy adopted a Finding of Suitability to Transfer (FOST). This action allowed the Navy to sell the property to the Applicant in April 2005. The sale terms include a deed covenant, imposed by the Navy, to restrict use of the Project Site consistent with findings of the human health risk assessments noted above. Specifically, the covenant prohibits use of the Project Site for residences, schools, daycare facilities, and hospitals. The covenant permits the Applicant, or any other successor in interest to the property, to request a modification or termination of the noted use restrictions provided it has applied for and obtained written approval from DTSC and Regional Board. A copy of the covenant agreement is provided as Attachment No. 3.

Soil Remediation Proposal

The remediation effort involves the removal of approximately 2,800 cubic yards of contaminated soil. The contaminated soil would be removed with an excavator, loaded into dump trucks, and hauled to two disposal sites, Potrero Hills Landfill in Suisun City and B & J Landfill in Vacaville, both of which are certified to accept contaminated soil. Clean fill soil would be returned to the excavation pits and compacted. The soil removal process is anticipated to take six (6) days to complete. Backfilling and compacting the excavation pits would take approximately one-week.

Upon completion of the soil removal process, the Applicant would have a qualified professional conduct a human health risk assessment (HHRA). The HHRA would involve groundwater, soil

and soil vapor testing to evaluate post-remediation concentrations of soil, groundwater, and soil vapor contaminants at the site, including testing of locations where soils not removed during remediation activities were previously found (circa 2005 and earlier) to contain contaminant concentrations above Environmental Screening Levels (ESLs) established by the Regional Board for residential land uses. The HHRA would be reviewed by the City, Regional Board, DTSC, and Navy.

Assuming the HHRA indicates post-remediation conditions meet residential screening levels, the Applicant would then petition the Navy to modify the deed covenant prohibiting residential use of the Project Site. The Navy would consult with Regional Board and DTSC and, at its sole discretion, consider approving or disapproving the request. If approved, the Applicant could then pursue development entitlements from the City to construct the proposed condominium project. The City cannot take action on the Applicant's proposed residential project (Phase II) until the Navy's residential use restriction is modified or removed from the Project Site.

To implement Phase I, the Applicant must obtain (in sequential order):

1. A CEQA environmental determination (e.g., Mitigated Negative Declaration) from the City.

2. Approval of a use permit from the City to conduct the remediation excavation activities.

3. Approval of a RAP by the Regional Board.

As noted earlier, the Applicant has prepared and submitted a draft RAP, including a Soil Management Plan and Sampling and Analysis Plan, to the Regional Board. The Regional Board issued a letter of conditional concurrence, dated February 23, 2016, indicating the Agency was generally satisfied with the Applicant's RAP, but requested additional revisions be made to the RAP prior to approval. The Regional Board's letter of conditional concurrence is provided as attachment No. 4; the RAP documents may be downloaded at: www.novato.org/hamiltonsquare

Phase I sequence of actions *assuming* approvals are granted:

a. City adopts CEQA environmental determination and issues use permit to conduct soil remediation subject to conditions of approval/mitigation measures and contingent on obtaining necessary permit(s) from Regional Board;

b. Regional Board considers City's CEQA environmental determination and renders decision on permit(s) necessary to implement RAP;

c. Applicant completes soil removal consistent with conditions of approval/mitigation measures;

d. Applicant commissions a human health risk assessment to determine whether post-remediation soil conditions meet or exceed environmental screening levels for residential use of the property;

e. Applicant presents findings of the human health risk assessment to City, Regional Board, DTSC, and Navy;

f. Navy consults with Regional Board and DTSC to determine if it is acceptable to remove deed covenant restricting residential use of the property.

If the Navy determines the site is acceptable for residential use and modifies the deed covenant accordingly, the Applicant may request the City consider Phase II – development applications to construct 31 residential condominiums on the site, as described below.

Phase II – Consideration and Possible Approval of Residential Condominiums

Development Entitlements & Review Process

The Applicant submitted applications to the City to construct a 31-unit townhome project. These development applications include:

- General Plan Amendment – application to amend the land use designation assigned to the Project Site from Neighborhood Commercial (CN) to Medium Density Multiple Family Residential (R10);

- Master Plan Amendment – application to amend the Hamilton Reuse Plan/Master Plan to recognize residential use in the Exchange Triangle Planning Area (Planning Area 5) and increasing an existing building height limit from 30-feet to 34-feet.

- Precise Development Plan – application to adopt a site specific Precise Development Plan specifying development standards (those not addressed in the Hamilton Reuse/Master Plan) addressing the project's design and operation, including setbacks, required level of parking, and so on;

- Tentative Map – application to adopt a subdivision map establishing and delineating one (1) common area parcel and 31 condominiums (air space rights), as well as utility alignments, infrastructure improvements, and easements required to serve the proposed residential units; and

- Design Review – application to approve the project's site design (physical arrangement of development), building height and massing, and conceptual architecture and landscaping.

The development applications noted above are collectively considered through the City's Planned District (PD) process. This process involves the following steps in sequential order:

1. Neighborhood Meeting

2. Design Review Commission Workshop

3. Design Review Commission Hearing (site design, massing, concept architecture/landscaping)

4. Planning Commission Hearing

5. City Council Hearing

6. Design Review Commission Hearing (final architecture and landscape details)

7. Building Permit

Condominium Project Design

The Applicant is proposing to develop the site with 31 townhome-style residential units with tuck-under parking in 8 three-story buildings and 1 two-story building. The maximum building height proposed is 34-feet. Six three-story buildings are proposed that would surround and face a common park area, two three-story buildings with frontage on "C" Street, and one two-story building with frontage on Main Gate Road. The following is a listing of residential project components:

- 21 three-bedroom and 10 four-bedroom townhomes. Unit sizes range from 1,387 to 1,929 square feet

- a large central common park space for social gatherings and recreation among residents

- a mail pavilion and entry green on the project site adjacent to the sidewalk on Main Gate Road

- front yards, upper-story balconies, and landscaped areas distributed throughout the Project Site

- three vehicular entry points connecting to an internal drive aisle network within the Project Site. Two access points are located on "C" Street. The third vehicular access point is a right-in/right-out driveway located on Main Gate Road

- two tuck-under garage parking spaces for each unit

- 17 guest parking spaces are provided along internal drive aisles; a minimum of 10 guest spaces are required

- fencing along the perimeter of the drive aisles to screen tuck-under parking garages and a low wall located along Main Gate Road and "C" Street.

Below is Table 2 from the Revised IS/MND providing a breakdown of unit types and use areas.

TABLE 2 PROJECT COMPONENTS

Use	Amount
Residential, by Type	*Units*
Three-Bedroom	21
Four-Bedroom	10
Total	**31**
Common Spaces/Community Amenities	*Square Feet*
Hamilton Square	10,270
Mail Pavilion Plaza	2,720
Entry Green at Main Gate Road	1,720
Total	**14,710**
Residential Parking	*Spaces*
Off-street Enclosed	62
Off-street Open	17
Total	**79**

Source: Opticos Design, Inc., Architectural Plans, dated June 11, 2014.

ENVIRONMENTAL ASSESSMENT

The project (Phases I and II) is subject to review pursuant to the California Environmental Quality Act (CEQA). The purpose of CEQA is to disclose to the public the significant environmental effects of a proposed project and identify feasible mitigation measures to avoid or minimize such effects. This information is intended to inform decision makers and the public of the environmental consequences of the proposed discretionary action.

The adoption of a CEQA determination, such as mitigated negative declaration, does not represent an endorsement or approval of a project. Rather it represents the lead agency's determination that the project has been adequately analyzed, its potentially significant impacts disclosed, and feasible mitigation measures to reduce such impacts have been created consistent with the statutory requirements of CEQA. Accordingly, the Planning Commission's recommendation on the CEQA determination discussed below is not an approval or an endorsement of Phase I or II of Hamilton Square.

CEQA Initial Study & Mitigated Negative Declaration – 2015

In 2015 the project was the subject of a CEQA Initial Study. The Initial Study found that all potentially significant environmental impacts could be avoided or reduced to a less than significant level. Given this circumstance, a Mitigated Negative Declaration was recommended as the appropriate CEQA determination for the project. The Initial Study/Mitigated Negative Declaration

was circulated for a 30-day agency and public review period beginning on July 1, 2015, and ending on July 31, 2015.

The Initial Study/Mitigated Negative Declaration was presented to the Planning Commission on July 13, 2015. The Planning Commission was asked to provide recommendations to the City Council regarding adoption of the Mitigated Negative Declaration and approval of the Applicant's proposed residential condominium project.

The Planning Commission hearing was attended by a number of residents and parents of children at Hamilton Charter School who expressed concern about the Applicant's demolition of the former Navy service station building at the Project Site, alleging the work was not conducted properly and potentially exposed the public and nearby children to airborne asbestos. This event engendered mistrust and skepticism about the safety of the Applicant's proposal to remediate contaminated soil at the Project Site and raised questions about public agency oversight of such work.

The Planning Commission was not comfortable making a recommendation on the Initial Study/Mitigated Negative Declaration and felt it was premature to consider the development entitlements for the residential condominiums. Given these sentiments, the Planning Commission continued the matter to allow staff, the City's CEQA consultant, and the Applicant the opportunity to better address concerns about the removal of contaminated soil from the Project Site, clarify the permitting process, and conduct additional public outreach.

CEQA Revised Initial Study & Mitigated Negative Declaration – 2016/17

Over the course of 2016 and early 2017, staff and the City's CEQA consultant updated the original Initial Study to provide additional analysis of potential environmental impacts related to air quality and hazardous materials at the project level and under cumulative conditions (combined with other nearby projects). This effort included new air quality modeling based on the most recent methodology adopted by the California Office of Environmental Health Hazard Assessment and Bay Area Air Quality Management District ("BAAQMD"). The analysis was updated to more clearly describe cumulative project conditions, including development proposals being reviewed by the City, those already approved and yet to be constructed, and those under construction in the vicinity of the Project Site. The Revised IS/MND contains a preface (pages i through iv) summarizing changes made to the CEQA analysis.

The Revised IS/MND did not identify new environmental impacts that were not previously disclosed in the original Mitigated Negative Declaration. Although no new impacts were identified, the mitigation measures addressing potential air quality and hazardous materials impacts were significantly revised in response to the draft RAP submitted to the Regional Board, concerns expressed by residents, parents with children at Hamilton Charter School, and comments received from the Novato Unified School District (NUSD) and staff of the Regional Board. A copy of a letter outlining the recommendations of NUSD is provided as attachment No. 5.

The Revised IS/MND was released for a 30-day public and agency review period beginning on October 14, 2016, and ending November 14, 2016. After release of the Revised IS/MND, staff was

advised a proposed development project adjacent to the Project Site had been omitted from the cumulative analysis. The project, involving the proposed demolition and reconstruction of the North Bay Children's Center, had been unintentionally omitted. Given this omission, staff and the City's CEQA consultant updated the cumulative air quality and hazardous materials impact analyses to capture the proposed project at North Bay Children's Center, including a new round of air quality modeling.

An errata was prepared to address the updated cumulative impact analysis. The updated analysis did not identify any new environmental impacts or the need for modification of the mitigation measures presented in the Revised IS/MND. Although an errata to a CEQA document is not required to be circulated for a public/agency review period, staff opted to release the errata twenty (20) days prior to the Planning Commission's hearing on May 17, 2017, providing an extended opportunity to review and comment on the findings contained in the errata.

The Revised IS/MND discloses potentially significant impacts in the CEQA analysis categories of Aesthetics, Air Quality, Cultural Resources, Geology/Soils, Hazards, Hydrology/Water Quality, Land Use, Noise/Vibration, and Utilities/Service Systems. The Revised IS/MND includes Table 1 (pages v through xxv) providing a summary of impacts and mitigation measures.

The following discussion focuses on the potentially significant impacts in the categories of Air Quality, Hazards, Hydrology/Water Quality, and Noise/Vibration which are understood to be of greatest concern to nearby residents and parents of children at the nearby daycare, preschool, and school facilities.

Air Quality

As mentioned above, the Revised IS/MND includes updated air quality modeling for the project. The modeling inputs for the project include estimates of air contaminants associated with demolition of the former gas station at the Project Site, which was, as noted earlier, conducted prior to completion of the CEQA review for project in 2015. The air emissions associated with the gas station demolition remain in the modeled conditions in order to provide the most conservative analysis possible and to include a disclosure of the impacts associated with the previously completed demolition efforts. The modeling also addresses cumulative air quality conditions including the operation of U.S. 101 and the Sonoma Marin Area Rail Transit train (SMART). The modeling considers criteria air pollutants, fugitive dust, and toxic air contaminants.

Criteria Air Pollutants

The Bay Area Air Quality Management District ("BAAQMD") regulates criteria air pollutants, including reactive organic gases (ROG), nitrogen oxides (NO_x), and fine particulate matter ($PM_{2.5}$) and (PM_{10}). Accordingly, BAAQMD has established thresholds of significance for each of these criteria pollutants. The thresholds are measured in average pounds per day for each criteria pollutant, including: 54 pounds for ROG, NO_x, and $PM_{2.5,}$ and 82 pounds for $PM_{10.}$ These criteria pollutant levels represent both a project specific and cumulative impact threshold.

Criteria air pollutants are generated principally by the exhaust emissions of construction and passenger vehicles. As such, a criteria pollutant analysis considers construction and operational period emissions. Operational period emissions are associated with use and occupancy of a structure, including associated passenger or commercial vehicle traffic.

The Revised IS/MND determined the project is of a size (unit count) that falls below BAAQMD screening criteria for operational emissions. Given this circumstance, operation of the Applicant's condominium project would not exceed BAAQMD's criteria air pollutant thresholds. BAAQMD does not provide screening criteria for construction phase criteria pollutants. Therefore, the construction phase of the project, including the Phase I soil remediation work, were modeled in detail.

According to the Revised IS/MND, the project's construction period would generate the following average daily criteria pollutant emissions: 2.7 pounds for ROG, 29.3 pounds for NO_x, 1.3 pounds for $PM_{2.5,}$ and 1.3 pounds for $PM_{10.}$ These findings indicate that implementation of the project would not result in criteria air pollutant emissions exceeding BAAQMD thresholds at the project level or in the cumulative condition.

Fugitive Dust

Implementation of the project has the potential to generate dust through the operation of construction equipment and movement of soil. Although, as noted above, daily average particulate matter ($PM_{2.5}$ and PM_{10}) levels were found to fall within the applicable threshold established by BAAQMD, the Revised IS/MND identified the release of dust as a potentially significant impact. Accordingly, the Revised IS/MND recommends mitigation measures to minimize the potential for dust. These mitigations measures are identified in the Revised IS/MND as Mitigation Measures AIR-1 and HAZ-1.

Mitigation Measure AIR-1 specifies, among other requirements, the following dust control measures: a) watering exposed soils, wet sweeping of roadways, and the placement of covers over trailers carrying soil, sand, or other loose material to prevent wind-blown dust; b) all excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph; c) stockpiled soil, if any, shall be covered with plastic sheeting, or other similar material when not being actively worked on for more than 60 minutes and at the end of the work day; and d) the posting of a sign with contact information of the person representing the project sponsor through which complaints regarding dust may be submitted and subsequently remedied; the project sponsor must respond and take corrective action within one (1) hour of receiving a dust complaint.

Mitigation Measure AIR-1 is based on BAAQMD's basic and enhanced construction best management practices (BMPs) for dust control, which are routinely applied to projects in Novato. Staff modified the BMPs to require the project sponsor to respond within 1-hour to a dust complaint. Normally, a 48-hour response time is specified by BAAQMD. The Applicant has indicated it can respond to any dust complaint in 1-hour.

Mitigation Measure HAZ-1 is a multi-part mitigation specifically focused on the Phase I soil remediation work. This mitigation measure is heavily influenced by comments received from the public, parents of children at nearby school facilities, staff of the North Bay Children's Center, Novato Unified School District, and Novato Charter School, and Regional Board. Accordingly, Mitigation Measure HAZ-1 includes precautionary measures and close oversight during the removal of contaminated soil at the Project Site, all of which are intended to protect public health and safety. Key components of Mitigation Measure HAZ-1 include:

- remediation work only permitted on weekends when children are not present at neighboring school and day care facilities
- independent environmental professional on-site to monitor remediation work
- pre-remediation safety measures – tarp play equipment, eating surfaces, and vegetable gardens at children's facilities and Lanham Village
- post-remediation safety actions – wipe down play equipment & eating surfaces at children's facilities
- require a third party dust control contractor – sole function is dust control
- require the application of non-toxic vapor suppressants
- development and implementation of a groundwater control plan
- tarp open excavation pits
- upwind & downwind air monitoring – lead, asbestos, heavy metals, particulates, & organic vapors
- emergency response protocols – official contacts & distribution actions
- public notice 30-days prior to remediation work
- sign postings – remediation dates & contacts
- health risk assessment – post remediation testing of soil, soil vapor, and groundwater

Toxic Air Contaminants

The Revised IS/MND analyzed the potential for implementation of the project to result in the exposure of the public and sensitive receptors at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, and Hamilton Elementary School to toxic air contaminants (TAC) resulting in health risks exceeding thresholds established by BAAQMD. Toxic air contaminants of concern include diesel particulate matter (DPM) resulting from construction

vehicle exhaust emissions.

A TAC analysis is a standard component of a CEQA document for new development projects regardless of whether such a project occurs on a site with contamination issues. BAAQMD's thresholds for TAC are based, in part, on lifetime cancer risk. Cancer risk is, understandably, an unsettling topic and is a matter that is best understood by reading the entirety of the Air Quality analysis in the Revised IS/MND. The full analysis provides a greater level of detail on modeling methodology, age adjustment factors, and the thresholds of significance themselves. Nevertheless, the summary below is offered for convenience to the reader.

The TAC modeling analysis considered project and cumulative TAC levels, including the operation of the Sonoma Marin Area Rail Transit (SMART) trains and U.S. Highway 101. The model information was used to calculate lifetime cancer risk, hazard index for non-cancer risk, and average daily $PM_{2.5}$ emissions. The TAC model factored for infant and child exposures and the current location of the North Bay Children's Center, as well as a possible nearby temporary location for this facility assuming a planned renovation moves forward.

The Revised IS/MND concluded implementation of the project could result in 17.9 excess cancer cases per million for an infant exposure at the North Bay Children's Center (current location) and 10.3 excess cancer cases per million at the Center's possible temporary location. BAAQMD's excess cancer risk threshold is 10.0 excess cancer cases per million. All other receptors (e.g., adults, children) were found to be below the BAAQMD threshold for project level cancer risk. Additionally, the Revised IS/MND determined project generated TACs fell below the BAAQMD's Hazard Index and $PM_{2.5}$ thresholds for all receptors, including an infant at the North Bay Children's Center.

The Revised IS/MND determined the project would not exceed BAAQMD's thresholds for cumulative TAC risks, including cancer risk, hazard index, and $PM_{2.5}$. BAAQMD's cumulative cancer risk threshold is 100 excess cancer cases per million. The cumulative analysis indicates the lifetime cancer risks would be less than 61.5 in one million at the temporary location of the North Bay Children's Center (of which 48.4 in one million cancer risk due to the NBCC project affecting the NBCC temporary relocation area) and less than 24.7 in one million at the residential maximally exposed individual respectively.

The Revised IS/MND recommends implementation of Mitigation Measure AIR-2 to reduce exhaust emissions from construction vehicles. Mitigation Measure AIR-2 focuses on actions to reduce exhaust emissions from the project's off-road construction equipment by a fleet-wide average of 45-percent. This level of exhaust reduction can be achieved by utilizing equipment with engines meeting U.S. EPA standards for $PM_{2.5}$ emissions and/or utilizing diesel particulate filters certified by the California Air Resources Board (CARB). With implementation of Mitigation Measure AIR-2, cancer risk would be 4.0 excess cancer cases per million for an infant exposure, which is under BAAQMD's threshold of 10.0 excess cancer cases per million.

Mitigation Measure AIR-2 is intended to be combined with Mitigation Measures AIR-1 and HAZ-1 to minimize TAC exposure.

Hazardous Materials

Phase I of the project involves the removal and disposal of approximately 2,800 cubic yards of contaminated soil. Contaminated soil would be removed with an excavator, placed in trucks, and hauled to a disposal facility certified for the type of petroleum contaminants found at the Project Site. These activities could expose the public, including infants and children at several nearby school and daycare facilities, to contaminated dust, airborne diesel particulate matter associated with operation of construction equipment, and potentially groundwater containing MTBE. Given these findings, the Revised IS/MND recommends Mitigation Measures AIR-1, AIR-2, GEO-2, HAZ-1, and HYD-1 be implemented in conjunction with the requirements of the Regional Board's RAP, to avoid the potential exposure of the public to the noted hazards.

Mitigation Measures AIR-1, AIR-2, and HAZ-1 are described above under "*Air Quality."* Notably, Mitigation Measure HAZ-1 requires the preparation of groundwater control plan. Groundwater is not expected to be encountered during Phase I. Nevertheless, this mitigation component is included in Mitigation Measure HAZ-1 and the Regional Board's RAP out of an abundance of caution for public and environmental safety.

Mitigation Measures GEO-2 and HYD-1 require the preparation, approval, and implementation of a Stormwater Pollution Prevention Plan (SWPPP). A SWPPP prescribes best management practices to: a) control stormwater run-off; b) prevent soil erosion/siltation; c) ensure the proper storage of fuels and lubricants for construction equipment; and d) require regular maintenance of construction vehicles. Best management practices include, but are not limited to the installation of silt fences, straw wattles, tarping of soil stockpiles, drain inlet filters, rock stabilized driveways, and fuel/lubricant storage lockers. These practices are uniformly required of projects disturbing more than 1-acre of land and, in this instance, also serve to prevent contaminated soil from migrating off-site.

Noise/Vibration

The operation of construction vehicles and equipment is required for both Phase I and Phase II of the project. The Revised IS/MND determined the use of construction vehicles would temporarily increase ambient noise levels in the project vicinity. Although the City uniformly applies standard construction hours, which allow work on days and at times when the people are less likely to be disturbed by noise, Mitigation Measure NOI-2 is proposed to achieve construction noise reductions. Mitigation Measure NOI-2 requires construction equipment to be properly muffled and designation of a contact who can be called to address a project related noise issue.

As described under Mitigation Measure HAZ-1, the Phase I soil remediation would be limited to being conducted on weekends when children are not present at the nearby daycare, preschool, and school facilities. The Phase I soil removal process is anticipated to take six days to complete, which would require three, two-day weekends. Given this circumstance, the project requires permission to perform soil removal work on Sundays since this is not a typically permitted construction day. Mitigation Measure NOI-1 would be applicable to soil removal work conducted on a Sunday.

CEQA Recommendation

Staff believes the Revised IS/MND has been prepared in compliance with CEQA, provides an accurate disclosure of the potentially significant impacts associated with the project, and recommends feasible and effective mitigation measures reducing all impacts to a less than significant level. Based on these observations, staff recommends the Planning Commission find the CEQA document to be adequate and recommend adoption of the Revised IS/MND by the City Council and application of the mitigation measures therein as conditions of approval to the project.

Tent Structure During Remediation

Over the course of the project's public review process there have been requests that the Project Site be tented during the Phase I soil remediation. References were made to a tent structure placed at a former PG&E gas plant in San Rafael where coal was converted to natural gas.

Staff contacted the BAAQMD to speak to the agency's project manager for the PG&E remediation effort. According to the District's project manager, a negative pressure tent environment was required for the PG&E site based on the following: 1) the scope of the project required a permit from the BAAQMD; 2) the site had very high concentrations of toxic contaminants; 3) the project involved more than 3-months of working time; 4) the estimated quantity of soil to be removed was significant at 30,000 cubic yards; and 5) the air quality modeling performed for the project indicated there were no other options to reduce toxic air contaminant levels below the District's cancer/health risk thresholds.

The Air District's project manager was asked about the Phase I of Hamilton Square requiring a tent environment. The project manager did not believe the project was of a sufficient size or duration to trigger the need to obtain a permit from the District, which would indicate a tent structure would not be required. The project manager advised staff to send the project's CEQA document to the District; the District would use the CEQA process to provide comments if appropriate. Notices regarding the Initial Study prepared for the project in 2015 and the Revised

IS/MND (October 2016) and its errata (February 2017) were sent to BAAQMD. BAAQMD did not submit any comments on these documents.

Staff discussed tenting the site with the Applicant's environmental scientist, the City's environmental consultants, and staff of the Regional Board. None of the scientists, toxicologists, and agency staff who worked on the CEQA and RAP documents believe a tent is necessary for Phase I. However, it was acknowledged a tent would be more reassuring to the public.

Staff and the Applicant also discussed utilizing a tent during Phase I. The applicant was encouraged to consider the possibility of voluntarily agreeing to utilize a tent during remediation recognizing the heightened level of public concern about Phase I of the project. The Applicant considered the matter, including obtaining cost estimates to rent a tent structure. Ultimately, the Applicant determined the project could not bear the cost of a negative pressure tent environment and given that the scientists, toxicologists, and Regional Board had concluded such a tent was not necessary to mitigate the potential impact to a less than significant level, the Applicant declined to voluntarily agree to install a tent.

Staff considered the possibility of revising its mitigation recommendations to require a tent structure. To apply conditions/mitigations measures to a project, a public agency must employ a two-pronged test addressing the legal concepts of nexus and rough proportionality. First, an agency must demonstrate there is a nexus (relationship) between the anticipated impact/effect of a project and the mitigation measure/condition of approval or exaction demanded of the project to address such an impact/effect. Second, an agency must show that the mitigation measure/condition of approval or exaction is proportional to the anticipated impact/effect. These are two long-standing legal principles that prevent agencies from demanding developers provide improvements and project measures that go beyond a level of reasonableness for a given project.

In this instance, staff believes there is clearly a nexus between the public health risks of moving contaminated soil and the need for measures to protect the public. However, it does not seem that requiring a tent is proportional to the risk posed by the remediation work at the Project Site recognizing none of the agencies having jurisdiction over remediation projects, including the BAAQMD, DTSC, and Regional Board, have indicated a tent is necessary.

From a CEQA perspective, the City is limited to assigning mitigation measures that are demonstrated to be feasible and effective in terms of reducing a potential impact to a less than significant level. In this instance, the mitigation measures recommended for the project have been demonstrated to be feasible and reduce all impacts to a less than significant level. CEQA does not require an agency to assign a mitigation measure providing a greater level of impact reduction; a mitigation measure need only reduce an impact to a less than significant level. In addition, the cost of mitigation is a factor in determining the feasibility of such a measure. In this instance, the Applicant has indicated the cost of a tent cannot be borne by the project, which raises the question of whether a tent is feasible mitigation.

Based on the observations above, staff has not modified the CEQA mitigations presented in the Revised IS/MND or provided a condition of approval requiring a tent during Phase I of the project.

PUBLIC REVIEW & ENGAGEMENT TO DATE

Neighborhood Meeting (September 2013)

On September 5, 2013, the Applicant hosted a neighborhood meeting to introduce the project. A public notice regarding this meeting was mailed to all property owners within a 600-foot radius of the Project Site, all property owners in Lanham Village, and expanded to capture portions of the Meadow Park neighborhood falling outside the 600-foot notice buffer. Notice was sent to the Hamilton Forum via email.

Approximately ten members of the public attended the meeting, including the president of the Lanham Village Home Owners Association. Residents in attendance commented on possible traffic safety impacts and conflicts at school crossings and expressed concerns about neighborhood compatibility (density, building height, and views impacts) and changes to the visual quality of the streetscape along Main Gate Road.

Design Review Workshops and Hearings

Hamilton Square was the subject of two public workshops before the Design Review Commission on October 2, 2013, and December 4, 2013. A public notice regarding these workshops was mailed to all property owners within a 600-foot radius of the Project Site, all property owners in Lanham Village, and expanded to capture portions of the Meadow Park neighborhood falling outside the 600-foot notice buffer. Notice was sent to the Hamilton Forum via email and mailed to several residents requesting notice. In addition, a legal notice was published in the Marin Independent Journal for each workshop.

Hamilton Square was considered by the Design Review Commission at three public hearings: February 5, 2014, March 19, 2014, and May 7, 2014. The Design Review Commission was requested to provide a formal recommendation to the Planning Commission and City Council regarding the project's site design, building massing/height, and conceptual architecture and landscaping. A public notice regarding these hearings was mailed to all property owners within a 600-foot radius of the project, all property owners in Lanham Village, and expanded to capture portions of the Meadow Park neighborhood falling outside the 600-foot notice buffer. Notice was sent to the Hamilton Forum via email and mailed to several residents requesting notice. In addition, a legal notice was published in the Marin Independent Journal for each hearing.

The Design Review Commission discussed a variety of issues and made suggestions to improve the project at the noted workshops and hearings. On May 7, 2014, the Design Review Commission recommended the Planning Commission and City Council approve the site design, building height/massing, and conceptual architecture and landscaping proposed for the project.

The staff report and minutes of each Design Review Commission workshop and hearing may be accessed online at: www.novato.org/hamiltonsquare

Neighborhood Meeting (June 2015)

On June 10, 2015, the City hosted a neighborhood meeting regarding Hamilton Square. The purpose of the meeting was to update community members on the project's progress, including the development entitlement and environmental review processes. City staff and the Applicant participated in the meeting and presented information and responded to questions about the demolition of the former Navy gas station buildings and future soil remediation activities. This meeting came after significant controversy arose regarding demolition of the Navy gas station buildings in April 2015.

Planning Commission Hearing

On July 13, 2015, the Planning Commission conducted a public hearing to consider making a recommendation to the City Council regarding the Initial Study/Mitigated Negative Declaration prepared pursuant to the California Environmental Quality Act (CEQA) and the development entitlements requested by Hamilton Square. A public notice regarding this hearing was mailed to all property owners within a 600-foot radius of the project site. In addition, a legal notice was published in the Marin Independent Journal.

As discussed earlier, the hearing was well attended by parents of the nearby Hamilton Charter School and residents of Lanham Village, all of whom expressed concern about the demolition activities that had occurred at the Project Site, the proposed soil remediation activities, and the compatibility of a townhome project with nearby school facilities and existing residential neighborhoods. The overwhelming sentiment was concern about public health and safety, in particular that of children at the nearby school and daycare facilities and residents, with respect to exposure to toxic substances during the remediation of the site.

The Planning Commission was unable to form a recommendation and continued the item to a date uncertain to provide staff, the City's CEQA consultant, and the Applicant the opportunity to better address concerns about the removal of contaminated soil from the Project Site, clarify the permitting process, and conduct additional public outreach.

The staff report and minutes of the Planning Commission's hearing may be accessed online at: www.novato.org/hamiltonsquare

Community Meeting (October 2015)

On October 22, 2015, the Applicant hosted a community meeting to discuss the past remediation of the Project Site, demolition of the Navy gas station, and the remediation plan prepared for the project. A public notice regarding the community meeting was mailed to all property owners within a 1,000-foot radius of the Project Site. Notice was also sent via email to Hamilton Forum and residents, charter school parents, and officials with the Novato Unified School District and Hamilton Charter School who had requested notice by email.

The community meeting was attended by city staff, staff of Urban Planning Partners - the city's CEQA and planning consultant, staff of the Regional Board, and staff of West Yost – a hazardous materials consultant to the Applicant. The panel of staff and consultants responded to questions about the project, the soil remediation plan, the health risk assessment process, and regulatory environment surrounding soil remediation. The comments and questions posed at the community meeting were similar to those expressed at the Planning Commission's hearing in July 2015.

Community Meeting (December 2016)

On December 15, 2016, staff hosted a community meeting to update members of the public on the status of the project, review the revised mitigation measures for air quality and hazardous materials impacts, and answer questions regarding the project and the Revised IS/MND. A public notice was mailed to all property owners within a 1,000 foot radius of the Project Site and all property owners in Lanham Village. Notices were emailed to Hamilton Forum, as well as residents, charter school parents, and agency officials who requested notice by email.

The community meeting was attended by approximately fifteen members of the public, including residents of Lanham Village and parents of children at Novato Charter School. There remained concern about the project's soil remediation proposal and the design of the residential condominiums. There were requests for a tent structure to be placed over the site during the soil remediation phase and a meeting to discuss the merits of the residential condominium proposal.

Condominium Merits Discussion

On March 13, 2017, the Applicant hosted a meeting to discuss the merits of developing residential condominiums at the Project Site. The Applicant conducted its own noticing effort for project merits discussion. The meeting was attended by residents of Hamilton Field, including Lanham Village, as well as parents from the nearby school and day care facilities. There seemed to be receptiveness to the idea of a residential project on the site, but the proposal for 3-story (34-feet high) condominiums was not supported. Several commenters wanted the project limited to the 30-foot height limit currently applicable to the site. Three-story condominiums were viewed as encroachment of urban style development, which was considered to possibly set a precedent for similar projects in Hamilton Field.

Public Comments

A response to comments is not required when a CEQA mitigated negative declaration is the recommended environmental determination for a project. However, in this circumstance staff has agreed to provide responses to comments made at the Planning Commission's hearing of July 13, 2015, and comments received on the Revised IS/MND. A summary of these comments and responses thereto are provided in attachment No. 6. In many instances, the staff responses direct the commenter to the Revised IS/MND, which contains amendments based on public input.

In addition to the comments noted above, staff has received various pieces of correspondence regarding the project. These letters and emails are provided for Planning Commission reference as attachment No. 7.

Individual Meetings & Calls

Staff has met individually with representatives of the Novato Unified School District, Novato Charter School, and Lanham Village to discuss the findings of the Revised IS/MND and the mitigation measures recommended therein. Staff also conducted a call with the executive director of the North Bay Children's Center to discuss the project.

NEED FOR PLANNING COMMISSION ACTION

Novato Municipal Code Section 19.42.050 authorizes the Planning Commission to consider use permit applications. The Planning Commission is normally the decision authority for a use permit. However, in this instance the requested use permit is tied to a project proposal and CEQA determination requiring review and action by the City Council. Given this circumstance, the Planning Commission serves an advisory role to the City Council.

BACKGROUND

Applicant/Owner:	Hamilton Square, LLC
Property Size:	2.67-acres
General Plan Designation:	Neighborhood Commercial (CN)
Existing Zoning:	Planned District (PD); Hamilton Reuse Plan/Master Plan
Existing Use:	vacant; former Navy gas station

Adjacent Zoning and Uses:

North – Planned District (PD); Vacant – Novato Unified School District
South – Planned District (PD); residential condominiums; Meadow Park neighborhood
East – Planned District (PD); Novato Charter School and North Bay Children's Center
West – Planned District (PD); residential condominiums; Lanham Village

STAFF ANALYSIS

Use Permit – Phase I Soil Remediation

The Planning Commission is requested to provide a recommendation to the City Council regarding the issuance of a use permit to allow the removal of contaminated soil (Phase I) from the Project Site. The findings specified in Novato Municipal Code Section 19.42.050.E must be made to grant

such a permit. Accordingly, the Planning Commission should form its recommendation on the requested use permit based on the required findings. Each finding is listed below followed by a discussion addressing whether the soil remediation proposal (Phase I) is consistent therewith.

1. The proposed use is consistent with the General Plan and any applicable specific plan;

The Novato General Plan does not provide goals, objectives, policies, or programs directly addressing the remediation of properties contaminated with hazardous materials. However, the General Plan does present objectives, policies, and programs addressing the protection of air and water quality and the transport, storage, and handling of hazardous materials (e.g., a business using and storing hazardous chemicals) that can be applied to the Project. These policies are cited below and are followed by a discussion addressing whether the proposed soil remediation is consistent therewith:

> EN Policy 32 Regional Planning to Improve Air Quality. Continue to cooperate with the Bay Area Air Quality Management District (BAAQMD) in implementing the regional Clean Air Plan.
>
> > EN Program 32.1: Use the environmental review process to determine whether air emissions from proposed development would exceed BAAQMD standards.
>
> EN Policy 34 Local Efforts. Encourage local efforts to improve air quality.
>
> > EN Program 34.1: Use the City's development review process and California Environmental Quality Act (CEQA) regulations to evaluate and mitigate the local and cumulative effects of new development on air quality.
> >
> > EN Program 34.2: Continue to include responsible agencies in the review of proposed land uses that would handle, store or transport any potential air pollutant sources such as, but not limited to, lead, mercury, vinyl chloride, benzene, asbestos, beryllium, and all fossil fuels.
> >
> > EN Program 34.3: Continue to require and enforce a dust emissions control plan for construction.

As discussed earlier, the Revised IS/MND analyzed the potential air quality impacts of conducting the project, including: a) construction related criteria air pollutants; b) fugitive dust; and c) toxic air contaminants. The analysis of air quality impacts was based on BAAQMD thresholds of significance, including average daily emissions of construction related criterial pollutants and lifetime cancer risk for toxic air contaminants. The analysis was conducted using air quality modeling methodologies and guidelines developed by the State of California Office of Environmental Health Hazard Assessment (OEHAA), California Air Resources Board (CARB), and BAAQMD, with adjustments made to assess infant and child exposures.

The Revised IS/MND concluded the project would not exceed BAAQMD thresholds for construction related criteria air pollutants, but could expose the public and sensitive receptors in the immediate project vicinity, including the North Bay Children's Center, Novato Charter School, Hamilton Elementary School, and Wonder Nook Preschool (Lanham Village), to construction related dust and toxic air contaminants.

Mitigation Measures AIR-1, AIR-2, and HAZ-1 were developed to avoid the release of dust and reduce potential exposure to toxic air contaminants. As noted above, Mitigation Measure AIR-1 consists of BAAQMD's basic and enhanced construction best management practices (BMPs) for dust control. Mitigation Measure AIR-2 focuses on reducing exhaust emissions from construction vehicles and equipment through the use of U.S. Environmental Protection Agency compliant engines and/or CARB certified exhaust filtration equipment. Mitigation Measure HAZ-1 is a multi-part mitigation providing specific safety, monitoring, and reporting actions to ensure protection of the public and sensitive receptors during the remediation phase. Mitigation Measure HAZ-1 is intended to be coupled with Mitigation Measures AIR-1 and AIR-2 to reduce air quality impacts to a less than significant level.

The City coordinated with the Regional Board to develop Mitigation Measures AIR-1, AIR-2, and HAZ-1. The Regional Board is a "Responsible Agency" under CEQA and is the state agency considering the project on behalf of the California Department of Toxic Substances Control and Navy. In this capacity, the Regional Board will rely on the Revised IS/MND for its own permitting process. Mitigation Measures AIR-1, AIR-2, and HAZ-1 reflect input from Regional Board.

The Revised IS/MND was circulated for public and agency review over a 30-day period between October 14, 2016, and November 14, 2016. Agencies advised of the Revised IS/MND's availability included the California Department of Toxic Substances Control, Navy Base Realignment and Closure Program, and the BAAQMD, all of which have the authority to comment on air quality issues. These agencies did not submit comments regarding the Revised IS/MND or Mitigation Measures AIR-1, AIR-2, and HAZ-1. Accordingly, these agencies are considered to be satisfied with the analysis and findings of the Revised IS/MND and Mitigation Measures AIR-1, AIR-2, and HAZ-1.

Based on the facts above, the project is considered to be consistent with General Plan EN Policy 32, EN Program 32.1, EN Policy 34, EN Program 34.1, EN Program 34.2, and EN Program 34.3.

> EN Policy 35 Watershed Management. Minimize the effects of pollution in stormwater runoff. Retain and restore where feasible the natural hydrological characteristics of watersheds in the Novato Area of Interest.
>
> EN Policy 36 Point Source Pollution. Continue to prohibit discharges of any substances other than stormwater and prevent illicit dumping of wastes into storm drains and creeks.
>
> EN Policy 37 Using CEQA to Reduce Water Quality Impacts. Use the provisions of the California Environmental Quality Act (CEQA) process to identify

measures to prevent erosion, sedimentation, and urban runoff pollution resulting from development.

EN Program 37.1: Include analysis and mitigation measures to reduce the harmful effects of runoff as part of project review.

The Revised IS/MND considered the project's potential to impact water quality. The Revised IS/MND concluded the project could result in water quality impacts as a result of the soil remediation excavations, including contact with contaminated groundwater. The Revised IS/MND concluded the project would not have significant impact on water quality due to application of the requirements of the National Pollutant Discharge Elimination System (NPDES) Program (established through the federal Clean Water Act), Marin County Stormwater Pollution Prevention Program (MCSTOPPP), Regional Board's RAP and Construction General Permit, and Mitigation Measures HAZ-1, HYD-1, and GEO-2.

As noted above, Mitigation Measure HAZ-1 is a multi-part mitigation providing specific safety, monitoring, and reporting actions, including ensuring the implementation of the water quality protections prescribed in the Regional Board's RAP and Mitigation Measures HYD-1 and GEO-2. Mitigation Measures HYD-1 and GEO-2 address erosion control measures to prevent the movement of soil and/or sediment laden run-off from the leaving the Project Site. Implementation of the noted mitigation measures would reduce potential impacts to water quality to a less than significant level.

Based on the facts above, the project is considered to be consistent with General Plan EN Policy 35, EN Policy 36, EN Policy 37, and EN Program 37.1.

SF Objective 8 Reduce hazards of transportation, storage and disposal of hazardous wastes and hazardous materials.

SF Policy 28 Measures to Reduce Hazards. Consider measures to protect the public health from the hazards associated with the transportation, storage and disposal of hazardous wastes (TSD Facilities).

SF Program 28.1: Continue to refer land use and transportation decisions and other programs involving hazardous materials regulations to the appropriate agencies.

SF Policy 30 Hazardous Materials Storage. Strictly regulate the storage of hazardous materials.

SF Policy 31 Truck Routes for Hazardous Materials Transport. Develop, in cooperation with the County and neighboring cities, regulations prohibiting through-transport by truck of hazardous materials on the local street systems and requiring that this activity be limited to State highways.

Safety Chapter Objective 8, SF Policy 28, SF 28.1, SF Policy 30, and SF Policy 31 were not developed to address the remediation of contaminated sites, but rather businesses involving the manufacture, use, or disposal of hazardous materials, such as a pesticide production plant. However, recognizing the noted objective, polices, and program are intended to protect public health and safety related to the handling of hazardous materials it is reasonable to apply these components of the General Plan to the project.

The Revised IS/MND analyzed the potential environmental impacts associated with the removal and disposal of approximately 2,800 cubic yards of contaminated soil. The Revised IS/MND found the soil remediation phase of the project could expose the public, including infants and children at nearby school and daycare facilities, to contaminated dust, airborne diesel particulate matter associated with operation of construction equipment, and potentially groundwater containing MTBE. Given this circumstance, the Revised IS/MND recommends Mitigation Measures AIR-1, AIR-2, GEO-2, HAZ-1, and HYD-1 be implemented in conjunction with the Regional Board's RAP to avoid the potential exposure of the public and sensitive receptors to contaminants.

Of the mitigation measures noted above, Mitigation Measure HAZ-1 is specifically addressed to hazardous materials. This mitigation measures addresses requests made by the Novato Unified School District, comments made by the public at the various meetings conducted for the Project, and recommendations from the Regional Board. As a result, Mitigation Measure HAZ-1 combines precautionary actions (e.g., perimeter air monitoring) with close oversight by a third-party environmental monitor.

Based on the facts above, the project is considered to be consistent with the intent of General Plan Safety Objective 8, SF Policy 28, SF Program 28.1, SF Policy 30, and SF Policy 31.

> SF Policy 38 Noise Reduction and Mitigation. Mitigate noise exceeding standards and significant noise impacts to the maximum feasible extent.

The project requires the operation of construction vehicles to remove contaminated soil from the Project Site. These vehicles will generate noise audible to nearby residences in the Lanham Village and Meadow Park neighborhoods. Vehicle noise associated with the Project would be temporary and would extend over six (weekend days) with construction hours of 10 AM to 5 PM. Notably, remediation activities would occur on Sundays, when construction work is typically prohibited in Novato. Novato Municipal Code Section 19.22.070 – *Noise and Construction Hours* allows the Community Development Director or other review authority (e.g., Planning Commission, City Council) to authorize alternative or expanded construction days and hours.

Allowing work on Sundays is considered to be acceptable in this instance since: a) remediation activities are intentionally limited to weekends as means of avoiding work when infants and children are present at nearby school and daycare facilities; b) only three (3) Sundays are required to complete the removal of contaminated soil; c) remediation work hours are limited to 10 AM to 5 PM to avoid quieter periods of early morning and evening; and d) implementation of Mitigation Measure NOI-2 would require construction equipment to be properly muffled, as well as

designation of a project contact who can be called to address a Project related noise issue.

Based on the facts above, the project is considered to be consistent with SF Policy 8.

CI Objective 11 Preserve archaeological and historic resources.

CI Policy 30 Archaeological Resources Protection: Continue to protect archaeological resources.

CI Program 30.1: Require that areas found to contain significant historic or prehistoric artifacts be examined by a qualified consulting archaeologist.

CI Program 30.2: Require development applicants to research records for sites identified as having a potential for archaeological resources, to determine if a survey has been made and if resources have been identified. If there has been no survey, the City may require that the applicant conduct one.

CI Program 30.3: Halt all work if archaeological resources are uncovered during construction, and require an evaluation by a qualified archaeologist prior to recommencing construction.

CI Program 30.5: If site has potential for archeological considerations, institute measures to protect these resources.

The project involves excavation at the Project Site. Any time a project involves grading and/or excavation activities there is the potential to encounter unknown buried archeological or paleontological resources. The Revised IS/MND analyzed the potential for archeological and paleontological resources to exist at the Project Site. The Revised IS/MND conclude there are no known archeological or paleontological areas located within the Project Site, but did not rule-out the possibility of unknown buried archeological or paleontological resources being located thereon. Given this circumstance, the Revised IS/MND recommends implementation of Mitigation Measures CULT-1, CULT-2, and CULT-3. These mitigation measures establish procedures to undertake if a suspected archeological or paleontological resources is encountered during excavation, including human remains. The procedures include, but are not limited to:

- stopping work in the vicinity of a suspected cultural or paleontological resource
- evaluation of a suspected resource find by a qualified archeologist or paleontologist
- contacting the county coroner if human remains are located
- contacting the Native American Heritage Commission if a burial is that of a Native American

Based on the facts above, the project is considered to be consistent with General Plan Community Identity Chapter Objective 11, Policy 30, and Programs 30.1, 30.2, 30.3, and 30.5.

2. The proposed use is allowed with a Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Ordinance and any relevant Master Plan and/or Precise Development Plan;

Novato Municipal Code Section 19.20.050 – *Grading*, stipulates that any grading activity involving the movement of more than 200 cubic yards of soil must obtain a use permit. The project involves the movement of approximately 2,800 cubic yards of contaminated soil. Accordingly, a use permit is required for the project. Section 19.20.050 of the Municipal Code does not specify any particular requirements with respect to the conduct of grading activities instead deferring to the use permit process as the means through which conditions of approval may be applied to the activity. In this instance, the mitigation measures applicable to the Phase I soil remediation are proposed as conditions of approval to the requested use permit.

3. The establishment, maintenance or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;

4. The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and

Facts in Support (Findings 3 & 4): As discussed under Finding No. 1 above, the project could expose the public, including infants and children at nearby school and daycare facilities, to dust and airborne diesel particulate matter, and potentially groundwater containing MTBE. These hazards represent a potential threat to public health, safety, and welfare, as well as property and improvements in the vicinity. In addition, the project will generate temporary noise associated with the use of construction vehicles and equipment.

The Revised IS/MND prepared for the project discloses the potential impacts noted above and recommends the implementation Mitigation Measures AIR-1, AIR-2, GEO-2, HAZ-1, HYD-1, and NOI-2 to protect public health, safety, and welfare, as well as property and improvements in the neighborhood. Implementation of these feasible mitigation measures will ensure: a) work is conducted at time when the most sensitive receptors, infants and children, are not present at the school and daycare facilities near the Project Site; b) proper procedures are observed by the personnel performing the soil remediation at the Project Site; b) the installation, use, and maintenance of protective measures and safety equipment during soil removal; and c) close oversight by an independent environmental monitor with the authority to direct the work of remediation personnel, require changes to work procedures or equipment, and, if necessary, stop remediation work to protect public safety; and d) the use of appropriate mufflers and sound attenuation procedures minimize construction vehicle and equipment noise. The project will not be detrimental to the health, safety, or general welfare of the public or property and improvements in the vicinity of the project with implementation of the noted mitigation measures.

5. The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

The soil remediation phase is a temporary activity that is anticipated to require three weekends to complete. During this timeframe, the removal of contaminated soil will be subject to mitigation measures/conditions of approval providing enhanced safety features and monitoring to protect the health, safety, and welfare of nearby residents as discussed in the preceding findings above. The short duration of the soil remediation phase combined with its prescribed mitigation measures/conditions of approval ensure compatibility with existing land uses in the vicinity.

Based on the facts above, the project is considered to meet the findings required to grant a use permit.

Preliminary Comments – Project Merits

The Planning Commission is requested to provide preliminary comments on the merits of the Applicant's proposed residential condominium project (Phase II). The Commission's comments are requested to help inform the City Council, Applicant, and staff regarding whether residential use of the Project Site may be appropriate. In addition, the Planning Commission may desire to comment on the intensity of development, site design, and height/massing of proposed condominiums.

The Applicant has submitted applications to the City to construct its proposed 31-unit townhome project. These development applications include:

- General Plan Amendment – application to amend the land use designation assigned to the Project Site from Neighborhood Commercial (CN) to Medium Density Multiple Family Residential (R10);

- Master Plan Amendment – application to amend the Hamilton Reuse Plan/Master Plan to recognize residential use in the Exchange Triangle Planning Area (Planning Area 5) and increasing an existing building height limit from 30-feet to 34-feet.

- Precise Development Plan – application to adopt a site specific Precise Development Plan specifying development standards (those not addressed in the Hamilton Reuse/Master Plan) addressing the project's design and operation, including setbacks, required level of parking, and so on;

- Tentative Map – application for a subdivision map establishing and delineating one (1) common area parcel and 31 condominiums (air space rights), as well as utility alignments, infrastructure improvements, and easements required to serve the proposed residential units; and

- Design Review – application for project site design (physical arrangement of development), building height and massing, and conceptual architecture and landscaping.

Phase II of the project would have a density of approximately 12 units per acre. This phase would provide six (6) affordable for-sale homes, including three (3) units reserved for moderate income owner and three (3) units for low income units. The Applicant would pay an in-lieu fee to cover a fractional affordable unit.

As note earlier, the Applicant hosted a neighborhood meeting to discuss the merits of the proposed residential condominiums. Attendees seemed receptive to the idea of a residential project at the Project Site, but expressed concern about the proposal for 3-story (34-feet high) condominiums. Several commenters wanted the project limited to the 30-foot height limit currently applicable to the site. Three-story condominiums were viewed as encroachment of urban style development into Hamilton Field, which was viewed as setting a precedent for similar projects in area.

COMMISSION ALTERNATIVES

1. Recommend adoption of a Mitigated Negative Declaration and approval a use permit to allow the excavation of approximately 2,800 cubic yards of contaminated soil at the Project Site; provide preliminary comments regarding the proposed residential condominium phase of the project;

2. Do not recommend adoption of a Mitigated Negative Declaration or approval a use permit to allow the excavation of approximately 2,800 cubic yards of contaminated soil; provide preliminary comments regarding the proposed residential condominium phase of the project;

3. Continue the item with direction to staff.

RECOMMENDATION

1. Recommend adoption of a Mitigated Negative Declaration;

2. Recommend approval of a use permit to allow the excavation of approximately 2,800 cubic yards of contaminated soil; and

3. Provide preliminary comments regarding Hamilton Square.

FURTHER ACTION

The Planning Commission's recommendations on the Mitigated Negative Declaration and use permit will be presented to the City Council at a future public hearing. Public notice will be given for the City Council hearing.

ATTACHMENTS

1. Draft Resolution - CEQA Mitigated Negative Declaration

2. Draft Resolution - Use Permit – Soil Remediation

3. Covenant to Restrict Use of Property and Environmental Restriction, Department of the Navy

4. Conditional Concurrence Letter – Remedial Action Plan, Sampling and Analysis Plan, and Soil Management Plan – Hamilton Square, San Francisco Bay Regional Water Quality Control Board, February 23, 2016

5. Comments on RAP, SAP, & SMP – Novato Unified School District, November 12, 2015

6. Response to Comments – Planning Commission Hearing (July 13, 2015) & Revised IS/MND

7. Public Correspondence

8. Referenced documents available for download at www.novato.org/hamiltonsquare

    a. Project Plans, June 11, 2014

    b. Errata to Revised Main Gate Road and "C" Street Initial Study/Mitigated Negative Declaration, February 2017

    c. Main Gate Road and "C" Street Revised Initial Study, October 2016

    d. Remedial Action Plan (including Sampling & Analysis and Soil Management Plans), October 2015

    e. Conditional Concurrence Letter – Remedial Action Plan, Sampling and Analysis Plan, and Soil Management Plan – Hamilton Square, San Francisco Bay Regional Water Quality Control Board, February 23, 2016

    f. Planning Commission Minutes, July 13, 2015

    g. Planning Commission Staff Report, July 13, 2015

    h. Design Review Commission Minutes (2013 and 2014)

    i. Design Review Commission Staff Reports (2013 and 2014)

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. _____

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL ADOPT A MITIGATED NEGATIVE DECLARATION FOR HAMILTON SQUARE (A.K.A., MAIN GATE SQUARE) PROPOSED AT 970 C STREET, APN 157-980-05, INVOLVING THE REMEDIATION OF CONTAMINATED SOIL AND DEVELOPMENT OF 31 RESIDENTIAL CONDOMINIUMS

WHEREAS, the City of Novato ("City") received applications for a general plan amendment, master plan amendment, precise development plan, tentative map, use permit and design review to permit the development of the Hamilton Square ("Project"), a 31-unit residential condominium project, proposed at 970 C Street ("Project Site"), APN 157-980-05; and

WHEREAS, the general plan amendment application (P2013-040) requests the City amend the General Plan Land Use Map (Land Use Map LU 1) to change the land use designation assigned to the Project Site from Neighborhood Commercial (CN) to Medium Density Multiple Family Residential (R10) to permit the Project; and

WHEREAS, the Master Plan applicable to the Project Site is the Hamilton Army Airfield Reuse Plan, which was adopted as the Master Plan for a portion of Hamilton Field by the City Council on November 9, 1999, by adoption of Ordinance No. 1419; and

WHEREAS, the master plan amendment application (P2013-040) requests the City amend the Master Plan to: a) change the Project Site's land use category from Neighborhood Commercial (CN) to the proposed Medium Density Multi-Family Residential (MDMFR) land use category of the Master Plan; and b) amend the text to allow greater building height including: (1) allow an increase in building heights from two to three stories; and (2) allow an increase in maximum height from 30 to 34 feet; and

WHEREAS, the precise development plan amendment application (P2013-040) requests the City approve a precise development plan amendment for the Project, including the Project's design plans, addressing the design and operation of the Project; and

WHEREAS, the tentative map (P2013-040) requests the City allow the 2.67 acre parcel to be subdivided into 31 airspace condominiums and one common area parcel to allow the Project to be developed: and

WHEREAS, the applicant, Thompson Development, has requested a use permit to conduct the removal and disposal of contaminated soil from the Project Site as a prerequisite to

considering the general plan amendment, master plan amendment, precise development plan, tentative map and design review approvals requested for the Project; and

WHEREAS, on September 5, 2013, Thompson Development, project applicant, hosted a neighborhood meeting to present the Project to and receive feedback from interested residents. This meeting was noticed and conducted in accordance with the requirements of Novato Zoning Code Section 19.58.020; and

WHEREAS, on October 2, 2013, and December 4, 2013, the Novato Design Review Commission conducted public workshops to review the site design, massing, and conceptual architecture and landscaping proposed for the Project. These workshops were noticed in accordance with Novato Municipal Code Section 19.58.020; and

WHEREAS, on February 5, 2014, March 19, 2014, and May 7, 2014, the Novato Design Review Commission conducted hearings to consider providing a recommendation to the Planning Commission and City Council regarding the Project's site design, massing, and conceptual architecture and landscaping. The Commission's recommendation is intended to assist the Planning Commission and City Council in considering whether the Project's design is compatible with the Project Site and its surroundings. These hearings were noticed in accordance with Novato Municipal Code Section 19.58.020; and

WHEREAS, on May 7, 2014, the Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the Project's site design, massing, and conceptual architecture and landscaping; and

WHEREAS, the City determined the Project, including its soil remediation activities, is subject to the environmental review requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, the project design recommended by the Design Review Commission at its public hearing of May 7, 2014, and the applicant's proposed soil remediation plan served as the project analyzed pursuant to CEQA; and

WHEREAS, an Initial Study was prepared in compliance with the provisions of CEQA, the CEQA guidelines as promulgated by the State Secretary of Resources, and the procedures for review set forth in the City of Novato Environmental Review Guidelines. The Initial Study considered the Project Site, its setting, the potential environmental impacts of implementing the applicant's soil remediation plan, and the effects of subsequent construction and operation of 31 residential condominium units on the basis of the technical subjects (e.g., aesthetics, biological resources, air quality, etc.) included in the environmental checklist form provided in Appendix G of the CEQA Guidelines; and

WHEREAS, the Initial Study determined the Project and it associated actions could result in potentially significant impacts to the environment in the CEQA topical areas of Aesthetics,

Air Quality, Cultural Resources, Geology/Soils, Hazards/Hazardous Materials, Hydrology/Water Quality, Land Use, Noise/Vibration, and Utilities/Service Systems. However, feasible mitigation measures were identified that would reduce all potentially significant impacts to a less-than-significant level; and

WHEREAS, on the basis of the findings of the Initial Study, the City prepared a Mitigated Negative Declaration in compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines as promulgated by the State Secretary of Resources, and the procedures for review set forth in the City of Novato Environmental Review Guidelines, finding that although the Project and its associated actions could have a significant impact on the environment, there would be no such impact in this case due to the implementation of the mitigation measures identified in the Mitigated Negative Declaration/Initial Study; and

WHEREAS, public notices describing the City's intent to adopt a Mitigated Negative Declaration for the Project and announcing a 30-day public review period beginning on July 1, 2015, and ending on July 31, 2015, were sent to all property owners within 600-feet of the boundaries of the Project Site, all property owners within the Lanham Village neighborhood, all public agencies potentially serving or having some oversight of the Project, all responsible and trustee agencies, the county clerk of the County of Marin, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation, on July 3, 2015; and

WHEREAS, the Planning Commission held a public hearing on July 13, 2015, and considered all oral and written comments on the Mitigated Negative Declaration/Initial Study and the Project, including its soil remediation activities; and

WHEREAS, public notices describing the Planning Commission's public hearing on the proposed Mitigated Negative Declaration/Initial Study and the Project and its associated actions were sent to all property owners within 600-feet of the boundaries of the Project Site and published in the Marin Independent Journal, a newspaper of local circulation, on July 3, 2015; and

WHEREAS, the Planning Commission was unable to provide a recommendation to the City Council regarding the Mitigated Negative Declaration/Initial Study and the Project due to community concerns about the Project's soil remediation proposal and continued the matter to a date uncertain to provide staff and the applicant an opportunity to clarify the permitting process for the remediation activities, consider revisions to the Mitigated Negative Declaration/Initial Study, and conduct additional public outreach; and

WHEREAS, on October 22, 2015, the applicant, Thompson Development, hosted a community meeting to discuss the past remediation of the Project Site, demolition of a former gas station building, and the soil remediation plan prepared for the Project. A public notice regarding the community meeting was mailed to all property owners within a 1,000-foot radius of the Project Site, all property owners in Lanham Village, and all persons requesting notice. In

addition, notice was emailed to the Hamilton Forum, interested parents of children at the Novato Charter School, and officials with the North Bay Children's Center, Novato Charter School, and Novato Unified School District who had requested notification by email; and

WHEREAS, the Regional Water Quality Control Board worked with the applicant, Thompson Development, to revise a draft Remedial Action Plan, Soil Management Plan, and Sampling and Analysis Plan (collectively "Remedial Action Plan") describing how Thompson Development intended to conduct the soil remediation activities at the Project Site. On February 23, 2016, the Regional Water Quality Control Board issued a letter of "conditional concurrence" indicating the agency was generally satisfied with the Remedial Action Plan, but requested further Plan amendments be completed to incorporate any applicable mitigation measures resulting from the City's revisions to the Initial Study for the Project; and

WHEREAS, over the course of 2016 the City, its environmental consultants, and staff of the Regional Water Quality Control Board, coordinated to revise the Initial Study prepared for the Project to better address public concerns about the proposed soil remediation activities, including conducting new air quality and toxic air contaminant modeling and developing more robust mitigation measures to provide improved oversight, safety, and accountability during soil remediation activities. In addition, steps were taken to incorporate components of the Remedial Action Plan in the revised Initial Study, as well as adding mitigation components requested by the public, parents of children at the nearby daycare/school facilities, staff of the Novato Charter School, North Bay Children's Center, and Novato Unified School District, and the Regional Board; and

WHEREAS, the revised Initial Study determined the Project and it associated actions would result in potentially significant impacts to the environment in the CEQA topical areas of Aesthetics, Air Quality, Cultural Resources, Geology/Soils, Hazards/Hazardous Materials, Hydrology/Water Quality, Land Use, Noise/Vibration, and Utilities/Service Systems. However, feasible mitigation measures were identified that would reduce all potentially significant impacts to a less-than-significant level. Accordingly, a Mitigated Negative Declaration continues to be recommended for the Project; and

WHEREAS, public notices describing the City's intent to adopt a revised Initial Study/Mitigated Negative Declaration ("Revised IS/MND") for the Project and announcing a 30-day public review period beginning on October 14, 2016, and ending on November 14, 2016, were sent to all property owners within 1,000-feet of the boundaries of the Project Site, all property owners within the Lanham Village neighborhood, all public agencies potentially serving or having some oversight of the Project, all responsible and trustee agencies, the county clerk of the County of Marin, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation, on October 14, 2016. In addition, notice was emailed to the Hamilton Forum, interested parents of children at the Novato Charter School, and officials with the North Bay

Children's Center, Novato Charter School, and Novato Unified School District who had requested notification by email; and

WHEREAS, during the public/agency review period for the Revised IS/MND it was noted that a proposed project adjacent to the Project Site had been omitted from the cumulative air quality and hazards analysis. The omitted project is a proposal to demolish and reconstruct the North Bay Children's Center at 932 C Street; and

WHEREAS, an errata ("Errata") to the Revised IS/MND was prepared to update the cumulative air quality and hazards analysis to include the proposed project at North Bay Children's Center. The addition of the project at the North Bay Children's Center to the cumulative air quality and hazardous materials conditions did not result in any changes to the findings or conclusions of the Revised IS/MND or mitigation measures recommended therein; and

WHEREAS, on December 15, 2016, the City hosted a community meeting to provide an update on the status of the Project, describe the public review process going forward, and review the enhanced mitigation measures addressing air quality and hazardous materials impacts. Notices announcing the community meeting were sent to all property owners within 1,000-feet of the boundaries of the Project Site, all property owners within the Lanham Village neighborhood, all public agencies potentially serving or having some oversight of the Project, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code. In addition, notice was emailed to the Hamilton Forum, interested parents of children at the Novato Charter School, and officials with the North Bay Children's Center, Novato Charter School and Novato Unified School District who had requested notification by email; and

WHEREAS, the Planning Commission held a public hearing on May 17, 2017, and considered all oral and written comments on the Revised IS/MND and its Errata; and

WHEREAS, public notices announcing the availability of the Errata to the Revised IS/MND (previously released for public review between October 14 and November 14, 2016) and describing the Planning Commission's public hearing on the Revised IS/MND were sent to all affected property owners within 1,000-feet of the boundaries of the Project Site, all property owners within the Lanham Village neighborhood, all public agencies potentially serving or having some oversight of the Project, all responsible and trustee agencies, the county clerk of the County of Marin, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation, on April 27, 2017. In addition, notice was emailed to the Hamilton Forum, interested parents of children at the Novato Charter School, and officials with the North Bay Children's Center, Novato Charter School and Novato Unified School District who had requested notification by email on April 27, 2017.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby recommend the City Council adopt the Revised IS/MND and its Errata for the Project based on the following findings:

Section 1. Record

The Record of Proceedings ("Record") upon which the Planning Commission bases its recommendation includes, but is not limited to: (1) the Revised Initial Study/Mitigated Negative Declaration and its Errata (collectively "Revised IS/MND") and the appendices and technical reports cited in and/or relied upon in preparing the Revised IS/MND, (2) the draft Remedial Action Plan and its accompanying Soil Management Plan and Sampling and Analysis Plan, (3) the staff reports, City files and records and other documents prepared for and/or submitted to the City relating to the Revised IS/MND and the Project's development entitlement requests (4) the evidence, facts, findings and other determinations set forth in this resolution, (5) the City of Novato 1996 General Plan and its related EIR, the Novato Municipal Code, the Final Environmental Impact Statement for the Disposal and Reuse of the Department of Defense Housing Facility, and the Final EIR for the Hamilton Field Redevelopment Project, (6) all designs, plans, studies, data and correspondence submitted to the City in connection with the Revised IS/MND, the Project, and the Project's development entitlement requests (7) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the Revised IS/MND, the Project, and the Project's development entitlement requests (8) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

The location and custodian of the records is the Novato Community Development Department, 922 Machin Avenue, Novato, California, 94945.

Section 2. Revised Initial Study/Mitigated Negative Declaration and Errata Considered and Recommended

Based upon information in the Revised IS/MND for the Project, dated October 2016 (Errata – February 2, 2017), the Record as described above, and all other matters deemed material and relevant prior to adopting this resolution, the Planning Commission hereby recommends the City Council adopt the Revised IS/MND for the Project and its associated development entitlements:

a. The Revised IS/MND has been completed in compliance with the California Environmental Quality Act (California Public Resources Code § 21000 - 21178) and the City of Novato Environmental Review Guidelines; and

b. The Revised IS/MND was presented to the Planning Commission, which, at a hearing before the public, reviewed and considered the information contained in the Revised

IS/MND prior to making a recommendation regarding the Project, its associated development entitlements, and the proposed soil remediation actions; and

c. The Revised IS/MND reflects the City's independent judgment and analysis as Lead Agency.

Section 3. CEQA Findings

The Planning Commission hereby adopts and recommends to the City Council the adoption of the Statement of Findings and Facts set forth in *Exhibit A* attached hereto and incorporated herein by reference, and based thereon and on the Record as a whole, the Planning Commission hereby finds and recommends that the City Council find that all significant environmental effects of the Project have been reduced to a less-than-significant level in that all significant environmental effects have been eliminated, avoided, or substantially lessened as set forth in *Exhibit A*. Based upon the foregoing, the Planning Commission finds, determines, and recommends that the City Council find and determine the Project, including its associated development entitlements and the proposed soil remediation actions, will not have a significant effect upon the environment.

Section 4. The Draft Remedial Action Plan

In addition to the Revised Initial Study/Mitigation Negative Declaration, the Planning Commission hereby finds that it has considered the draft Remedial Action Plan (RAP), and its associated documents which have been prepared for review and action by the San Francisco Regional Water Quality Control Board (RWQCB) to addresses how the former gas station property would be remediated to improve subsurface soil and groundwater conditions to allow the site to be developed for residential use. This draft and subsequent final RAP must be reviewed and approved (or found to be in concurrence) by the state Department of Toxic Substances Control (DTSC) and RWQCB in order for the site remediation to begin and prior to any final action on the requested development entitlements.

Section 5. Release of Deed Restriction and Land Use Covenant

The Planning Commission hereby finds and acknowledges that release of the deed restrictions and land use covenants, which requires approval from the state Department of Toxic Substances Control (DTSC) and Regional Water Quality Control Board (RWQCB) and the Department of the Navy are a necessary prerequisite to the approval of the requested land use entitlements for the Project. The Planning Commission hereby specifically finds and declares that its recommendation regarding approval of the Revised Initial Study/Mitigated Negative Declaration in no way commits the City to any course of action with regard to the requested development entitlements, nor does said action either expressly or impliedly approve any or all of said requested development entitlements. Subsequent consideration of and any possible approval of

said development entitlements by the City Council, will not take place unless and until release of the land use covenant and deed restriction by the Department of the Navy has taken place. The City retains full discretion to act to approve, approve with conditions, or deny the requested development entitlements when the same are considered subsequent to release of the land use covenant and deed restriction if any.

Section 6. Mitigation, Monitoring, and Reporting Program

The Planning Commission hereby recommends the City Council adopt the mitigation measures set forth in the Revised IS/MND and its accompanying Mitigation, Monitoring, and Reporting Program ("MMRP"), set forth in *Exhibit B*, pursuant to Public Resources Code Section 21081.6. The MMRP is a program designed to ensure compliance with the project changes and mitigation measures imposed to avoid or substantially lessen the significant effects identified in the Revised IS/MND and said mitigation measures are described in the MMRP included therein and incorporated herein by reference.

Section 7. Indemnity and Time Limitations

a. The developer and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City and its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees to attack, set aside, void, or annul the Planning Commission's recommendation at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the developer, the City, and/or parties initiating or bringing such action.

b. The developer and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City, its agents, employees, and attorneys for all costs incurred in additional investigation of or study of, or for supplementing, preparing, redrafting, revising, or amending any document, if made necessary by said legal action and the developer desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents in a form and under conditions approved by the City Attorney.

c. In the event that a claim, action, or proceeding described in no. a or b above is brought, the City shall promptly notify the developer of the existence of the claim, action, or proceeding, and the City will cooperate fully in the defense of such claim, action, or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action, or proceeding; the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with the developer in the defense of said claim, action, or proceeding. If the City chooses to have counsel of its own to defend any claim, action, or proceeding where the developer has already retained counsel to defend the City in such matters,

the fees and expenses of the counsel selected by the City shall be paid by the developer.

d. The developer and any successor in interest, whether in whole or in part, indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.

e. Unless a shorter limitation period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.

f. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), the conditions constitute written notice of a statement of the amount of such fees and a description of dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

Passed and adopted at a regular meeting of the Planning Commission of the City of Novato, held on the ____ day of _____, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

* * * * * *

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of the resolution which was adopted by the Planning Commission, City of Novato, County of Marin, State of California, on the ____ day of _____.

_____
Chair

Attachment: Exhibit A – Statement of CEQA Findings and Facts
Exhibit B – Mitigation Monitoring and Reporting Program

EXHIBIT A

HAMILTON SQUARE
(a.k.a., MAIN GATE SQUARE)
970 C STREET (HAMILTON FIELD)
STATEMENT OF CEQA FINDINGS AND FACTS

CEQA requires that if an Initial Study/Mitigated Negative Declaration identifies one or more potentially significant environmental effects for a proposed project then the lead agency must make certain findings for each of those potentially significant effects. These findings must be accompanied by a brief explanation of the facts supporting each finding.

The Findings and Facts set forth below do not repeat the full discussion of impacts and mitigation measures contained in the document comprising the Revised IS/MND, and the Record for the Project and its associated development entitlements. Instead, the Findings provide a brief summary description of impacts, along with a reference to the location in the Revised IS/MND that describes in detail the setting and potentially significant impacts. The Facts that follow in turn reference the specific mitigation measures for such impacts. All mitigation measures are set forth in full in the Mitigation Monitoring and Reporting Program incorporated herein by reference.

(1) FINDINGS REGARDING POTENTIALLY SIGNIFICANT IMPACTS THAT WILL BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY THE IMPLEMENTATION OF MITIGATION MEASURES.

A. Aesthetics Impact: The project may create a new source of substantial light or glare (Revised IS/MND p. 14).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project that will avoid or substantially lessen the potentially significant environmental impact related to light and glare by implementation of the mitigation measure identified in the Revised IS/MND as Mitigation Measure AES-1.

Facts in Support of Finding: Mitigation Measure AES-1 has been proposed in the Revised IS/MND to prevent light spill onto properties surrounding the Project Site, sky glow, and glare by requiring the applicant to submit a detailed exterior lighting plan, including fixture and standard design, coverage and intensity, and provisions to ensure lighting for the project is directed downward and/or shielded in conformance with Novato Zoning Code Section 19.38.090, subject to the review and approval of the City.

B. Air Quality Impact: Fugitive dust emissions generated during project construction may result in significant air quality impacts (Revised IS/MND p. 22).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to fugitive dust emissions during construction of the Project by implementation of the mitigation measure identified in the Revised IS/MND as Mitigation Measure AIR-1.

Facts in Support of Finding: Mitigation Measure AIR-1 has been proposed in the Revised IS/MND to avoid the release of fugitive dust during construction of the Project. Mitigation Measure AIR-1 requires, among other measures, the following: a) dust control measures, including, but not limited to watering exposed soils, wet sweeping of roadways, and the placement of covers over trailers carrying soil, sand, or other loose material; b) all excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph; c) stockpiled soil, if any, shall be covered with plastic sheeting, or other similar material when not being actively worked on for more than 60 minutes and at the end of the work day; and d) the posting of a sign with contact information of the person representing the project sponsor, City of Novato, and Bay Area Air Quality Management District through which complaints regarding dust may be submitted and subsequently remedied. The project sponsor must respond and take corrective action within one (1) hour of receiving a complaint.

C. **Air Quality Impact:** The Project could expose sensitive receptors to substantial pollutant concentrations (Revised IS/MND p. 30).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to the exposure of sensitive receptors to substantial pollutant concentrations by implementation of the mitigation measure identified in the Revised IS/MND as Mitigation Measure AIR-2.

Facts in Support of Finding: Mitigation Measure AIR-2 has been proposed in the Revised IS/MND to minimize exposure of sensitive receptors to substantial pollutant concentrations (diesel exhaust emissions) during soil remediation and construction of the Project. Mitigation Measure AIR-2 requires the applicant to develop a plan demonstrating that the off-road equipment to be used on-site to construct the Project (including the remediation of contaminated soil) would achieve a fleet-wide average 45 percent reduction in PM 2.5 exhaust emissions or more. Feasible methods of achieving such a reduction include: a) all mobile diesel-powered off-road equipment larger than 50 horsepower and operating on the site for more than two days shall meet, at a minimum, U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent; and b) all diesel-powered

portable equipment (i.e., aerial lifts, air compressors, concrete saws, forklifts, and generators) operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent. The use of equipment that includes CARB-certified Level 3 Diesel Particulate Filters or alternatively fueled equipment (i.e., non-diesel) would meet this requirement. Other measures may be the use of added exhaust devices, or a combination of measures, provided that these measures are approved by the City and demonstrated to reduce community risk impacts to a less-than-significant level.

Mitigation Measure AIR-2 will be combined with Mitigation Measures AIR-1 (described above) and HAZ-1a through HAZ-1g (discussed below) to minimize exposure of sensitive receptors to substantial pollutant concentrations during the soil remediation activities proposed to be conducted at the Project Site. See Item A for Mitigation Measure AIR-1 and Item I for Mitigation Measures HAZ-1a through HAZ-1g.

D. Air Quality Impact: The Project may result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (Revised IS/MND p. 22 and 65).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to causing a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard by implementation of the mitigation measure identified in the Revised IS/MND as Mitigation Measure AIR-1 and Mitigation Measures HAZ-1a through HAZ-1g

Facts in Support of Finding: See Item A for Mitigation Measure AIR-1 and Item I for Mitigation Measures HAZ-1a through HAZ-1g.

E. Cultural Resources Impacts: The Project could cause a substantial adverse change in the significance of an archaeological resource (Revised IS/MND p. 40) and/or directly or indirectly disturb unknown human remains, including those interred outside of formal cemeteries (Revised IS/MND p. 40).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impacts related to adversely impacting an unknown archeological resources and human remains due to excavation for the soil remediation and construction phases of the Project by

implementation of the mitigation measures identified in the Revised IS/MND as Mitigation Measures CULT-1 and CULT-2.

Facts in Support of Finding: Mitigation Measure CULT-1 has been proposed in the Revised IS/MND to ensure the protection of unknown archeological artifacts that could be unearthed due to excavation for the soil remediation phase and construction of the Project. Mitigation Measure CULT-1 requires, in keeping with the CEQA Guidelines (§15064.5 [f]), if archaeological artifacts are uncovered, work at the place of discovery should be halted immediately until a qualified archaeologist can evaluate the finds.

Mitigation Measure CULT-2 has been proposed in the Revised IS/MND to ensure the protection of unknown human remains (Native American) that could be unearthed due to excavation for the soil remediation and construction of the Project. Mitigation Measure CULT-2 requires, in keeping with Public Resources Code 5097.98 and Health and Human Safety Code 7050.5, that if human remains are encountered, excavation or disturbance of the location must be halted in the vicinity of the find, and the county coroner contacted. If the coroner determines the remains are Native American, the coroner will contact the Native American Heritage Commission. The Native American Heritage Commission will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations regarding the treatment of the remains with appropriate dignity.

F. Cultural Resources Impact: The Project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature (Revised IS/MND p. 41).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to directly or indirectly destroying a unique paleontological resource or site or unique geologic feature by implementation of the mitigation measure identified in the Revised IS/MND as Mitigation Measure CULT-3.

Facts in Support of Finding: Mitigation Measure CULT-3 has been proposed in the Revised IS/MND to ensure the protection of unique paleontological resources or sites or unique geologic features. Mitigation Measure CULT-3 stipulates that if paleontological resources are encountered during project construction activities, all soil-disturbing activity within 100 feet of the find shall be temporarily halted until a qualified paleontologist can assess the significance of the find and provide proper management recommendations. The City shall review and incorporate the management recommendations into the project as feasible.

G. Geology/Soils Impacts: The Project could expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic shaking; the Project could expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic related liquefaction; and, liquefaction and/or seismic-induced ground settlement could occur at the site (Revised IS/MND p. 45).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impacts related to strong seismic ground shaking and seismic related liquefaction and/or ground settlement by implementation of Mitigation Measure GEO-1.

Facts in Support of Finding: Mitigation Measure GEO-1 has been proposed in the Revised IS/MD to reduce the risk of loss, injury, or death related to strong seismic ground shaking and seismic related liquefaction and/or ground settlement. Mitigation Measure GEO-1 requires a design-level geotechnical investigation to be prepared by a licensed professional for the Project and submitted to the City Engineer for review and approval. The investigation shall verify that the project plans comply with the California Building Code and City requirements and incorporate the recommendations for design contained in the 2007 geotechnical report for the Project Site. All design measures, recommendations, design criteria, and specifications set forth in the design-level geotechnical investigation shall be implemented as a condition of project approval.

H. Geology/Soils Impact: The Project's grading and earthmoving activities during the soil remediation process and project construction have the potential to result in erosion and loss of topsoil (Revised IS/MND p. 47; 80).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related erosion and loss of topsoil by implementation of Mitigation Measure GEO-2.

Facts in Support of Finding: Mitigation Measure GEO-2 has been proposed in the Revised IS/MND to avoid erosion and the loss of topsoil. Mitigation Measure GEO-2 requires the project applicant, as a condition of approval of grading and construction permits, to demonstrate compliance with Novato Grading Permit requirements, including Chapters 5-23 and 6 and Section 19.20.050 of the Novato Municipal Code. This shall include a description of required silt, mud, and siltation control measures that will be implemented during soil remediation and project construction and necessary erosion control measures on any cut and fill slopes following construction.

Mitigation Measure GEO-2 is intended to be combined with implementation of Mitigation Measure HYD-1. See Item X for a description of Mitigation Measure HYD-1.

I. **Hazards/Hazardous Materials Impact:** Remedial activities could result in a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials (Revised IS/MND p. 65).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to the transport and disposal of hazardous materials during the Project's soil remediation phase by implementation of Mitigation Measure HAZ-1.

Facts in Support of Finding: Mitigation Measure HAZ-1 has been proposed in the Mitigated Negative Declaration/Initial Study to minimize hazards to the public resulting from the transport and disposal of contaminated soil. Mitigation Measure HAZ-1 is a seven-part mitigation measure intended to ensure safety, oversight, and accountability during the soil remediation phase of the Project. The following are components of the Mitigation Measure HAZ-1 taken verbatim from the Revised IS/MND:

HAZ-1a: Prior to the City issuing any permits for remediation activity at the site, the applicant shall provide the City with written documentation from the Regional Water Board and/or DTSC [Department of Toxic Substances Control] that the RAP [Remedial Action Plan], including a final SMP [Soil Management Plan] and SAP [Sampling and Analysis Plan], has been approved.

HAZ-1b: Prior to the City issuing any permits for remediation activities at the site, the City shall contract with an independent, qualified environmental monitor, at the applicant's expense, to prepare a comprehensive safety and monitoring program and to be present at the site during all remedial activities. The environmental monitor shall prepare a safety and monitoring plan and conduct remediation monitoring which meets the following minimum requirements, subject to the review and approval by the Regional Water Board, DTSC, and the City of Novato:

a. The monitor will develop a comprehensive monitoring plan detailing actions required during remediation to protect off-site receptors from contaminants potentially released during excavation and other earthmoving activities. At a minimum, the safety and monitoring plan shall address:

    1. The installation and maintenance of pre-remediation safety measures, including, but not limited to, placing plastic sheeting or other acceptable barriers over outdoor eating surfaces, play equipment and vegetable beds

at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, the community garden at Lanham Village, and Hamilton Elementary School prior to the start of each weekend work session;

2. Monitoring of the third party dust control subcontractor (Mitigation Measure HAZ-1d) to insure implementation, at a minimum, of the dust and odor control measures specified in Mitigation Measure AIR-1 and the measures specified in the RAP (see SMP- Section 6.4.1) during any remediation activities (weekends only; see HAZ-1c below) and over the weekdays between remediation work periods. The third party dust control subcontractor shall also ensure: a) water for dust control is monitored to ensure an application rate that prevents runoff to off-site locations, discharge to storm drain, or any nearby water features (e.g., Pacheco Creek); and b) tarps are placed over all excavation pits after the completion of each day's remediation activities.

3. Implementation of the groundwater control and disposal and storm water pollution prevention protocols specified in the RAP (see SMP Sections 6.4.6 and 6.4.7) and Mitigation Measure HYD-1 (discussed below) during the remedial phase.

4. Specifications for the application of non-toxic VOC vapor suppressants during soil excavation and hauling, including application to excavation sidewalls and pits during non-construction hours.

5. The establishment and implementation of perimeter air monitoring protocols for lead and other heavy metals, asbestos, particulate matter, and organic vapor consistent with monitoring provisions specified in the RAP (see SMP Section 6.4.2), including the addition of the following supplemental provisions:

   i) Upwind and downwind sampling stations along the site perimeter that shall be active during all remedial earthmoving work and require results to be compared daily to background levels (measured prior to construction as part of the monitoring plan) to evaluate the effectiveness of the engineering and dust control measures implemented during remedial activities;

   ii) Monitoring equipment shall include an anemometer and wind vane to establish wind speed and direction, real-time particulate monitors (Met One E-BAM or equivalent), lead and asbestos air samplers (BGI PQ100 or equivalent), real-time photoionization organic vapor detectors (RAE UltraRAE 3000 or equivalent), and an X-ray

fluorescence (XRF) analyzer to determine the presence of heavy metal contaminants in air particulate samples.

iii) Particulate matter and organic vapor shall be monitored in real time, while two perimeter heavy metals (Title 22 list) and asbestos samples shall be collected during each day's remedial activities using methodology designed to represent the worst-case exposures for that work day. The heavy metals and asbestos samples shall be analyzed using the quickest available laboratory turnaround time.

6. The environmental monitor shall make provisions to maintain an inventory of back-up monitoring and testing equipment at the project site during remedial activities. Should monitoring equipment fail and a replacement device(s) is not immediately available then all remedial work shall be stopped pending replacement of the monitoring equipment.

7. The establishment of perimeter action levels for lead, asbestos, heavy metals, particulate matter, and organic vapor to be protective of human health and the environment, based on established health and safety standards. The following minimum action levels shall be included in the monitoring plan:

   i) For lead and particulate matter, action levels shall be the strictest ambient air standard from U.S. EPA or the BAAQMD: 0.15 µg/m3 for lead and 20 µg/m3 for particulate matter (as PM10) measured at downwind locations. With the exception of lead, no ambient air quality standards have been established for heavy metals. Accordingly, any exceedance of perimeter heavy metals concentrations above background levels (measured before remedial activities at the upwind and downwind perimeter locations specified in the environmental monitoring plan) shall also represent an exceedance under the monitoring plan.

   ii) No ambient air quality standards have been established for asbestos. Accordingly, any exceedance of perimeter asbestos above background levels (measured before remedial activities at the upwind and downwind perimeter locations specified in the environmental monitoring plan) shall represent an exceedance under the monitoring plan.

   iii) No ambient air quality standards have been established for organic vapor. Accordingly, any exceedance of perimeter organic vapor above background levels (measured before remedial activities)

measured at downwind locations shall represent an exceedance under the monitoring plan.

8. The assignment of specific corrective measures/procedures to be implemented if a perimeter action level is exceeded during remedial activities. If a perimeter action level is exceeded, the environmental monitor shall stop all work, assess the problem, and direct corrective action(s). Corrective actions may include, but are not limited to: increasing the frequency of dust control measures, modifying dust control procedures, changing soil removal procedures, and/or directing the use of alternate construction equipment or methods. The environmental monitor shall recheck perimeter air monitoring levels to determine if the selected corrective actions have been effective.

9. The development of emergency response protocols be implemented should there be an accidental release of contaminated soil and/or groundwater or a dust control problem, that in the opinion of the environmental monitor, City, Regional Water Board, or DTSC, represents an immediate threat to the public or causing contamination of an off-site location warranting the immediate notification of representatives of Lanham Village, the Director of the Novato Charter School, the Director of the North Bay Children's Center, the Superintendent of the Novato Unified School District, and the City's Community Development Director. The emergency response protocols must specify the channels of communication through which notification and safety guidance will be delivered and establish directives for each organization to advise their respective stakeholders (e.g., parents, residents) of the emergency situation.

10. The development and implementation of post-remediation work hygiene protocols, including, but not limited to, the proper removal of plastic sheeting or other barriers placed over outdoor eating surfaces, play equipment, and vegetable beds at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, the community garden at Lanham Village, and Hamilton Elementary School and the wiping down of all outdoor eating surfaces and play equipment at the noted children's facilities. The post-remediation hygiene protocol shall be conducted at the close of each weekend work period.

11. The establishment of procedures addressing the notification and identification of unknown environmental features (e.g., stained or odorous soil, tanks, etc.). At a minimum, the monitoring plan shall incorporate such procedures from the RAP with the added conditions of requiring notification of the City of Novato, Regional Water Board, and

any other agency with potential jurisdiction over the environmental feature.

b. The environmental monitor shall be present during all remediation work to ensure all components of the safety and monitoring plan and final RAP are implemented and maintained throughout the remediation phase. At a minimum, the environmental monitor shall perform the following activities:

    1. The environmental monitor shall be responsible for reporting directly to the City and shall have the authority to: a) direct the start of each remediation work day after confirming implementation of all pre-remediation safety measures; b) direct corrective action to maintain compliance with the monitoring plan; c) stop work at the project site for any violation of the monitoring plan protocols or an exceedance of the perimeter contaminant threshold(s) established in the monitoring plan; and d) monitor and confirm compliance with post-remediation work hygiene procedures and release of remediation personnel once such work is deemed complete. The applicant and its remediation contractor/subcontractors shall acknowledge and agree in writing that the environmental monitor has such authorities and will not be obstructed from exercising oversight and direction relating to the monitoring of the remediation phase.

    2. The environmental monitor shall maintain a log of the events of each remediation workday, including the results of air monitoring readings as required by the SMP (see SMP Section 6.4.5) and provide a report to the Community Development Director, the Regional Water Board, and Department of Toxic Substances Control regarding compliance with the monitoring plan and testing results.

    3. The environmental monitor shall observe and ensure the proper removal and disposal of any floor tiles or remnants thereof affixed to or visible in the vicinity of the foundation slab of the former gas station at the project site. The removal and disposal shall be conducted in accordance with Cal/OSHA Construction Safety Orders for Lead (Title 8, California Code of Regulations, Section 1532.1). The removal process shall be completed prior to the initiation of other remedial activities at the project site to avoid pulverizing the tile.

HAZ-1c: Excavation, grading, loading, and off-hauling of any contaminated soils during the remediation phase of the project or any subsequent remedial activities shall only be conducted on Saturdays and Sundays when children are not present at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, and Hamilton Elementary School. The acceptable hours of operation

for such weekend work shall be 10 a.m. to 5 p.m. with permission to perform remediation activities on Sundays granted by the Community Development Director pursuant to Novato Municipal Code Section 19.22.070, as discussed in the Noise Section of the IS/MND.

HAZ-1d: The applicant shall contract with a third-party dust control subcontractor whose sole responsibility is to implement the dust control procedures specified in Mitigation Measure AIR-1 and the RAP. The dust control subcontractor shall ensure adequate equipment and water supplies are available prior to the start of work and at all times during the remediation phase to properly suppress dust. The dust control subcontractor shall be subject to oversight by the environmental monitor (Mitigation Measure Haz-1b) who has authority to direct corrective actions to ensure proper dust suppression. Such authority shall be confirmed in the contract between the applicant and said dust control contractor.

HAZ-1e: A public notice shall be mailed by the City on behalf of the applicant to all property owners of record within a 1,000-foot radius of the project site and operators of all facilities serving children within this radius announcing the date of initiation of remediation activities. Said notice shall include contact information for the environmental monitor required by Mitigation Measure Haz-1b. The notice shall also list contact numbers of representatives of the applicant, the remediation contractor, the City of Novato, the BAAQMD, the Regional Water Board, and DTSC. Said notice shall be mailed no less than thirty (30) calendar days before the scheduled initiation of remediation activities.

HAZ-1f: The applicant shall post signs at the project site, North Bay Children's Center, Hamilton Elementary School, Novato Charter School, Wonder Nook Preschool, the community garden at Lanham Village, and the South Novato Library advising of the dates that remediation work will occur and listing contact information for: the applicant's representative, the City of Novato, the BAAQMD, the Region Water Board, DTSC, and the project's environmental monitor. The text of the signs shall be submitted to the Community Development Director for review and approval. Signs shall be posted no less than thirty (30) calendar days prior to the scheduled initiation of remediation activities and shall remain place throughout the remediation phase.

HAZ-1g: The applicant shall conduct a post-remediation human health risk assessment (HHRA) as specified in the RAP to evaluate the post-remediation concentrations of soil, groundwater, and soil vapor contaminants at the site, including testing of any locations where soils not removed during remediation activities were previously found to contain contaminant concentrations above Regional Water Board Environmental Screening Levels for residential land uses. The HHRA shall be reviewed by the DTSC.

J. **Hazards/Hazardous Materials Impact:** The Project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment (Revised IS/MND p. 71; 65).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to the potential release of hazardous materials into the environment by implementation of Mitigation Measure HAZ-2.

Facts in Support of Finding: Mitigation Measure HAZ-2 has been proposed in the Revised IS/MND to avoid or minimize impacts related to the potential release of hazardous materials into the environment. Mitigation Measure HAZ-2 stipulates that prior to the City considering approval of the proposed amendments to the General Plan, Master (Reuse) Plan, or Zoning that would allow residential uses [at the Project Site], the applicant shall provide the City with the Certificate of Completion for the RAP for the site, issued by the Regional Water Board and/or DTSC and the Notice of Release or other appropriate instrument on the deed restriction as issued by the Department of the Navy that shows the deed restriction has been removed.

Mitigation Measures HAZ-1a through HAZ-1g will also be implemented to addressed the potential release of hazardous materials into the environment. See Item J above for a description of Mitigation Measures HAZ-1a through HAZ-1g.

K. **Hazards/Hazardous Materials Impact:** Remedial activities could emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school (Revised IS/MND p. 65).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid the potentially significant environmental impact related to potential hazardous emissions and handling of hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school by implementation of Mitigation Measures HAZ-1a through HAZ-1g.

Facts in Support of Finding: See Item I above regarding Mitigation Measures HAZ-1a and HAZ-1g.

L. **Hazards/Hazardous Materials Impact:** The project [site] is listed on government hazardous material site databases due to releases from the former USTs at the project site (Revised IS/MND p. 65; 71).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid the potentially significant environmental impact related to the project site being listed on government hazardous material site databases due to releases from the former USTs at the project site by implementation of Mitigation Measures HAZ-1a through HAZ-1g and HAZ-2.

Facts in Support of Finding: See Items I and J regarding Mitigation Measures HAZ-1a through HAZ-1g and HAZ-2, respectively.

M. **Hydrology/Water Quality Impacts:** Remediation, construction, or operation of the project could result in violation of water quality standards and degrade water quality (Revised IS/MND p. 47; 65; 80).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to violation of water quality standards or degradation of water quality by implementation of GEO-2, HYD-1, and HAZ-1a and HAZ-1b.

Facts in Support of Finding: Mitigation Measures HYD-1 has been proposed in the Revised IS/MND to avoid impacts related to potential impact related to violation of water quality standards or degradation of water quality. Mitigation Measure HYD-1 stipulates that as a condition of approval for grading and construction permits for the Project Site, the applicant shall demonstrate compliance with current requirements of the Construction General Permit and MS4 Permit [Regional Water Quality Control Board], including preparation of a Stormwater Pollution Prevention Plan (SWPPP) and a Stormwater Control Plan (SCP). The SWPPP shall be installed and maintained throughout the duration of remediation activities, during the interim period between the remediation and construction phases, and through the entirety of the construction phase of the project. See Items H and I above for a description of Mitigation Measures GEO-2 and HAZ-1a and HAZ-1b, respectively.

N. **Hydrology/Water Quality Impact:** The Project is located in a 100-year flood hazard area and could pose flooding hazards to future residents (Revised IS/MND p. 82).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to exposure of future residents to flooding hazards by implementation of Mitigation Measure HYD-2.

Facts in Support of Finding: Mitigation Measure HYD-2 has been proposed in the Revised IS/MND to avoid impacts related to potential impact related to exposure of future residents to flooding hazards. Mitigation Measure HYD-2 requires the applicant to submit documentation to the City Engineer to demonstrate the Project complies with all elements of Novato Municipal Code Section 5-31 for housing proposed within the 100-year flood zone.

O. Land Use Impact: The project could conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (Revised IS/MND p. 85).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to conflicts with applicable land use policies and regulations [deed covenant prohibiting residential use of the Project Site] by implementation of Mitigation Measure LAND-1.

Facts in Support of Finding: Mitigation Measure LAND-1 has been proposed in the Revised IS/MND to avoid impacts related conflicts with applicable land use policies and regulations by ensuring that prior to the City considering approval of the proposed amendments to the General Plan, Master Plan (Reuse Plan), or Zoning that would allow residential uses at the Project Site, the applicant shall provide the City with the Certificate of Completion for the RAP for the site, issued by the Regional Water Board and/or DTSC and the Notice of Release or other appropriate instrument on the deed restriction as issued by the Department of the Navy that shows the deed restriction has been removed.

P. Noise and Vibration Impact: Interior noise levels could exceed the maximum allowable interior sound level of 45 dBA L_{dn} (Revised IS/MND p. 95).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to interior noise levels exceeding 45 dBA L_{dn} by implementation of Mitigation Measure NOI-1.

Facts in Support of Finding: Mitigation Measure NOI-1 has been proposed in the Revised IS/MD to avoid impacts related to interior noise levels exceeding 45 dBA L_{dn} when windows are open by requiring the residential units in the project to be constructed with a suitable form of forced-air mechanical ventilation, as determined by the City Engineer, so that windows may be kept closed at the occupant's discretion to control noise and achieve the 45 dBA L_{dn} interior noise standard.

Q. **Noise and Vibration Impact:** Noise generated by project construction could result in substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project (Revised IS/MND p. 98).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to a substantial temporary or periodic increase [construction noise] in ambient noise levels in the project vicinity above levels existing without the project by implementation of Mitigation Measure NOI-2.

Facts in Support of Finding: Mitigation Measure NOI-2 has been proposed in the Revised IS/MND to avoid impacts related to substantial temporary or periodic increase [construction noise] in ambient noise levels in the project vicinity above levels existing without the project by requiring the following measures:

1. Construction equipment shall be well maintained and used judiciously to be as quiet as practical. The following measures, when applicable, shall be followed to reduce noise from construction activities and shall be the responsibility of the project applicant:

   a. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.

   b. Use "quiet" models of air compressors and other stationary noise sources where technology exists.

   c. Locate stationary noise-generating equipment and construction staging areas as far as feasible from sensitive receptors when sensitive receptors adjoin or are near a construction area.

   d. Prohibit unnecessary idling of internal combustion engines.

   e. Designate a "construction liaison" that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison and the City of Novato at the construction site. Hold a pre-construction meeting with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, construction schedule, and noise coordinator) are completed.

R. **Utilities/Service Systems Impacts:** The Project could result in inadequate capacity to serve the Project's projected wastewater demand (Revised MND/IS p. 119).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required of, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to inadequate capacity to serve the Project's wastewater demand by implementation of Mitigation Measure UTL-1.

Facts in Support of Finding: Mitigation Measure UTL-1 has been proposed in the Revised IS/MND to avoid the potentially significant impact related to inadequate capacity to serve the Project's wastewater demand by requiring that prior to issuance or a grading or other building permit, the applicant shall submit improvement plans to the City for review and approval to increase the capacity of the sewer main to adequately serve the Project Site.

CEQA ERRATA

An Errata to the Revised IS/MND was prepared to provide additional information regarding the CEQA topical areas of Air Quality and Hazards/Hazardous Materials. The Errata specifically corrects the omission of the proposed redevelopment of the North Bay Children's Center from the Air Quality and Hazards/Hazardous Materials analyses of the Revised IS/MND. The Revised IS/MND was not recirculated for further public comment pursuant to CEQA Guidelines Section 15088.5. The relevant portions of CEQA Guidelines Section 15088.5 are:

(a) A lead agency is required to recirculate an EIR [Initial Study] when significant new information is added to the EIR [Initial Study] after public notice is given of the availability of the draft EIR [Initial Study] for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR [Initial Study] is not "significant" unless the EIR [Initial Study] is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation include, for example, a disclosure showing that:

(1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.

(4) The draft EIR [Initial Study] was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Consistent with CEQA Guidelines Section 15088.5 (a), recirculation of the Revised IS/MND was not required in this instance based on the following:

1) The Errata's supplemental air quality modeling and hazardous materials information did not: a) identify any new significant project level or cumulative impacts resulting from the project; b) require modification of recommended mitigation measures; or c) create the need to develop new mitigation measures;

2) The supplemental air quality modeling presented in the Errata identified a reduced lifetime cancer risk at the project level assuming relocation of the North Bay Children's Center during construction of Hamilton Square. Although reduced, lifetime cancer risk at the project level would still exceed BAAQMD thresholds of significance as previously disclosed in the Revised IS/MND. As discussed in the Revised IS/MND, Mitigation Measures AIR-1 and AIR-2 are prescribed to reduce project level lifetime cancer risk below BAAQMD thresholds of significance. No changes are proposed to Mitigation Measures AIR-1 or AIR-2.

   Under cumulative conditions, the air quality modeling presented in the Errata indicates that lifetime cancer risk increases for an infant exposure at North Bay Children's Center and the maximally exposed residential receptor. However, lifetime cancer risk remains below the cumulative impact threshold of significance established by BAAQMD as previously published in the Revised IS/MND. Mitigation Measures AIR-1 and AIR-2, prescribed to address project level air quality impacts, would have the effect of further reducing cumulative lifetime cancer risk as previously discussed in the Revised IS/MND.

   The Errata did not identify an changes to the findings of the hazards/hazardous material analysis or associated mitigation measures recommended in the Revised IS/MND.

   Given the observations above, the Errata did not identify a substantial increase in the severity of an environmental impact requiring new or modified mitigation measures.

3) No additional or modified mitigation measures are recommended in the Errata. The mitigation program specified in the previously circulated Revised IS/MND reduces all potentially significant impacts to a less than significant level.

4) The Revised IS/MND and its Errata provide an accurate disclosure of the potential project and cumulative level impacts of Hamilton Square and feasible mitigation

measures to reduce all potentially significant impacts to a less than significant level. The Revised IS/MND and its Errata do not preclude meaningful public review and comment. Notably, the Revised IS/MND contains analysis and mitigation components that are based on public comments submitted to the City regarding a prior Initial Study prepared and circulated for Hamilton Square.

Based on the above, none of the conditions in Section 15088.5 of the CEQA Guidelines are met, and recirculation of the Revised IS/MND is not required.

EXHIBIT B

HAMILTON SQUARE
(a.k.a., MAIN GATE SQUARE)
970 C STREET (HAMILTON FIELD)
MITIGATION MONITORING AND REPORTING PROGRAM

This Mitigation Monitoring and Reporting Program (MMRP) was formulated based on the findings of the Initial Study Checklist (IS) prepared for the Main Gate Road and "C" Street project in the City of Novato (City). This MMRP is in compliance with Section 15097 of the *CEQA Guidelines*, which requires that the Lead Agency "adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects." The MMRP lists mitigation measures recommended in the IS and identifies mitigation monitoring requirements.

The MMRP table below presents the mitigation measures identified in the Main Gate Road and "C" Street IS necessary to mitigate potentially significant impacts. Each mitigation measure is numbered according to the topical section to which it pertains in the IS. As an example, Mitigation Measure AIR-1 is the first mitigation measure identified in the IS in Section III: Air Quality.

The first column of the MMRP table identifies the Mitigation Measure. The second column identifies the monitoring schedule or timing, while the third column names the party responsible for monitoring the required action. The fourth column, "Monitoring Procedure," outlines the steps for monitoring the action identified in the mitigation measure. The fifth and sixth columns deal with reporting and provide spaces for comments and dates and initials. These last columns will be used by the City to ensure that individual mitigation measures have been monitored.

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Mitigation Monitoring: Monitoring Schedule	Mitigation Monitoring: Monitoring Responsibility	Mitigation Monitoring: Monitoring Procedure	Reporting: Comments	Reporting: Date/ Initials
I. Aesthetics					
Mitigation Measure AES-1: Prior to issuance of a building permit, the applicant shall submit an exterior lighting plan including fixture and standard design, coverage and intensity, which provides that any outdoor night lighting proposed for the project is directed downward and shielded to prevent light spill onto surrounding properties, sky glow, and glare. The plan shall conform to the performance standards provided under Section 19.38.090 of the Zoning Code and shall be subject to the review and approval of the City review authority.	• At time of building permit review	• Owner/Contractor/ City of Novato – Community Development Department	• Ensure exterior lighting plan conforms to the performance standards provided under Section 19.38.090 of the Zoning Code		
III. Air Quality					
Mitigation Measure AIR-1: The project applicant shall institute a dust control program during the construction phase of the project (see *Section VIII, Hazards* for additional dust control measures during remediation activities). Elements of the dust control program shall include, but not necessarily be limited to, the following: • An inventory of construction equipment and schedule for equipment use shall be submitted to the City of Novato before issuance of demolition and/or grading permits. See Mitigation Measure AIR-2 for further requirements. • All exposed surfaces (i.e., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered using recycled water as necessary to control dust. • All haul trucks transporting soil, sand, or other loose material off-site shall be covered and anchored to prevent exposure. • All visible mud or dirt tracked out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day or more	• Ongoing during soil remediation and construction	• Owner/Contractor/ Subcontractor/ Environmental Monitor/ City of Novato – Community Development and Public Works Departments	• Implement dust control program, including BAAQMD Best Management Practices and enhanced measures for fugitive dust control		

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Mitigation Monitoring: Monitoring Schedule	Mitigation Monitoring: Monitoring Responsibility	Mitigation Monitoring: Monitoring Procedure	Reporting: Comments	Reporting: Date/ Initials
frequently should mud or dirt be visible on adjacent roads. The use of dry power sweeping shall be prohibited. • All vehicle speeds on unpaved roads shall be limited to 15 miles per hour. • All paving shall be completed as soon as possible. All exposed soil shall be stabilized (e.g. hydroseeding or soil binders) until the building pad is laid. • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. • A publicly visible sign shall be posted with the name and telephone number of the person representing the project sponsor to contact regarding dust complaints. This person shall respond and take corrective action within one (1) hour of receiving a complaint. The Bay Area Air Quality Management District (BAAQMD) and City of Novato phone number shall also be visible to ensure compliance with applicable regulations. Additional Construction Mitigation Measures: • All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe. Water for dust control will be monitored to ensure an application rate that					

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Mitigation Monitoring: Monitoring Schedule	Mitigation Monitoring: Monitoring Responsibility	Mitigation Monitoring: Monitoring Procedure	Reporting: Comments	Reporting: Date/ Initials
prevents runoff to off-site locations, discharge to storm drain, or any nearby water features (e.g., Pacheco Creek). • Stockpiled soil, if any, will be covered with plastic sheeting, or other similar material, at the end of each workday. A stockpile that is known to be inactive shall be immediately covered with plastic sheeting or a similar material. A stockpile that is not being actively worked on for more than 60 minutes will be covered with plastic sheeting or a similar material to prevent dust from leaving the Site. • All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph. • Wind breaks (e.g., fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity. • Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted immediately in areas with exposed soil and no further soil disturbance is anticipated and watered appropriately until vegetation is established. • The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time. • All trucks and equipment, including their tires, shall be washed off prior to leaving the site. • Site accesses from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel. • Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from					

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sites with a slope greater than one percent (see Mitigation Measure HYD-1 regarding the implementation of a Stormwater Pollution Prevention Plan (SWPPP) and Stormwater Control Plan).					
Mitigation Measure AIR-2: The applicant shall develop a plan for the project demonstrating that the off-road equipment to be used on-site to construct the project would achieve a fleet-wide average 45 percent reduction in $PM_{2.5}$ exhaust emissions or more. One feasible plan to achieve this reduction would include the following: • All mobile diesel-powered off-road equipment larger than 50 horsepower and operating on the site for more than two days shall meet, at a minimum, U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent; and • All diesel-powered portable equipment (i.e., aerial lifts, air compressors, concrete saws, forklifts, and generators) operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent. Note that the construction contractor could use other measures to minimize construction period DPM emission to reduce the predicted cancer risk below the thresholds. The use of equipment that includes CARB-certified Level 3 Diesel Particulate Filters or alternatively-fueled equipment (i.e., non-diesel) would meet this requirement. Other measures may be the use of added exhaust devices, or a combination of measures, provided that these measures are approved by the City and demonstrated to reduce community risk impacts to a less-than-significant level.	• Ongoing during soil remediation and construction	• Owner/Contractor/ Environmental Monitor/ City of Novato – Community Development and Public Works Departments	• Develop and implement a plan that demonstrates off-road equipment used on-site for soil remediation and to construct the project would achieve a fleet-wide average 45 percent reduction in $PM_{2.5}$ exhaust emissions or more		
V. Cultural Resources					
Mitigation Measure CULT-1: In keeping with the CEQA guidelines, if archaeological remains are uncovered, work	• Ongoing during soil	• Owner/Contractor/ City of Novato -	• Implement identified		

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at the place of discovery should be halted immediately until a qualified archaeologist can evaluate the finds (§15064.5 [f]). Prehistoric archaeological site indicators include: obsidian and chert flakes and chipped stone tools; grinding and mashing implements (e.g., slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations and discrete trash deposits (e.g., wells, privy pits, dumps).	remediation and construction	Community Development Department	procedures and initiate notification if necessary		
Mitigation Measure CULT-2: The following actions are promulgated in Public Resources Code 5097.98 and Health and Human Safety Code 7050.5, and pertain to the discovery of human remains. If human remains are encountered, excavation or disturbance of the location must be halted in the vicinity of the find, and the county coroner contacted. If the coroner determines the remains are Native American, the coroner will contact the Native American Heritage Commission. The Native American Heritage Commission will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations regarding the treatment of the remains with appropriate dignity.	• Ongoing during soil remediation and construction	• Owner/Contractor/ City of Novato – Community Development Department	• Implement identified procedures and initiate notification if necessary; contact Marin Coroner if necessary		
Mitigation Measure CULT-3: If paleontological resources are encountered during project construction activities, all soil-disturbing activity within 100 feet of the find shall be temporarily halted until a qualified paleontologist can assess the significance of the find and provide proper	• Ongoing during soil remediation and construction	• Owner/Contractor/ City of Novato – Community Development Department	• Implement identified procedures and initiate notification if		

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management recommendations. The City shall review and incorporate the management recommendations into the project as feasible.			necessary		
VI. Geology and Soils					
Mitigation Measure GEO-1: Prior to the issuance of any grading or construction permits, a design-level geotechnical investigation shall be prepared by a licensed professional and submitted to the City Engineer for review and approval. The investigation shall verify that the project plans comply with CBC and City requirements and incorporate the recommendations for design contained in the 2007 geotechnical report for the project site. All design measures, recommendations, design criteria, and specifications set forth in the design-level geotechnical investigation shall be implemented as a condition of project approval.	• Prior to and during soil remediation and construction to ensure compliance with geotechnical evaluation	• Owner/Contractor/ City of Novato – Community Development and Public Works Departments	• Incorporate geotechnical recommendations into design, plans, and specifications, including site grading and drainage plans Implement soil compaction requirements during remediation phase.		
Mitigation Measure GEO-2: As a condition of approval of grading and construction permits, the applicant shall demonstrate compliance with Novato Grading Permit requirements, including Chapters 5-23, 6 and 19-20.050 of the Novato Municipal Code. This shall include a description of required silt, mud, and siltation control measures that will be implemented during construction and necessary erosion control measures on any cut and fill slopes following construction.	Prior to and during soil remediation and construction to ensure compliance with grading permit requirements	• Owner/Contractor/ Environmental Monitor/City of Novato – Community Development and Public Works Departments	• Compliance with Novato Grading Permit		

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VIII. Hazards					
Mitigation Measure HAZ-1: The following seven-part mitigation measures would reduce potential impacts of routine hazardous materials transportation, use, or disposal during remedial activities at the project site to a less-than-significant level:					
HAZ-1a: Prior to the City issuing any permits for remediation activity at the site, the applicant shall provide the City with written documentation from the Regional Water Board and/or DTSC that the RAP, including a final SMP and SAP, has been approved.	• Prior to soil remediation	• Owner/City of Novato – Community Development Department	• Provide written documentation from the Regional Water Board and/or DTSC that the RAP has been approved		
HAZ-1b: Prior to the City issuing any permits for remediation activities at the site, the City shall contract with an independent, qualified environmental monitor, at the applicant's expense, to prepare a comprehensive safety and monitoring program and to be present at the site during all remedial activities. The environmental monitor shall prepare a safety and monitoring plan and conduct remediation monitoring which meets the following minimum requirements, subject to the review and approval by the Regional Water Board, DTSC, and the City of Novato: a. The monitor will develop a comprehensive monitoring plan detailing actions required during remediation to protect off-site receptors from contaminants potentially released during excavation and other earthmoving activities. At a minimum, the safety and monitoring plan shall address: 1. The installation and maintenance of pre-	• Prior to soil remediation; During soil remediation work	• Owner/Contractor/ Subcontractor/City of Novato – Community Development and Public Works Departments/ Independent Environmental Monitor	• Hire an independent, qualified environmental monitor • Develop a comprehensive safety and monitoring plan that addresses all components of Mitigation Measure HAZ-1b • Submit safety and monitoring plan to the Regional Water Board, DTSC,		

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remediation safety measures, including, but not limited to, placing plastic sheeting or other acceptable barriers over outdoor eating surfaces, play equipment and vegetable beds at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, the community garden at Lanham Village, and Hamilton Elementary School prior to the start of each weekend work session;			and the City of Novato for review and approval Implement safety and monitoring plan.		
2. Monitoring of the third party dust control subcontractor (Mitigation Measure HAZ-1d) to insure implementation, at a minimum, of the dust and odor control measures specified in Mitigation Measure AIR-1 and the measures specified in the RAP (see SMP - Section 6.4.1) during any remediation activities (weekends only; see HAZ-1c below) and over the weekdays between remediation work periods. The third party dust control subcontractor shall also ensure: a) water for dust control is monitored to ensure an application rate that prevents runoff to off-site locations, discharge to storm drain, or any nearby water features (e.g., Pacheco Creek); and b) tarps are placed over all excavation pits after the completion of each day's remediation activities.					
3. Implementation of the groundwater control and disposal and storm water pollution prevention protocols specified in the RAP (see SMP Sections 6.4.6 and 6.4.7) and Mitigation Measure HYD-1 (discussed below) during the remedial phase.					
4. Specifications for the application of non-toxic VOC vapor suppressants during soil					

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excavation and hauling, including application to excavation sidewalls and pits during non-construction hours.					
5. The establishment and implementation of perimeter air monitoring protocols for lead and other heavy metals, asbestos, particulate matter, and organic vapor consistent with monitoring provisions specified in the RAP (see SMP Section 6.4.2), including the addition of the following supplemental provisions:					
i) Upwind and downwind sampling stations along the site perimeter that shall be active during all remedial earthmoving work and require results to be compared daily to background levels (measured prior to construction as part of the monitoring plan) to evaluate the effectiveness of the engineering and dust control measures implemented during remedial activities;					
ii) Monitoring equipment shall include an anemometer and wind vane to establish wind speed and direction, real-time particulate monitors (Met One E-BAM or equivalent), lead and asbestos air samplers (BGI PQ100 or equivalent), real-time photoionization organic vapor detectors (RAE UltraRAE 3000 or equivalent), and an X-ray fluorescence (XRF) analyzer to determine the presence of heavy metal contaminants in air particulate samples.					
iii) Particulate matter and organic vapor					

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shall be monitored in real time, while two perimeter heavy metals (Title 22 list) and asbestos samples shall be collected during each day's remedial activities using methodology designed to represent the worst-case exposures for that work day. The heavy metals and asbestos samples shall be analyzed using the quickest available laboratory turnaround time.					
6. The environmental monitor shall make provisions to maintain an inventory of back-up monitoring and testing equipment at the project site during remedial activities. Should monitoring equipment fail and a replacement device(s) is not immediately available then all remedial work shall be stopped pending replacement of the monitoring equipment.					
7. The establishment of perimeter action levels for lead, asbestos, heavy metals, particulate matter, and organic vapor to be protective of human health and the environment, based on established health and safety standards. The following minimum action levels shall be included in the monitoring plan:					
i) For lead and particulate matter, action levels shall be the strictest ambient air standard from U.S. EPA or the BAAQMD: 0.15 µg/m3 for lead and 20 µg/m3 for particulate matter (as PM10) measured at downwind locations. With the exception of lead, no ambient air quality standards have been established for heavy metals.					

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Accordingly, any exceedance of perimeter heavy metals concentrations above background levels (measured before remedial activities at the upwind and downwind perimeter locations specified in the environmental monitoring plan) shall also represent an exceedance under the monitoring plan. ii) No ambient air quality standards have been established for asbestos. Accordingly, any exceedance of perimeter asbestos above background levels (measured before remedial activities at the upwind and downwind perimeter locations specified in the environmental monitoring plan) shall represent an exceedance under the monitoring plan. iii) No ambient air quality standards have been established for organic vapor. Accordingly, any exceedance of perimeter organic vapor above background levels (measured before remedial activities) measured at downwind locations shall represent an exceedance under the monitoring plan. 8. The assignment of specific corrective measures/procedures to be implemented if a perimeter action level is exceeded during remedial activities. If a perimeter action level is exceeded, the environmental monitor shall stop all work, assess the problem, and direct corrective action(s). Corrective actions may include, but are not limited to: increasing the					

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frequency of dust control measures, modifying dust control procedures, changing soil removal procedures, and/or directing the use of alternate construction equipment or methods. The environmental monitor shall recheck perimeter air monitoring levels to determine if the selected corrective actions have been effective.					
9. The development of emergency response protocols to be implemented should there be an accidental release of contaminated soil and/or groundwater or a dust control problem, that in the opinion of the environmental monitor, City, Regional Water Board, or DTSC, represents an immediate threat to the public or causing contamination of an off-site location warranting the immediate notification of representatives of Lanham Village, the Director of the Novato Charter School, the Director of the North Bay Children's Center, the Superintendent of the Novato Unified School District, and the City's Community Development Director. The emergency response protocols must specify the channels of communication through which notification and safety guidance will be delivered and establish directives for each organization to advise their respective stakeholders (e.g., parents, residents) of the emergency situation.					
10. The development and implementation of post-remediation work hygiene protocols, including, but not limited to, the proper removal of plastic sheeting or other barriers placed over outdoor eating surfaces, play					

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equipment, and vegetable beds at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, the community garden at Lanham Village, and Hamilton Elementary School and the wiping down of all outdoor eating surfaces and play equipment at the noted children's facilities. The post-remediation hygiene protocol shall be conducted at the close of each weekend work period.					
11. The establishment of procedures addressing the notification and identification of unknown environmental features (e.g., stained or odorous soil, tanks, etc.). At a minimum, the monitoring plan shall incorporate such procedures from the RAP with the added conditions of requiring notification of the City of Novato, Regional Water Board, and any other agency with potential jurisdiction over the environmental feature.					
b. The environmental monitor shall be present during all remediation work to ensure all components of the safety and monitoring plan and final RAP are implemented and maintained throughout the remediation phase. At a minimum, the environmental monitor shall perform the following activities:					
1. The environmental monitor shall be responsible for reporting directly to the City and shall have the authority to: a) direct the start of each remediation work day after confirming implementation of all pre-remediation safety measures; b) direct corrective action to maintain compliance with					

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the monitoring plan; c) stop work at the project site for any violation of the monitoring plan protocols or an exceedance of the perimeter contaminant threshold(s) established in the monitoring plan; and d) monitor and confirm compliance with post-remediation work hygiene procedures and release of remediation personnel once such work is deemed complete. The applicant and its remediation contractor/subcontractors shall acknowledge and agree in writing that the environmental monitor has such authorities and will not be obstructed from exercising oversight and direction relating to the monitoring of the remediation phase.					
2. The environmental monitor shall maintain a log of the events of each remediation workday, including the results of air monitoring readings as required by the SMP (see SMP Section 6.4.5) and provide a report to the Community Development Director, the Regional Water Board, and Department of Toxic Substances Control regarding compliance with the monitoring plan and testing results.					
3. The environmental monitor shall observe and ensure the proper removal and disposal of any floor tiles or remnants thereof affixed to or visible in the vicinity of the foundation slab of the former gas station at the project site. The removal and disposal shall be conducted in accordance with Cal/OSHA Construction Safety Orders for Lead (Title 8, California Code of Regulations, Section 1532.1). The removal process shall be completed prior to					

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the initiation of other remedial activities at the project site to avoid pulverizing the tile.					
HAZ-1c: Excavation, grading, loading, and off-hauling of any contaminated soils during the remediation phase of the project or any subsequent remedial activities shall only be conducted on Saturdays and Sundays when children are not present at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, and Hamilton Elementary School. The acceptable hours of operation for such weekend work shall be 10 a.m. to 5 p.m. with permission to perform remediation activities on Sundays granted by the Community Development Director pursuant to Novato Municipal Code Section 19.22.070, as discussed in the Noise Section of the IS/MND.	• Ongoing during soil remediation	• Owner/Contractor/ City of Novato – Community Development and Public Works Departments/ Independent Environmental Monitor	• Ensure all remediation work takes place on Saturdays and Sundays between 10 a.m. and 5 p.m.		
HAZ-1d: The applicant shall contract with a third-party dust control subcontractor whose sole responsibility is to implement the dust control procedures specified in Mitigation Measure AIR-1 and the RAP. The dust control subcontractor shall ensure adequate equipment and water supplies are available prior to the start of work and at all times during the remediation phase to properly suppress dust. The dust control subcontractor shall be subject to oversight by the environmental monitor (Mitigation Measure Haz-1b) who has authority to direct corrective actions to ensure proper dust suppression. Such authority shall be confirmed in the contract between the applicant and said dust control contractor.	• Ongoing during soil remediation	• Owner/Contractor/ Subcontractor/City of Novato Community Development and Public Works Departments/ Independent Environmental Monitor	• Contract with a third-party dust control subcontractor • Implement dust control procedures specified in Mitigation Measure AIR-1 and the RAP		
HAZ-1e: A public notice shall be mailed by the City on behalf of the applicant to all property owners of					

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record within a 1,000-foot radius of the project site and operators of all facilities serving children within this radius announcing the date of initiation of remediation activities. Said notice shall include contact information for the environmental monitor required by Mitigation Measure Haz-1b. The notice shall also list contact numbers of representatives of the applicant, the remediation contractor, the City of Novato, the BAAQMD, the Regional Water Board, and DTSC. Said notice shall be mailed no less than thirty (30) calendar days before the scheduled initiation of remediation activities.	• Thirty (30) calendar days before the initiation of soil remediation activities	• City of Novato – Community Development Department	• Mail a public notice to all property owners of record within a 1,000-foot radius of the project site, operators of all facilities serving children within this radius, and any person requesting such notice		
HAZ-1f: The applicant shall post signs at the project site, North Bay Children's Center, Hamilton Elementary School, Novato Charter School, Wonder Nook Preschool, the community garden at Lanham Village, and the South Novato Library advising of the dates that remediation work will occur and listing contact information for: the applicant's representative, the City of Novato, the BAAQMD, the Regional Water Board, DTSC, and the project's environmental monitor. The text of the signs shall be submitted to the Community Development Director for review and approval. Signs shall be posted no less than thirty (30) calendar days prior to the scheduled initiation of remediation activities and shall remain in place throughout the remediation phase.	• Thirty (30) calendar days before the initiation of remediation activities	• Owner/Contractor/ City of Novato - Community Development Department	• Develop, review, and approve sign content • Post signs in accordance with Mitigation Measure HAZ-1f		
HAZ-1g: The applicant shall conduct a post-remediation human health risk assessment (HHRA) as specified in the RAP to evaluate the post-remediation concentrations of soil, groundwater, and soil vapor contaminants at the site, including testing of any locations where soils not removed during remediation	• Post- soil remediation	• Owner/City of Novato – Community Development Department	• Conduct a post-remediation human health risk assessment		

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activities were previously found to contain contaminant concentrations above Regional Water Board Environmental Screening Levels for residential land uses. The HHRA shall be reviewed by the DTSC.			(HHRA) as specified in the RAP • Submit HHRA to DTSC for review and approval		
Mitigation Measure HAZ-2: Prior to the City considering approval of the proposed amendments to the General Plan, Master (Reuse) Plan, or Zoning that would allow residential uses, the applicant shall provide the City with the Certificate of Completion for the RAP for the site, issued by the Regional Water Board and/or DTSC and the Notice of Release or other appropriate instrument on the deed restriction as issued by the Department of the Navy that shows the deed restriction has been removed.	• Prior to project approval	• Owner/City of Novato – Community Development Department	• Provide Certificate of Completion and Notice of Release or other appropriate instrument on the deed restriction		
IX. Hydrology and Water Quality					
Mitigation Measure HYD-1: As a condition of approval for grading and construction permits for the project site, the applicant shall demonstrate compliance with current requirements of the Construction General Permit and MS4 Permit including preparation of a Stormwater Pollution Prevention Plan (SWPPP) and a Stormwater Control Plan (SCP). The SWPPP shall be installed and maintained throughout the duration of remediation activities, during the interim period between the remediation and construction phases, and through the entirety of the construction phase of the project.	• Prior to soil remediation, during interim development review period, and during construction	• Owner/Contractor/ City of Novato-Community Development and Public Works Departments/ Independent Environmental Monitor	• Comply with SWPPP and NPDES requirements, Including Stormwater Control Plan		
Mitigation Measure HYD-2: Prior to issuance of any construction permits for the project, the applicant shall submit documentation to the City Engineer to demonstrate that the proposed project complies with all elements of Novato Municipal Code Chapter 5-31 for housing proposed within the 100-year flood zone.	• Prior to construction	• Owner/Contractor/ City of Novato – Public Works Department	• Comply with NMC Chapter 5-31		

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X. Land Use and Planning					
Mitigation Measure LAND-1: Prior to the City considering approval of the proposed amendments to the General Plan, Master Plan (Reuse Plan) or Zoning that would allow residential uses, the applicant shall provide the City with the Certificate of Completion for the Remedial Action Plan (RAP) for the site, issued by the Regional Water Board and/or DTSC and the Notice of Release or other appropriate instrument on the deed restriction as issued by the Department of the Navy that shows the deed restriction has been removed.	• Prior to project approval	• Owner/City of Novato – Community Development Department	• Provide Certificate of Completion and Notice of Release or other appropriate instrument on the deed restriction		
XII. Noise					
Mitigation Measure NOI-1: Provide a suitable form of forced-air mechanical ventilation, as determined by the City Engineer, for residential units throughout the site, so that windows could be kept closed at the occupant's discretion to control noise and achieve the 45 dBA L_{dn} interior noise standard.	• At time of building permit review	• Owner/Contractor/City of Novato – Community Development Department	• Ensure provision of forced-air mechanical ventilation throughout project		
Mitigation Measure NOI-2: Construction equipment shall be well maintained and used judiciously to be as quiet as practical. The following measures, when applicable, shall be followed to reduce noise from construction activities and shall be the responsibility of the project applicant: • Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment. • Use "quiet" models of air compressors and other stationary noise sources where technology exists. • Locate stationary noise-generating equipment and construction staging areas as far as feasible from sensitive receptors when sensitive receptors adjoin	• Prior to and during soil remediation and construction	• Owner/Contractor/ City of Novato – Community Development and Public Works Departments/ Environmental Monitor	• Hold pre-construction meeting; monitor equipment; ensure that "construction liaison" is designated; respond to complaints, if any; direct corrective action		

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or are near a construction area. • Prohibit unnecessary idling of internal combustion engines. • Designate a "construction liaison" that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site. • Hold a pre-construction meeting with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, construction schedule, and noise coordinator) are completed.			as necessary		
XVII. Utilities and Service Systems					
Mitigation Measure UTL-1: Prior to issuance of a grading or other building permit, the applicant shall submit improvement plans to the City for review and approval to increase the capacity of the sewer main to adequately serve the project site.	• Prior to construction	• Applicant/Contractor /City of Novato – Community Development and Public Works Departments/Novato Sanitary District	Ensure the sewer main is increased in size to adequately serve the project site		

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. _____

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL GRANT A USE PERMIT TO ALLOW THE REMOVAL AND DISPOSAL OF CONTAMINATED SOIL FROM A FORMER GAS STATION SITE AT 970 C STREET (HAMILTON FIELD), APN 157-980-05

WHEREAS, the City of Novato ("City") received an application from Thompson Development, on behalf of Hamilton Square, LLC, requesting a use permit to allow the removal of contaminated soil ("Project") from the property at 970 C Street ("Project Site"), APN 157-980-05, in anticipation of subsequently pursuing a general plan amendment, master plan amendment, precise development plan, tentative map, and design review to permit the development of Hamilton Square, a proposed 31-unit residential condominium project; and

WHEREAS, the Project Site was formerly occupied by a gasoline and vehicle service station operated by the Department of the Navy ("Navy"), which hosted three underground fuel storage tanks, hydraulic vehicle lifts, and oil/water separation tanks. These features leaked gasoline, hydraulic fluid, and oil causing the Site's contamination; and

WHEREAS, contaminants of concern identified at the Project Site include the gasoline-related volatile organic compounds (VOCs) Benzene, Toluene, Ethylbenzene, and Xylenes (commonly referred to as BTEX), and Methyl Tertiary Butyl Ether (MTBE); and

WHEREAS, in 1995 the Navy removed the underground gasoline storage tanks at the Project Site and began remediation efforts addressing MTBE and BTEX in 1998; and

WHEREAS, in 2000 the Navy removed the hydraulic lifts and oil/water separators and associated piping in the former service station area. Contaminated soil beneath the service station was over-excavated to the extent possible, but full removal was limited by the building's foundation; and

WHEREAS, the Navy performed a human health risk assessment in 1999 and two revised risk assessments in 2001 and 2003 respectively, to determine the effectiveness of its remediation processes; and

WHEREAS, based on the "Final Revised Risk Assessment," the Navy and California Department of Toxic Substances Control (DTSC) concluded that, "…use of the Property [Project Site] for commercial and/or industrial use does not pose an unacceptable cancer risk, or non-cancer hazard to the users or occupants of the Property;" and

WHEREAS, on the basis of the Final Revised Risk Assessment the Navy executed a Finding of Suitability to Transfer (FOST) on August 11, 2003, allowing the Project Site to be sold; and

WHEREAS, in April 2005 the Navy sold the Project Site to Hamilton Square, LLC; and

WHEREAS, the sale of the Project Site to Hamilton Square, LLC, included recordation of an agreement entitled, *Covenant to Restrict Use of the Property and Environmental Restriction for Parcels 28, 29, and 30 (aka Exchange Triangle Parcel 1 – "Sale Area") at Department of Defense Housing Facility, Novato* (hereafter "Covenant"), that includes a provision prohibiting use of the Project Site for residences, schools (for persons under 21 years of age), daycare facilities, and hospitals; and

WHEREAS, the Covenant permits the property owner, or any other successor in interest to the property, to request modification or termination of the land use restrictions contained therein provided the owner has applied for and obtained written approval from DTSC and the San Francisco Bay Regional Water Quality Control Board ("Regional Board"), with the Navy having the authority to modify the Covenant; and

WHEREAS, modification or release of the residential land use restriction contained in the Covenant is a necessary prerequisite to City consideration of the requested land use entitlements for Thompson Development's proposed residential condominium project; and

WHEREAS, Thompson Development has requested the Regional Board and the City of Novato issue permits to allow the removal and disposal of contaminated soil at the Project Site in an effort to improve soil conditions to a level where residential use of the Project Site would be acceptable, thereby allowing a formal request to modify or release the residential land use restriction in the Covenant; and

WHEREAS, Thompson Development, has prepared and submitted a draft Remedial Action Plan, including a Soil Management Plan and Sampling and Analysis Plan (collectively, "Remedial Action Plan"), to the Regional Board, specifying procedures to be implemented to protect public health, safety, and welfare and the environment during the removal and disposal of contaminated soil; and

WHEREAS, the Regional Board issued a letter of conditional concurrence on February 23, 2016, indicating the agency was generally satisfied with the draft Remedial Action Plan (October 2015), but requested the Remedial Action Plan be augmented with additional information based on the findings of the environmental review document being prepared by the City of Novato pursuant to the California Environmental Quality Act ("CEQA"); and

WHERAS, Novato Municipal Code Section 19.20.050 requires the approval of use permit for grading activities involving the movement of more than 200 cubic yards of material. The

proposed soil remediation effort involves the removal of approximately 2,800 cubic yards of contaminated soil thereby triggering the need to obtain a use permit; and

WHEREAS, the City determined the Project is subject to the environmental review requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, a Revised Initial Study was prepared in compliance with the provisions of CEQA, the CEQA guidelines as promulgated by the State Secretary of Resources, and the procedures for review set forth in the City of Novato Environmental Review Guidelines. The Revised Initial Study considered the Project Site, its setting, and the potential environmental impacts of implementing the Project on the basis of the technical subjects (e.g., aesthetics, biological resources, air quality, etc.) included in the environmental checklist form provided in Appendix G of the CEQA Guidelines; and

WHEREAS, the Revised Initial Study determined the Project could result in potentially significant impacts to the environment in the CEQA topical areas of Air Quality, Cultural Resources, Geology/Soils, Hazards/Hazardous Materials, Hydrology/Water Quality, and Noise/Vibration. However, feasible mitigation measures were identified that would reduce all potentially significant impacts to a less-than-significant level; and

WHEREAS, on the basis of the findings of the Revised Initial Study, the City prepared a Mitigated Negative Declaration in compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines as promulgated by the State Secretary of Resources, and the procedures for review set forth in the City of Novato Environmental Review Guidelines, finding that although the Project could have a significant impact on the environment, there would be no such impact in this case due to the implementation of the mitigation measures identified in the Initial Study; and

WHEREAS, public notices describing the City's intent to adopt a Revised Initial Study/Mitigated Negative Declaration ("Revised IS/MND") for the Project and announcing a 30-day public review period beginning on October 14, 2016, and ending on November 14, 2016, were sent to all property owners within 1,000-feet of the boundaries of the Project Site, all property owners within the Lanham Village neighborhood, all public agencies potentially serving or having some oversight of the Project, all responsible and trustee agencies, the county clerk of the County of Marin, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation, on October 14, 2016. In addition, notice was emailed to the Hamilton Forum, interested parents of children at the Novato Charter School, and officials with the North Bay Children's Center, Novato Charter School, and Novato Unified School District who had requested notification by email on October 14, 2016; and

WHEREAS, a Notice of Completion and Environmental Document Transmittal, including copies of the Revised IS/MND, was sent to the State Clearinghouse on October 14, 2016; and

WHEREAS, during the public/agency review period for the Revised IS/MND it was noted that a proposed project adjacent to the Project Site had been omitted from the cumulative air quality and hazards analysis. The omitted project is a proposal to demolish and reconstruct the North Bay Children's Center at 932 C Street; and

WHEREAS, an errata ("Errata") to the Revised IS/MND was prepared to update the cumulative air quality and hazards analysis to include the proposed project at North Bay Children's Center. The addition of the project at the North Bay Children's Center to the cumulative air quality and hazardous materials conditions did not result in any changes to the findings, impact conclusions, or mitigation measures of the Revised IS/MND; and

WHEREAS, on December 15, 2016, the City hosted a community meeting to provide an update on the status of the Project, describe the public review process going forward, and review the mitigation measures addressing air quality and hazardous materials impacts in the Revised IS/MND. Notices announcing the community meeting were sent to all property owners within 1,000-feet of the boundaries of the Project Site, all property owners within the Lanham Village neighborhood, all public agencies potentially serving or having some oversight of the Project, the county clerk of the County of Marin, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code on December 5, 2016. In addition, notice was emailed to the Hamilton Forum, interested parents of children at the Novato Charter School, and officials with the North Bay Children's Center, Novato Charter School, and Novato Unified School District who had requested notification by email on December 5, 2016; and

WHEREAS, the Planning Commission held a public hearing on May 17, 2017, and considered all oral and written comments on the Revised IS/MND and its Errata and the use permit request at issue herein; and

WHEREAS, public notices describing the Planning Commission's public hearing on the Revised IS/MND and its Errata and use permit at issue herein were sent to all affected property owners within 1,000-feet of the boundaries of the Project Site, all property owners within the Lanham Village neighborhood, all public agencies potentially serving or having some oversight of the Project, all responsible and trustee agencies, the county clerk of the County of Marin, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation, on April 27, 2017. In addition, notice was emailed to the Hamilton Forum, interested parents of children at the Novato Charter School, and officials with the North Bay Children's Center, Novato Charter School and Novato Unified School District who had requested notification by email on April 27, 2017; and

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission did recommend the City Council adopt the Revised Initial Study/Mitigated Negative Declaration for the Project and did consider the Revised IS/MND prior to making a recommendation on the use permit at issue herein.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby finds and resolves as follows:

Section 1. Recitals

The foregoing recitals are true and correct and are incorporated into the findings herein.

Section 2. Record

The Record of Proceedings ("Record") upon which the Planning Commission bases its recommendation includes, but is not limited to: (1) the Revised Initial Study/Mitigated Negative Declaration and its Errata (collectively "Revised IS/MND") and the appendices and technical reports cited in and/or relied upon in preparing the Revised IS/MND, (2) the draft Remedial Action Plan, its accompanying Soil Management Plan and Sampling and Analysis Plan, and the letter of conditional concurrence from the Regional Water Quality Control Board, (3) the staff reports, City files and records and other documents prepared for and/or submitted to the City relating to the Revised IS/MND and the Project's soil remediation and development entitlement requests (4) the evidence, facts, findings and other determinations set forth in this resolution, (5) the City of Novato 1996 General Plan and its related EIR, the Novato Municipal Code, the Final Environmental Impact Statement for the Disposal and Reuse of the Department of Defense Housing Facility, and the Final EIR for the Hamilton Field Redevelopment Project, (6) all designs, plans, studies, data and correspondence submitted to the City in connection with the Revised IS/MND, the Project, and the Project's soil remediation and development entitlement requests (7) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the Revised IS/MND, the Project, and the Project's soil remediation and development entitlement requests (8) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

The location and custodian of the records is the Novato Community Development Department, 922 Machin Avenue, Novato, California, 94945.

Section 3. Use Permit Findings

The Planning Commission hereby makes the following findings as required by Section 19.42.050 of the Novato Municipal Code with respect to the use permit at issue herein based on the evidence contained in the Record which is herein incorporated by reference:

1. The proposed use is consistent with the General Plan and any applicable specific plan;

The Novato General Plan does not provide goals, objectives, policies, or programs directly addressing the remediation of properties contaminated with hazardous materials. However, the General Plan does present objectives, policies, and programs addressing the protection of air and

water quality and the transport, storage, and handling of hazardous materials (e.g., a business using and storing hazardous chemicals) that can be applied to the Project. These policies are cited below and are followed by a discussion addressing whether the proposed soil remediation plan is consistent therewith:

> EN Policy 32 Regional Planning to Improve Air Quality. Continue to cooperate with the Bay Area Air Quality Management District (BAAQMD) in implementing the regional Clean Air Plan.
>
> > EN Program 32.1: Use the environmental review process to determine whether air emissions from proposed development would exceed BAAQMD standards.
>
> EN Policy 34 Local Efforts. Encourage local efforts to improve air quality.
>
> > EN Program 34.1: Use the City's development review process and California Environmental Quality Act (CEQA) regulations to evaluate and mitigate the local and cumulative effects of new development on air quality.
> >
> > EN Program 34.2: Continue to include responsible agencies in the review of proposed land uses that would handle, store or transport any potential air pollutant sources such as, but not limited to, lead, mercury, vinyl chloride, benzene, asbestos, beryllium, and all fossil fuels.
> >
> > EN Program 34.3: Continue to require and enforce a dust emissions control plan for construction.

Facts in Support:

Construction Related Criteria Air Pollutants

The Revised IS/MND analyzed the potential air quality impacts of conducting the Project. This analysis included considering criteria air pollutants regulated by BAAQMD and the potential effects of toxic air contaminants (diesel particulate matter) on the public and sensitive receptors in the immediate project vicinity, including the North Bay Children's Center, Novato Charter School, Hamilton Elementary School, and Wonder Nook Preschool (Lanham Village). The analysis addresses project level and cumulative impacts associated with implementation of the Project.

BAAQMD regulates criteria air pollutants, including reactive organic gases (ROG), nitrogen oxides (NO_x), and fine particulate matter ($PM_{2.5}$) and (PM_{10}). Accordingly, BAAQMD has established thresholds of significance for each of these criteria pollutants. The thresholds of significance are applicable to the dust and exhaust emissions generated by construction equipment. The thresholds are measured in average pounds per day for each criteria pollutant, including: 54

pounds for ROG, NO_x, and $PM_{2.5,}$ and 82 pounds for $PM_{10.}$ These criteria pollutant levels represent both a project specific and cumulative impact threshold.

According to the Revised IS/MND, the Project would generate the following average daily criteria pollutant emissions: 2.7 pounds for ROG, 29.3 pounds for NO_x, 1.3 pounds for $PM_{2.5,}$ and 1.3 pounds for $PM_{10.}$ These findings indicate that implementation of the Project would not result in criteria air pollutant emissions exceeding BAAQMD thresholds at the project level or in the cumulative condition.

Fugitive Dust Emissions

The Revised IS/MND analyzed the potential for implementation of the Project to generate dust. According to the Revised IS/MND, implementation of the Project has the potential to generate dust (PM_{10}) through the operation of construction equipment and movement of soil. Although, as discussed above, daily average PM_{10} levels were found to fall within the applicable threshold established by BAAQMD, the Revised IS/MND identified the release of fugitive dust as a potentially significant impact. Accordingly, the Revised IS/MND recommended mitigation measures to minimize the potential for fugitive dust. These mitigations measures are identified in the Revised IS/MND as Mitigation Measures AIR-1 and HAZ-1.

Mitigation Measure AIR-1 requires, among other measures, the following: a) dust control measures, including, but not limited to watering exposed soils, wet sweeping of roadways, and the placement of covers over trailers carrying soil, sand, or other loose material; b) all excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph; c) stockpiled soil, if any, shall be covered with plastic sheeting, or other similar material when not being actively worked on for more than 60 minutes and at the end of the work day; and d) the posting of a sign with contact information of the person representing the project sponsor through which complaints regarding dust may be submitted and subsequently remedied. The project sponsor must respond and take corrective action within one (1) hour of receiving a dust complaint.

Mitigation Measure HAZ-1 requires the following:

HAZ-1a: Prior to the City issuing any permits for remediation activity at the site, the applicant shall provide the City with written documentation from the Regional Water Board and/or DTSC [Department of Toxic Substances Control] that the RAP [Remedial Action Plan], including a final SMP [Soil Management Plan] and SAP [Sampling and Analysis Plan], has been approved.

HAZ-1b: Prior to the City issuing any permits for remediation activities at the site, the City shall contract with an independent, qualified environmental monitor, at the applicant's expense, to prepare a comprehensive safety and monitoring program and to be present at the site during all remedial activities. The environmental monitor shall prepare a safety and monitoring plan and conduct remediation monitoring which meets the following minimum requirements, subject to the review and approval by the Regional Water Board, DTSC, and the City of Novato:

a. The monitor will develop a comprehensive monitoring plan detailing actions required during remediation to protect off-site receptors from contaminants potentially released during excavation and other earthmoving activities. At a minimum, the safety and monitoring plan shall address:

1. The installation and maintenance of pre-remediation safety measures, including, but not limited to, placing plastic sheeting or other acceptable barriers over outdoor eating surfaces, play equipment and vegetable beds at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, the community garden at Lanham Village, and Hamilton Elementary School prior to the start of each weekend work session;

2. Monitoring of the third party dust control subcontractor (Mitigation Measure HAZ-1d) to insure implementation, at a minimum, of the dust and odor control measures specified in Mitigation Measure AIR-1 and the measures specified in the RAP (see SMP- Section 6.4.1) during any remediation activities (weekends only; see HAZ-1c below) and over the weekdays between remediation work periods. The third party dust control subcontractor shall also ensure: a) water for dust control is monitored to ensure an application rate that prevents runoff to off-site locations, discharge to storm drain, or any nearby water features (e.g., Pacheco Creek); and b) tarps are placed over all excavation pits after the completion of each day's remediation activities.

3. Implementation of the groundwater control and disposal and storm water pollution prevention protocols specified in the RAP (see SMP Sections 6.4.6 and 6.4.7) and Mitigation Measure HYD-1 (discussed below) during the remedial phase.

4. Specifications for the application of non-toxic VOC vapor suppressants during soil excavation and hauling, including application to excavation sidewalls and pits during non-construction hours.

5. The establishment and implementation of perimeter air monitoring protocols for lead and other heavy metals, asbestos, particulate matter, and organic vapor consistent with monitoring provisions specified in the RAP (see SMP Section 6.4.2), including the addition of the following supplemental provisions:

   i) Upwind and downwind sampling stations along the site perimeter that shall be active during all remedial earthmoving work and require results to be compared daily to background levels (measured prior to construction as part of the monitoring plan) to evaluate the effectiveness of the engineering and dust control measures implemented during remedial activities;

ii) Monitoring equipment shall include an anemometer and wind vane to establish wind speed and direction, real-time particulate monitors (Met One E-BAM or equivalent), lead and asbestos air samplers (BGI PQ100 or equivalent), real-time photoionization organic vapor detectors (RAE UltraRAE 3000 or equivalent), and an X-ray fluorescence (XRF) analyzer to determine the presence of heavy metal contaminants in air particulate samples.

iii) Particulate matter and organic vapor shall be monitored in real time, while two perimeter heavy metals (Title 22 list) and asbestos samples shall be collected during each day's remedial activities using methodology designed to represent the worst-case exposures for that work day. The heavy metals and asbestos samples shall be analyzed using the quickest available laboratory turnaround time.

6. The environmental monitor shall make provisions to maintain an inventory of back-up monitoring and testing equipment at the project site during remedial activities. Should monitoring equipment fail and a replacement device(s) is not immediately available then all remedial work shall be stopped pending replacement of the monitoring equipment.

7. The establishment of perimeter action levels for lead, asbestos, heavy metals, particulate matter, and organic vapor to be protective of human health and the environment, based on established health and safety standards. The following minimum action levels shall be included in the monitoring plan:

i) For lead and particulate matter, action levels shall be the strictest ambient air standard from U.S. EPA or the BAAQMD: 0.15 µg/m3 for lead and 20 µg/m3 for particulate matter (as PM10) measured at downwind locations. With the exception of lead, no ambient air quality standards have been established for heavy metals. Accordingly, any exceedance of perimeter heavy metals concentrations above background levels (measured before remedial activities at the upwind and downwind perimeter locations specified in the environmental monitoring plan) shall also represent an exceedance under the monitoring plan.

ii) No ambient air quality standards have been established for asbestos. Accordingly, any exceedance of perimeter asbestos above background levels (measured before remedial activities at the upwind and downwind perimeter locations specified in the environmental monitoring plan) shall represent an exceedance under the monitoring plan.

iii) No ambient air quality standards have been established for organic vapor. Accordingly, any exceedance of perimeter organic vapor above background levels (measured before remedial activities) measured at downwind locations shall represent an exceedance under the monitoring plan.

8. The assignment of specific corrective measures/procedures to be implemented if a perimeter action level is exceeded during remedial activities. If a perimeter action level is exceeded, the environmental monitor shall stop all work, assess the problem, and direct corrective action(s). Corrective actions may include, but are not limited to: increasing the frequency of dust control measures, modifying dust control procedures, changing soil removal procedures, and/or directing the use of alternate construction equipment or methods. The environmental monitor shall recheck perimeter air monitoring levels to determine if the selected corrective actions have been effective.

9. The development of emergency response protocols be implemented should there be an accidental release of contaminated soil and/or groundwater or a dust control problem, that in the opinion of the environmental monitor, City, Regional Water Board, or DTSC, represents an immediate threat to the public or causing contamination of an off-site location warranting the immediate notification of representatives of Lanham Village, the Director of the Novato Charter School, the Director of the North Bay Children's Center, the Superintendent of the Novato Unified School District, and the City's Community Development Director. The emergency response protocols must specify the channels of communication through which notification and safety guidance will be delivered and establish directives for each organization to advise their respective stakeholders (e.g., parents, residents) of the emergency situation.

10. The development and implementation of post-remediation work hygiene protocols, including, but not limited to, the proper removal of plastic sheeting or other barriers placed over outdoor eating surfaces, play equipment, and vegetable beds at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, the community garden at Lanham Village, and Hamilton Elementary School and the wiping down of all outdoor eating surfaces and play equipment at the noted children's facilities. The post-remediation hygiene protocol shall be conducted at the close of each weekend work period.

11. The establishment of procedures addressing the notification and identification of unknown environmental features (e.g., stained or odorous soil, tanks, etc.). At a minimum, the monitoring plan shall incorporate such procedures from the RAP with the added conditions of requiring notification of the City of Novato, Regional Water Board, and any other agency with potential jurisdiction over the environmental feature.

b. The environmental monitor shall be present during all remediation work to ensure all components of the safety and monitoring plan and final RAP are implemented and maintained throughout the remediation phase. At a minimum, the environmental monitor shall perform the following activities:

1. The environmental monitor shall be responsible for reporting directly to the City and shall have the authority to: a) direct the start of each remediation work day after confirming implementation of all pre-remediation safety measures; b) direct corrective action to maintain compliance with the monitoring plan; c) stop work at the project site for any violation of the monitoring plan protocols or an exceedance of the perimeter contaminant threshold(s) established in the monitoring plan; and d) monitor and confirm compliance with post-remediation work hygiene procedures and release of remediation personnel once such work is deemed complete. The applicant and its remediation contractor/subcontractors shall acknowledge and agree in writing that the environmental monitor has such authorities and will not be obstructed from exercising oversight and direction relating to the monitoring of the remediation phase.

2. The environmental monitor shall maintain a log of the events of each remediation workday, including the results of air monitoring readings as required by the SMP (see SMP Section 6.4.5) and provide a report to the Community Development Director, the Regional Water Board, and Department of Toxic Substances Control regarding compliance with the monitoring plan and testing results.

3. The environmental monitor shall observe and ensure the proper removal and disposal of any floor tiles or remnants thereof affixed to or visible in the vicinity of the foundation slab of the former gas station at the project site. The removal and disposal shall be conducted in accordance with Cal/OSHA Construction Safety Orders for Lead (Title 8, California Code of Regulations, Section 1532.1). The removal process shall be completed prior to the initiation of other remedial activities at the project site to avoid pulverizing the tile.

HAZ-1c: Excavation, grading, loading, and off-hauling of any contaminated soils during the remediation phase of the project or any subsequent remedial activities shall only be conducted on Saturdays and Sundays when children are not present at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, and Hamilton Elementary School. The acceptable hours of operation for such weekend work shall be 10 a.m. to 5 p.m. with permission to perform remediation activities on Sundays granted by the Community Development Director pursuant to Novato Municipal Code Section 19.22.070, as discussed in the Noise Section of the IS/MND.

HAZ-1d: The applicant shall contract with a third-party dust control subcontractor whose sole responsibility is to implement the dust control procedures specified in Mitigation Measure AIR-1 and the RAP. The dust control subcontractor shall ensure adequate equipment and water supplies are available prior to the start of work and at all times during the remediation phase to properly suppress dust. The dust control subcontractor shall be subject to oversight by the environmental monitor (Mitigation Measure Haz-1b) who has authority to direct corrective actions to ensure proper dust suppression. Such authority shall be confirmed in the contract between the applicant and said dust control contractor.

HAZ-1e: A public notice shall be mailed by the City on behalf of the applicant to all property owners of record within a 1,000-foot radius of the project site and operators of all facilities serving children within this radius announcing the date of initiation of remediation activities. Said notice shall include contact information for the environmental monitor required by Mitigation Measure Haz-1b. The notice shall also list contact numbers of representatives of the applicant, the remediation contractor, the City of Novato, the BAAQMD, the Regional Water Board, and DTSC. Said notice shall be mailed no less than thirty (30) calendar days before the scheduled initiation of remediation activities.

HAZ-1f: The applicant shall post signs at the project site, North Bay Children's Center, Hamilton Elementary School, Novato Charter School, Wonder Nook Preschool, the community garden at Lanham Village, and the South Novato Library advising of the dates that remediation work will occur and listing contact information for: the applicant's representative, the City of Novato, the BAAQMD, the Region Water Board, DTSC, and the project's environmental monitor. The text of the signs shall be submitted to the Community Development Director for review and approval. Signs shall be posted no less than thirty (30) calendar days prior to the scheduled initiation of remediation activities and shall remain place throughout the remediation phase.

HAZ-1g: The applicant shall conduct a post-remediation human health risk assessment (HHRA) as specified in the RAP to evaluate the post-remediation concentrations of soil, groundwater, and soil vapor contaminants at the site, including testing of any locations where soils not removed during remediation activities were previously found to contain contaminant concentrations above Regional Water Board Environmental Screening Levels for residential land uses. The HHRA shall be reviewed by the DTSC.

Implementation of AIR-1 and HAZ-1 would minimize the potential release of fugitive dust due to the Project. These mitigation measures are listed as conditions of approval to this Use Permit.

Toxic Air Contaminants

The Revised IS/MND analyzed the potential for implementation of the Project to result in the exposure of the public and sensitive receptors at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, and Hamilton Elementary School to toxic air contaminants (TAC) resulting in health risks exceeding thresholds established by BAAQMD. Toxic air contaminants of concern include diesel particulate matter (DPM) and $PM_{2.5}$ that result from vehicle exhaust emissions.

The TAC modeling analysis for the Project considered project level and cumulative TAC levels, including the operation of the Sonoma Marin Area Rail Transit (SMART) trains and U.S. Highway 101 (exhaust emissions). The model information was used to calculate cancer risk, hazard index for non-cancer risk, and average daily $PM_{2.5}$ emission (in pounds). The TAC model factored for the current location of the North Bay Children's Center, as well as a possible nearby temporary location for this facility assuming a planned renovation moves forward.

The Revised IS/MND concluded implementation of the Project could result in 17.9 excess cancer cases per million for an infant exposure at the North Bay Children's Center (current location) and 10.3 excess cancer cases per million at the Center's possible temporary location. All other receptors (e.g., adults, children) were found to be below the BAAQMD threshold for project level cancer risk. Additionally, the Revised IS/MND determined Project generated TACs fell below the BAAQMD's Hazard Index and $PM_{2.5}$ thresholds for all receptors, including an infant at the North Bay Children's Center. The Revised IS/MND determined the Project would not exceed BAAQMD's thresholds for cumulative TAC risks, including cancer risk, hazard index, and $PM_{2.5}$.

The Revised IS/MND recommends implementation of Mitigation Measures AIR-1 and AIR-2 to minimized the potential for the release of dust and reduce exhaust emissions from off-road construction vehicles. As discussed above, Mitigation Measure AIR-1 consists of implementation of BAAQMD's standard and enhanced dust control measures. Mitigation Measure AIR-2 focuses on actions to reduce exhaust emissions from the Project's off-road construction equipment by a fleet-wide average of 45-percent. This level of exhaust reduction can be achieved by utilizing equipment with engines meeting U.S. EPA standards for $PM_{2.5}$ emissions and/or utilizing diesel particulate filters certified by the California Air Resources Board (CARB). With implementation of Mitigation Measures AIR-1 and AIR-2, excess cancer risk would be 4.0 excess cancer cases per million, which is under BAAQMD's threshold of 10.0 excess cancer cases per million. These mitigation measures are listed herein below as conditions of approval to the requested use permit for the Project.

Agency Coordination

The City coordinated with the Regional Board to develop Mitigation Measures AIR-1, AIR-2, and HAZ-1. The Regional Board is a "Responsible Agency" under CEQA and is the state agency responsible for considering and permitting the Project on behalf of the California Department of Toxic Substances Control and Navy. In this capacity, the Regional Board will rely on the Revised IS/MND for its own permitting process. Mitigation Measures AIR-1, AIR-2, and HAZ-1, as conditioned herein, reflect input from Regional Board. The Regional Board had no comments on the analysis and findings of the Revised IS/MND.

The Revised IS/MND was circulated for public and agency review over a 30-day period between October 14, 2016, and November 14, 2016. Agencies advised of the Revised IS/MND's availability for review included the California Department of Toxic Substances Control, Navy Base Realignment and Closure Program, and the Bay Area Air Quality Management District, all of which have the authority to comment on air quality issues. These agencies did not submit comments regarding the Revised IS/MND or Mitigation Measures AIR-1, AIR-2, and HAZ-1. Accordingly, these agencies are considered to be satisfied with the analysis and findings of the Revised IS/MND and Mitigation Measures AIR-1, AIR-2, and HAZ-1.

Based on the facts above, the Project is considered to be consistent with General Plan EN Policy 32, EN Program 32.1, EN Policy 34, EN Program 34.1, EN Program 34.2, and EN Program 34.3.

EN Policy 35 Watershed Management. Minimize the effects of pollution in stormwater runoff. Retain and restore where feasible the natural hydrological characteristics of watersheds in the Novato Area of Interest.

EN Policy 36 Point Source Pollution. Continue to prohibit discharges of any substances other than stormwater and prevent illicit dumping of wastes into storm drains and creeks.

EN Policy 37 Using CEQA to Reduce Water Quality Impacts. Use the provisions of the California Environmental Quality Act (CEQA) process to identify measures to prevent erosion, sedimentation, and urban runoff pollution resulting from development.

EN Program 37.1: Include analysis and mitigation measures to reduce the harmful effects of runoff as part of project review.

Facts in Support: As discussed in Section IX, Hydrology and Water Quality, of the Revised IS/MND, the Project could cause impacts to water quality as a result of the soil remediation excavations required to remove and replace contaminated soil. However, the Revised IS/MND concluded the Project would not have significant impact on water quality due application of the requirements of the National Pollutant Discharge Elimination System (NPDES) Program (established through the federal Clean Water Act), Marin County Stormwater Pollution Prevention Program (MCSTOPPP), RWQCB's Construction General Permit, RWQCB's Remedial Action Plan, and Mitigation Measures HAZ-1, HYD-1, and GEO-2. These requirements include the following key components:

- Preparation, approval, and implementation of a Stormwater Pollution Prevention Plan (SWPPP) prescribing best management practices to control stormwater run-off, prevent soil erosion/siltation, ensure the proper storage of fuels and lubricants for construction equipment, and requiring regular maintenance of construction vehicles. Best management practices include, but are not limited to the installation of silt fences, straw wattles, tarping of soil stockpiles, drain inlet filters, rock stabilized driveways, and fuel/lubricant storage lockers;

- On-site environmental monitor, who, among other responsibilities, will observe the application rate of water for dust control to avoid the generating run-off that could reach off-site locations, discharge to storm drains, or enter nearby water features (e.g., Pacheco Creek);

- Implementation of the groundwater control and disposal protocols specified in the Project's Remedial Action Plan (see Soil Management Plan Sections 6.4.6 and 6.4.7) consisting of pumping any groundwater into a holding tank, characterizing the water for disposal, and

removing the water from the site by an appropriate disposal company based on the results of characterization;

Mitigation Measures HAZ-1, HYD-1, and GEO-2 are required as conditions of approval applicable to this Use Permit.

Based on the facts above, the Project is considered to be consistent with General Plan EN Policy 35, EN Policy 36, EN Policy 37, and EN Program 37.1.

SF Objective 8 Reduce hazards of transportation, storage and disposal of hazardous wastes and hazardous materials.

SF Policy 28 Measures to Reduce Hazards. Consider measures to protect the public health from the hazards associated with the transportation, storage and disposal of hazardous wastes (TSD Facilities).

SF Program 28.1: Continue to refer land use and transportation decisions and other programs involving hazardous materials regulations to the appropriate agencies.

SF Policy 30 Hazardous Materials Storage. Strictly regulate the storage of hazardous materials.

SF Policy 31 Truck Routes for Hazardous Materials Transport. Develop, in cooperation with the County and neighboring cities, regulations prohibiting through-transport by truck of hazardous materials on the local street systems and requiring that this activity be limited to State highways.

Facts in Support: Safety Chapter Objective 8, SF Policy 28, SF 28.1, SF Policy 30, and SF Policy were not developed to address the remediation of contaminated sites, but rather businesses involving the manufacture, use, or disposal of hazardous materials, such as a pesticide production plant. However, recognizing the noted objective, polices, and program are intended to protect public health and safety related to the handling of hazardous materials it is reasonable to apply these components of the General Plan to the Project.

The Project involves the removal and disposal of approximately 2,800 cubic yards of contaminated soil. Contaminated soil would be removed with an excavator, placed in trucks, and hauled to a disposal facility certified for the type of petroleum contaminants found at the Project Site. These activities could expose the public, including infants and children at several nearby school and daycare facilities, to contaminated dust, airborne diesel particulate matter associated with operation of construction equipment, and potentially groundwater containing MTBE. Given this circumstance, the Revised IS/MND recommends Mitigation Measures AIR-1, AIR-2, GEO-2, HAZ-1, and HYD-1 be implemented in conjunction with the requirements of Project's Remedial Action Plan to avoid the potential exposure of the public and sensitive receptors to contaminants.

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Of the mitigation measures noted above, Mitigation Measure HAZ-1 is specifically addressed to hazardous materials. This mitigation measures addresses requests made by the Novato Unified School District, comments made by the public at the various meetings conducted for the Project, and recommendations from the Regional Board. As a result, Mitigation Measure HAZ-1 combines precautionary actions (e.g., perimeter air monitoring) with close oversight by a third-party environmental monitor. Key components of Mitigation Measure HAZ-1 include (see Finding No. 1 above for full text of Mitigation Measure HAZ-1):

- Remediation work only permitted on weekends when children are not present at neighboring school and day care facilities
- Pre-remediation safety – tarp play equipment, eating surfaces , and vegetable gardens
- Post-remediation safety – wipe down play equipment & eating surfaces
- Third party dust control contractor – sole function is dust control
- Application of non-toxic vapor suppressants
- Tarping open excavation pits
- Upwind & downwind air monitoring – lead, asbestos, heavy metals, particulates, & organic vapors
- Emergency response protocols – official contacts & distribution actions
- Public notice 30-days prior to remediation work
- Sign postings – remediation dates & contacts
- Health risk assessment – post remediation

Mitigation Measures AIR-1, AIR-2, GEO-2, HAZ-1, and HYD-1 are required as conditions of approval applicable to this Use Permit.

Based on the facts above, the Project is considered to be consistent with the intent of General Plan Safety Objective 8, SF Policy 28, SF Program 28.1, SF Policy 30, and SF Policy 31.

> SF Policy 38 Noise Reduction and Mitigation. Mitigate noise exceeding standards and significant noise impacts to the maximum feasible extent.

Facts in Support: The Project requires the operation of construction vehicles to remove contaminated soil from the Project Site. These vehicles will generate noise audible to nearby

residences in the Lanham Village and Meadow Park neighborhoods. Vehicle noise associated with the Project would be temporary and would extend over six (weekend days) with construction hours of 10 AM to 5 PM. Notably, remediation activities would occur on Sundays, when construction work is typically prohibited in Novato. Novato Municipal Code Section 19.22.070 – *Noise and Construction Hours* allows the Community Development Director or other review authority (e.g., Planning Commission) to authorize alternative or expanded construction days and hours.

Allowing work on Sundays is considered to be acceptable in this instance since: a) remediation activities are intentionally limited to weekends as means of avoiding work when infants and children are present at nearby school and daycare facilities; b) only three (3) Sundays are required to complete the removal of contaminated soil; c) remediation work hours are limited to 10 AM to 5 PM to avoid quieter periods of early morning and evening; and d) implementation of Mitigation Measure NOI-2 would require construction equipment to be properly muffled, as well as designation of a project contact who can be called to address a Project related noise issue.

Based on the facts above, the Project is considered to be consistent with SF Policy 8.

CI Objective 11 Preserve archaeological and historic resources.

CI Policy 30 Archaeological Resources Protection: Continue to protect archaeological resources.

CI Program 30.1: Require that areas found to contain significant historic or prehistoric artifacts be examined by a qualified consulting archaeologist.

CI Program 30.2: Require development applicants to research records for sites identified as having a potential for archaeological resources, to determine if a survey has been made and if resources have been identified. If there has been no survey, the City may require that the applicant conduct one.

CI Program 30.3: Halt all work if archaeological resources are uncovered during construction, and require an evaluation by a qualified archaeologist prior to recommencing construction.

CI Program 30.5: If site has potential for archeological considerations, institute measures to protect these resources.

Facts in Support: The Project involves excavation at the Project Site. Any time a project involves grading and/or excavation activities there is the potential to encounter buried archeological or paleontological resources. The Revised IS/MND analyzed the potential for archeological and paleontological resources to exist at the Project Site. The Revised IS/MND conclude there are no known archeological or paleontological areas located within the Project Site, but did not rule-out the possibility of unknown, buried archeological or paleontological resources being located thereon. Given this circumstance, the Revised IS/MND recommends implementation of Mitigation

Measures CULT-1, CULT-2, and CULT-3. These mitigation measures establish procedures to undertake if a suspected archeological or paleontological resources is encountered during excavation, including human remains. The procedures include, but are not limited to:

- stopping work in the vicinity of a suspected cultural or paleontological resource
- evaluation of a suspected resource find by a qualified archeologist or paleontologist
- contacting the county coroner if human remains are located
- contacting the Native American Heritage Commission if burial is that of a Native American

Mitigation Measures CULT-1, CULT-2, and CULT-3 are required as conditions of approval applicable to this Use Permit.

Based on the facts above, the Project is considered to be consistent with General Plan Community Identity Chapter Objective 11, Policy 30, and Programs 30.1, 30.2, 30.3, and 30.5.

2. The proposed use is allowed with a Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Ordinance and any relevant Master Plan and/or Precise Development Plan;

Facts in Support: Novato Municipal Code Section 19.20.050 – Grading, stipulates that any grading activity involving the movement of more than 200 cubic yards of soil must obtain a use permit. The Project involves the movement of approximately 2,800 cubic yards of contaminated soil. Accordingly, a use permit is required for the Project. Section 19.20.050 of the Municipal Code does not specify any particular requirements with respect to the conduct of grading activities instead deferring to the use permit process as the means through which conditions of approval may be applied to the activity. In this instance, the mitigation measures applicable to the soil remediation phase are proposed as conditions of approval to the requested use permit.

3. The establishment, maintenance or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;

4. The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and

Facts in Support (Findings 3 & 4): As discussed under Finding No. 1 above, the Project could expose the public, including infants and children at nearby school and daycare facilities, to dust and airborne diesel particulate matter, and potentially groundwater containing MTBE. These hazards represent a potential threat to public health, safety, and welfare, as well as property and improvements in the vicinity. In addition, the Project will generate temporary noise associated with the use of construction vehicles and equipment.

The Revised IS/MND prepared for the Project discloses the potential impacts noted above and recommends the implementation Mitigation Measures AIR-1, AIR-2, GEO-2, HAZ-1, HYD-1, and NOI-2 to protect public health, safety, and welfare, as well as property and improvements in the neighborhood. Implementation of these feasible mitigation measures will ensure: a) work is conducted at time when the most sensitive receptors, infants and children, are not present at the school and daycare facilities near the Project Site; b) proper procedures are observed by the personnel performing the soil remediation at the Project Site; b) the installation, use, and maintenance of protective measures and safety equipment; and c) close oversight by an independent environmental monitor with the authority to direct the work of remediation personnel, require changes to work procedures or equipment, and, if necessary, stop remediation work to protect public safety; and d) the use of appropriate mufflers and sound attenuation procedures minimize construction vehicle and equipment noise. The Project will not be detrimental to the health, safety, or general welfare of the public or property and improvements in the vicinity of the Project with implementation of the noted mitigation measures. The mitigation measures are conditions of approval the Use Permit at issue herein.

5. The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

Facts in Support: The Project is a temporary activity that is anticipated to require three weekends to complete. During this timeframe, the removal of contaminated soil will be subject to mitigation measures/conditions of approval providing enhanced safety features and monitoring to protect the health, safety, and welfare of nearby residents as discussed in the preceding findings above. The short duration of the Project combined with its prescribed mitigation measures/conditions of approval ensure compatibility with existing land uses in the vicinity.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission hereby recommends the City Council grant a use permit to allow the Project, based on the findings set forth herein and subject to the conditions of approval below:

Section 4. Conditions of Approval and Limitations

The Planning Commission hereby recommends the City Council apply the following conditions of approval to the use permit:

1. This Use Permit shall expire and become void if the permit is not exercised within one (1) year of the date of approval, except where a time extension is approved (Novato Municipal Code Section 19.44.040).

2. This Use Permit shall not become effective until all appropriate fees billed by the City of Novato to the application account are paid in full in accordance with the City's Cost Base Fee System. Failure to pay said fees may result in the City withholding issuance of related building permits, certificate of occupancy, recordation of final maps, or other entitlements.

3. If any of the terms of this Use Permit are violated or if the remediation activities are conducted or carried out in a manner so as to adversely affect the public health, safety, or welfare, the Use Permit may be subject to the revocation procedures contained in the Novato Municipal Code sections 19.42.050.G and 19.59.070.B.

4. The applicant shall obtain a grading permit from the Public Works Department prior to any excavation, fill or grading. The applicant shall submit grading plans prepared by a California Registered Civil Engineer with the grading permit application. The grading plans shall include an erosion control and sediment prevention plan.

5. The Applicant shall be responsible for all Public Works Department plan check, permit and inspection costs. The Applicant shall either pay the current fees of enter into a Cost Recovery Agreement and deposit funds with the Public Works Department upon the initiation of plan check services. The amount of the initial deposit shall be determined by the City Engineer. Additional funds may be required based upon actual plan check and inspection costs.

6. A detailed Soils Investigation/Geotechnical Report shall be prepared and submitted for review by the Public Works Department with the initial submittal of the grading plans. The report shall address, at a minimum, potential for liquefaction, R-values, expansive soils and seismic risk relative to the planned residential development of the site. The grading plans shall incorporate all design and construction criteria recommended in the Geotechnical Report that are relevant to the grading and filling of the site.

7. Where soil or geologic conditions encountered in grading operations are different from that anticipated in the soil and/or geologic investigation report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the City Engineer.

8. As part of the grading permit application, the applicant shall submit a copy their Storm Water Pollution Prevention Plan (SWPPP) prepared by a Qualified SWPPP Developer. Prior to the approval of the grading permit, the applicant shall obtain coverage under the State Water Quality Control Board's General Construction Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order 2009-0009-DWQ) and shall submit a copy of the Notice of Intent (NOI) and the WDID #.

9. Utilities to be abandoned shall be removed, filled with suitable material and/or capped to the approval of the applicable utility agency and to the approval of the City Engineer.

10. A City of Novato Encroachment Permit shall be obtained prior to any grading, trenching, pavement, construction of improvements or any other work in the public right-of-way.

11. Upon completion of the grading activities, the Applicant shall clean, repair, or reconstruct

all curb, gutter, and sidewalk determined by the City Engineer to have been damaged in conjunction with the grading activities.

12. Mitigation Measure AIR-1: The project applicant shall institute a dust control program during the construction phase of the project. Elements of the dust control program shall include, but not necessarily be limited to, the following:

    a. An inventory of construction equipment and schedule for equipment use shall be submitted to the City of Novato before issuance of demolition and/or grading permits. See Mitigation Measure AIR-2 for further requirements.

    b. All exposed surfaces (i.e., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered using recycled water as necessary to control dust.

    c. All haul trucks transporting soil, sand, or other loose material off-site shall be covered and anchored to prevent exposure.

    d. All visible mud or dirt tracked out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day or more frequently should mud or dirt be visible on adjacent roads. The use of dry power sweeping shall be prohibited.

    e. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.

    f. All paving shall be completed as soon as possible. All exposed soil shall be stabilized (e.g. hydroseeding or soil binders) until the building pad is laid.

    g. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

    h. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

    i. A publicly visible sign shall be posted with the name and telephone number of the person representing the project sponsor to contact regarding dust complaints. This person shall respond and take corrective action within one (1) hour of receiving a complaint. The Bay Area Air Quality Management District (BAAQMD) and City of Novato phone number shall also be visible to ensure compliance with applicable regulations.

j. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe. Water for dust control will be monitored to ensure an application rate that prevents runoff to off-site locations, discharge to storm drain, or any nearby water features (e.g., Pacheco Creek).

k. Stockpiled soil, if any, will be covered with plastic sheeting, or other similar material, at the end of each workday. A stockpile that is known to be inactive shall be immediately covered with plastic sheeting or a similar material. A stockpile that is not being actively worked on for more than 60 minutes will be covered with plastic sheeting or a similar material to prevent dust from leaving the Site.

l. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.

m. Wind breaks (e.g., fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.

n. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted immediately in areas with exposed soil and no further soil disturbance is anticipated and watered appropriately until vegetation is established.

o. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.

p. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.

q. Site accesses from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.

r. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent (see Mitigation Measure HYD-1 regarding the implementation of a Stormwater Pollution Prevention Plan (SWPPP) and Stormwater Control Plan).

13. Mitigation Measure AIR-2: The applicant shall develop a plan for the project demonstrating that the off-road equipment to be used on-site to construct the project would achieve a fleet-wide average 45 percent reduction in PM2.5 exhaust emissions or more. One feasible plan to achieve this reduction would include the following:

a. All mobile diesel-powered off-road equipment larger than 50 horsepower and operating on the site for more than two days shall meet, at a minimum, U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent; and

b. All diesel-powered portable equipment (i.e., aerial lifts, air compressors, concrete saws, forklifts, and generators) operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent. Note that the construction contractor could use other measures to minimize construction period DPM emission to reduce the predicted cancer risk below the thresholds. The use of equipment that includes CARB-certified Level 3 Diesel Particulate Filters or alternatively-fueled equipment (i.e., non-diesel) would meet this requirement. Other measures may be the use of added exhaust devices, or a combination of measures, provided that these measures are approved by the City and demonstrated to reduce community risk impacts to a less-than-significant level.

14. Mitigation Measure CULT-1: In keeping with the CEQA guidelines, if archaeological remains are uncovered, work at the place of discovery should be halted immediately until a qualified archaeologist can evaluate the finds (§15064.5 [f]). Prehistoric archaeological site indicators include: obsidian and chert flakes and chipped stone tools; grinding and mashing implements (e.g., slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations and discrete trash deposits (e.g., wells, privy pits, dumps).

15. Mitigation Measure CULT-2: The following actions are promulgated in Public Resources Code 5097.98 and Health and Human Safety Code 7050.5, and pertain to the discovery of human remains. If human remains are encountered, excavation or disturbance of the location must be halted in the vicinity of the find, and the county coroner contacted. If the coroner determines the remains are Native American, the coroner will contact the Native American Heritage Commission. The Native American Heritage Commission will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations regarding the treatment of the remains with appropriate dignity.

16. Mitigation Measure CULT-3: : If paleontological resources are encountered during project construction activities, all soil-disturbing activity within 100 feet of the find shall be temporarily halted until a qualified paleontologist can assess the significance of the find and provide proper management recommendations. The City shall review and incorporate the management recommendations into the project as feasible.

17. Mitigation Measure GEO-2: As a condition of approval of grading and construction

permits, the applicant shall demonstrate compliance with Novato Grading Permit requirements, including Chapters 5-23, 6 and 19-20.050 of the Novato Municipal Code. This shall include a description of required silt, mud, and siltation control measures that will be implemented during construction and necessary erosion control measures on any cut and fill slopes following construction.

18. Mitigation Measure HAZ-1a: Prior to the City issuing any permits for remediation activity at the site, the applicant shall provide the City with written documentation from the Regional Water Board and/or DTSC [Department of Toxic Substances Control] that the RAP [Remedial Action Plan], including a final SMP [Soil Management Plan] and SAP [Sampling and Analysis Plan], has been approved.

19. Mitigation Measure HAZ-1b: Prior to the City issuing any permits for remediation activities at the site, the City shall contract with an independent, qualified environmental monitor, at the applicant's expense, to prepare a comprehensive safety and monitoring program and to be present at the site during all remedial activities. The environmental monitor shall prepare a safety and monitoring plan and conduct remediation monitoring which meets the following minimum requirements, subject to the review and approval by the Regional Water Board, DTSC, and the City of Novato:

    a. The monitor will develop a comprehensive monitoring plan detailing actions required during remediation to protect off-site receptors from contaminants potentially released during excavation and other earthmoving activities. At a minimum, the safety and monitoring plan shall address:

        I. The installation and maintenance of pre-remediation safety measures, including, but not limited to, placing plastic sheeting or other acceptable barriers over outdoor eating surfaces, play equipment and vegetable beds at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, the community garden at Lanham Village, and Hamilton Elementary School prior to the start of each weekend work session;

        II. Monitoring of the third party dust control subcontractor (Mitigation Measure HAZ-1d) to insure implementation, at a minimum, of the dust and odor control measures specified in Mitigation Measure AIR-1 and the measures specified in the RAP (see SMP- Section 6.4.1) during any remediation activities (weekends only; see HAZ-1c below) and over the weekdays between remediation work periods. The third party dust control subcontractor shall also ensure: a) water for dust control is monitored to ensure an application rate that prevents runoff to off-site locations, discharge to storm drain, or any nearby water features (e.g., Pacheco Creek); and b) tarps are placed over all excavation pits after the completion of each day's remediation activities.

        III. Implementation of the groundwater control and disposal and storm water

pollution prevention protocols specified in the RAP (see SMP Sections 6.4.6 and 6.4.7) and Mitigation Measure HYD-1 (discussed below) during the remedial phase.

IV. Specifications for the application of non-toxic VOC vapor suppressants during soil excavation and hauling, including application to excavation sidewalls and pits during non-construction hours.

V. The establishment and implementation of perimeter air monitoring protocols for lead and other heavy metals, asbestos, particulate matter, and organic vapor consistent with monitoring provisions specified in the RAP (see SMP Section 6.4.2), including the addition of the following supplemental provisions:

i) Upwind and downwind sampling stations along the site perimeter that shall be active during all remedial earthmoving work and require results to be compared daily to background levels (measured prior to construction as part of the monitoring plan) to evaluate the effectiveness of the engineering and dust control measures implemented during remedial activities;

ii) Monitoring equipment shall include an anemometer and wind vane to establish wind speed and direction, real-time particulate monitors (Met One E-BAM or equivalent), lead and asbestos air samplers (BGI PQ100 or equivalent), real-time photoionization organic vapor detectors (RAE UltraRAE 3000 or equivalent), and an X-ray fluorescence (XRF) analyzer to determine the presence of heavy metal contaminants in air particulate samples.

iii) Particulate matter and organic vapor shall be monitored in real time, while two perimeter heavy metals (Title 22 list) and asbestos samples shall be collected during each day's remedial activities using methodology designed to represent the worst-case exposures for that work day. The heavy metals and asbestos samples shall be analyzed using the quickest available laboratory turnaround time.

VI. The environmental monitor shall make provisions to maintain an inventory of back-up monitoring and testing equipment at the project site during remedial activities. Should monitoring equipment fail and a replacement device(s) is not immediately available then all remedial work shall be stopped pending replacement of the monitoring equipment.

VII. The establishment of perimeter action levels for lead, asbestos, heavy metals, particulate matter, and organic vapor to be protective of human health and the environment, based on established health and safety standards. The following minimum action levels shall be included in the monitoring plan:

i) For lead and particulate matter, action levels shall be the strictest ambient air standard from U.S. EPA or the BAAQMD: 0.15 µg/m3 for lead and 20 µg/m3 for particulate matter (as PM10) measured at downwind locations. With the exception of lead, no ambient air quality standards have been established for heavy metals. Accordingly, any exceedance of perimeter heavy metals concentrations above background levels (measured before remedial activities at the upwind and downwind perimeter locations specified in the environmental monitoring plan) shall also represent an exceedance under the monitoring plan.

ii) No ambient air quality standards have been established for asbestos. Accordingly, any exceedance of perimeter asbestos above background levels (measured before remedial activities at the upwind and downwind perimeter locations specified in the environmental monitoring plan) shall represent an exceedance under the monitoring plan.

iii) No ambient air quality standards have been established for organic vapor. Accordingly, any exceedance of perimeter organic vapor above background levels (measured before remedial activities) measured at downwind locations shall represent an exceedance under the monitoring plan.

VIII. The assignment of specific corrective measures/procedures to be implemented if a perimeter action level is exceeded during remedial activities. If a perimeter action level is exceeded, the environmental monitor shall stop all work, assess the problem, and direct corrective action(s). Corrective actions may include, but are not limited to: increasing the frequency of dust control measures, modifying dust control procedures, changing soil removal procedures, and/or directing the use of alternate construction equipment or methods. The environmental monitor shall recheck perimeter air monitoring levels to determine if the selected corrective actions have been effective.

IX. The development of emergency response protocols be implemented should there be an accidental release of contaminated soil and/or groundwater or a dust control problem, that in the opinion of the environmental monitor, City, Regional Water Board, or DTSC, represents an immediate threat to the public or causing contamination of an off-site location warranting the immediate notification of representatives of Lanham Village, the Director of the Novato Charter School, the Director of the North Bay Children's Center, the Superintendent of the Novato Unified School District, and the City's Community Development Director. The emergency response protocols must specify the channels of communication through which notification and safety guidance will be delivered and establish directives for each organization to advise their respective stakeholders (e.g., parents, residents) of the emergency situation.

X. The development and implementation of post-remediation work hygiene protocols, including, but not limited to, the proper removal of plastic sheeting or other barriers placed over outdoor eating surfaces, play equipment, and vegetable beds at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, the community garden at Lanham Village, and Hamilton Elementary School and the wiping down of all outdoor eating surfaces and play equipment at the noted children's facilities. The post-remediation hygiene protocol shall be conducted at the close of each weekend work period.

XI. The establishment of procedures addressing the notification and identification of unknown environmental features (e.g., stained or odorous soil, tanks, etc.). At a minimum, the monitoring plan shall incorporate such procedures from the RAP with the added conditions of requiring notification of the City of Novato, Regional Water Board, and any other agency with potential jurisdiction over the environmental feature.

b. The environmental monitor shall be present during all remediation work to ensure all components of the safety and monitoring plan and final RAP are implemented and maintained throughout the remediation phase. At a minimum, the environmental monitor shall perform the following activities:

I. The environmental monitor shall be responsible for reporting directly to the City and shall have the authority to: a) direct the start of each remediation work day after confirming implementation of all pre-remediation safety measures; b) direct corrective action to maintain compliance with the monitoring plan; c) stop work at the project site for any violation of the monitoring plan protocols or an exceedance of the perimeter contaminant threshold(s) established in the monitoring plan; and d) monitor and confirm compliance with post-remediation work hygiene procedures and release of remediation personnel once such work is deemed complete. The applicant and its remediation contractor/subcontractors shall acknowledge and agree in writing that the environmental monitor has such authorities and will not be obstructed from exercising oversight and direction relating to the monitoring of the remediation phase.

II. The environmental monitor shall maintain a log of the events of each remediation workday, including the results of air monitoring readings as required by the SMP (see SMP Section 6.4.5) and provide a report to the Community Development Director, the Regional Water Board, and Department of Toxic Substances Control regarding compliance with the monitoring plan and testing results.

III. The environmental monitor shall observe and ensure the proper removal and disposal of any floor tiles or remnants thereof affixed to or visible in the vicinity of the foundation slab of the former gas station at the project site. The removal and

disposal shall be conducted in accordance with Cal/OSHA Construction Safety Orders for Lead (Title 8, California Code of Regulations, Section 1532.1). The removal process shall be completed prior to the initiation of other remedial activities at the project site to avoid pulverizing the tile.

20. Mitigation Measure HAZ-1c: Excavation, grading, loading, and off-hauling of any contaminated soils during the remediation phase of the project or any subsequent remedial activities shall only be conducted on Saturdays and Sundays when children are not present at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, and Hamilton Elementary School. The acceptable hours of operation for such weekend work shall be 10 a.m. to 5 p.m. with permission to perform remediation activities on Sundays granted by the Community Development Director pursuant to Novato Municipal Code Section 19.22.070, as discussed in the Noise Section of the IS/MND.

21. Mitigation Measure HAZ-1d: The applicant shall contract with a third-party dust control subcontractor whose sole responsibility is to implement the dust control procedures specified in Mitigation Measure AIR-1 and the RAP. The dust control subcontractor shall ensure adequate equipment and water supplies are available prior to the start of work and at all times during the remediation phase to properly suppress dust. The dust control subcontractor shall be subject to oversight by the environmental monitor (Mitigation Measure Haz-1b) who has authority to direct corrective actions to ensure proper dust suppression. Such authority shall be confirmed in the contract between the applicant and said dust control contractor.

22. Mitigation Measure HAZ-1e: A public notice shall be mailed by the City on behalf of the applicant to all property owners of record within a 1,000-foot radius of the project site and operators of all facilities serving children within this radius announcing the date of initiation of remediation activities. Said notice shall include contact information for the environmental monitor required by Mitigation Measure Haz-1b. The notice shall also list contact numbers of representatives of the applicant, the remediation contractor, the City of Novato, the BAAQMD, the Regional Water Board, and DTSC. Said notice shall be mailed no less than thirty (30) calendar days before the scheduled initiation of remediation activities.

23. Mitigation Measure HAZ-1f: The applicant shall post signs at the project site, North Bay Children's Center, Hamilton Elementary School, Novato Charter School, Wonder Nook Preschool, the community garden at Lanham Village, and the South Novato Library advising of the dates that remediation work will occur and listing contact information for: the applicant's representative, the City of Novato, the BAAQMD, the Region Water Board, DTSC, and the project's environmental monitor. The text of the signs shall be submitted to the Community Development Director for review and approval. Signs shall be posted no less than thirty (30) calendar days prior to the scheduled initiation of remediation activities and shall remain place throughout the remediation phase.

24. Mitigation Measure HAZ-1g: The applicant shall conduct a post-remediation human health risk assessment (HHRA) as specified in the RAP to evaluate the post-remediation concentrations of soil, groundwater, and soil vapor contaminants at the site, including testing of any locations where soils not removed during remediation activities were previously found to contain contaminant concentrations above Regional Water Board Environmental Screening Levels for residential land uses. The HHRA shall be reviewed by the DTSC.

25. Mitigation Measure HAZ-2: Prior to the City considering approval of the proposed amendments to the General Plan, Master (Reuse) Plan, or Zoning that would allow residential uses, the applicant shall provide the City with the Certificate of Completion for the RAP for the site, issued by the Regional Water Board and/or DTSC and the Notice of Release or other appropriate instrument on the deed restriction as issued by the Department of the Navy that shows the deed restriction has been removed.

26. Mitigation Measure HYD-1: Mitigation Measure HYD-1: As a condition of approval for grading and construction permits for the project site, the applicant shall demonstrate compliance with current requirements of the Construction General Permit and MS4 Permit including preparation of a Stormwater Pollution Prevention Plan (SWPPP) and a Stormwater Control Plan (SCP). The SWPPP shall be installed and maintained throughout the duration of remediation activities, during the interim period between the remediation and construction phases, and through the entirety of the construction phase of the project.

27. Mitigation Measure NOI-2: Construction equipment shall be well maintained and used judiciously to be as quiet as practical. The following measures, when applicable, shall be followed to reduce noise from construction activities and shall be the responsibility of the project applicant:

    a. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.

    b. Use "quiet" models of air compressors and other stationary noise sources where technology exists.

    c. Locate stationary noise-generating equipment and construction staging areas as far as feasible from sensitive receptors when sensitive receptors adjoin or are near a construction area.

    d. Prohibit unnecessary idling of internal combustion engines.

    e. Designate a "construction liaison" that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone

number for the liaison and the City of Novato at the construction site.

f. Hold a pre-construction meeting with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, construction schedule, and noise coordinator) are completed.

28. Indemnity and Time Limitations

a. The developer and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City and its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees to attack, set aside, void, or annul the Planning Commission's recommendation to the City Council at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the developer, the City, and/or parties initiating or bringing such action.

b. The developer and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City, its agents, employees, and attorneys for all costs incurred in additional investigation of or study of, or for supplementing, preparing, redrafting, revising, or amending any document, if made necessary by said legal action and the developer desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents in a form and under conditions approved by the City Attorney.

c. In the event that a claim, action, or proceeding described in no. a or b above is brought, the City shall promptly notify the developer of the existence of the claim, action, or proceeding, and the City will cooperate fully in the defense of such claim, action, or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action, or proceeding; the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with the developer in the defense of said claim, action, or proceeding. If the City chooses to have counsel of its own to defend any claim, action, or proceeding where the developer has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the developer.

d. The developer and any successor in interest, whether in whole or in part, indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.

e. Unless a shorter limitation period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.

f. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), the conditions constitute written notice of a statement of the amount of such fees and a description of dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

Passed and adopted at a regular meeting of the Planning Commission of the City of Novato held on the _____ day of _____, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

* * * * * *

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of the resolution which was adopted by the Planning Commission, City of Novato, County of Marin, State of California, on the _____ day of _____.

Chairman

Ref:

31
NCP.

Attachment 3

2005-0028508

Recorded
Official Records
County Of
Marin
JOAN C. THAYER
Recorder

08:00AM 20-Apr-2005

REC FEE 97.00
NON-CON 93.00

on
Page 1 of 31

RECORDING REQUESTED BY:
United States of America
Department of the Navy
C/o BRAC Operations Office
1220 Pacific Highway
San Diego, California 92132-5190

WHEN RECORDED, MAIL TO:
Department of Toxic Substances Control
Northern California Region
8800 Cal Center Drive
Sacramento, California 95826
Attention: Anthony J. Landis, P.E., Chief
Office of Military Facilities

San Francisco Bay Regional
Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, California 94612
Attention: Loretta K. Barsamian, Executive Officer

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

COVENANT TO RESTRICT USE OF PROPERTY AND ENVIRONMENTAL RESTRICTION FOR PARCELS 28, 29 AND 30 (aka EXCHANGE TRIANGLE PARCEL 1 – "SALE AREA") AT DEPARTMENT OF DEFENSE HOUSING FACILITY, NOVATO

This Covenant and Agreement ("Covenant") is made by and between the United States of America (the "Covenantor") acting by and through the Department of the Navy ("DON"), the current owner of property situated in the City of Novato, County of Marin, State of California, described in Exhibits "A" attached hereto and incorporated herein by this reference (the "Property"), the State of California acting by and through the Department of Toxic Substances Control (the "Department") and the San Francisco Bay Regional Water Quality Control Board (the "Water Board"). Pursuant to Civil Code section 1471 and California Health and Safety Code ("H&SC") sections 25222.1 and

25355.5, the Department and the Water Board have determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials, as defined in H&SC section 25260, in the groundwater and the soil, and to protect waters of the state in accordance with California Water Code Division 7. In addition, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 104 (42 USC section 9604), as delegated to the Covenantor by E.O. 12580, ratified by Congress in 10 USC Sec. 2701, et seq., and implemented by the National Oil and Hazardous Substances Pollution Contingency Plan (NCP B 40 CFR Part 300) and implementing guidance and policies, the Covenantor has also determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as the result of the presence on the land of hazardous substances, pollutants and contaminants as defined in CERCLA section 101 (42 USC section 9601).

The Covenantor, the Department and the Water Board, collectively referred to as the "Parties", therefore intend that the use of the Property be restricted as set forth in this Covenant, in order to protect human health, safety and the environment.

The Covenantor retains sufficient legal title and interest in the subject property to insure continuing enforcement of the protective covenants and agreements contained within this Covenant to Restrict the Use of Property. Further, in any subsequent transfers or conveyance of title to nonfederal entities the DON shall burden the Property with additional deed covenants that insure that any subsequent deed or transfer contains the protective covenants and right of access and power to conduct monitoring of wastes retained on site. Those covenants and agreements shall be enforceable against the

servient estate in that those protective covenants shall run with the land to all successors and assigns.

ARTICLE I

STATEMENT OF FACTS

1.01 The Property, totaling approximately 2.7 acres, is more particularly described and depicted in Exhibit "A", attached hereto and incorporated herein by this reference. The Property is located at the corner of Main Gate Road and C Street on the former Department of Defense Housing Facility ("DODHF"), City of Novato, County of Marin, State of California.

1.02 The Property is affected by petroleum contamination in soil and groundwater. Petroleum hydrocarbon contamination is present in the soil of all parcels of the Property. Petroleum hydrocarbon and metals-impacted soil is present in the soil under a portion of Building 970 (as depicted in Exhibit "B"). Benzene and Ethylbenzene are each present in groundwater underlying most of the Property and methyl tertiary butyl ether ("MTBE") is present in groundwater underlying all parcels of the Property.[1]

1.03 Subsurface features beneath Building 970 were removed which included three hydraulic lifts, two oil/water separator systems, associated lines, floor drains, and four buried drums (acting as subsurface storage tanks) with associated piping. Overexcavation activities were conducted in accessible areas until contaminant concentrations were below the screening criteria summarized in Exhibit "D". To protect

[1] Figures 3 and 4 of the Finding of Suitability of Transfer (FOST), Exhibit "C", show the extent of the MTBE and benzene groundwater plumes, respectively.

the structural integrity of Building 970, excavation activities were not conducted underneath the building footers or internal walls. Approximately 120 cubic yards of petroleum hydrocarbon contamination is still present in these areas. Beneath Building 970, the following contaminants exceeded the screening criteria for the Building 970 area (the maximum concentration is shown in parenthesis): Total Petroleum Hydrocarbons – Gasoline ("TPH-G") (260 mg/kg), Total Petroleum Hydrocarbons – Diesel ("TPH-D") (8,000 mg/kg), lead (850 mg/kg), and total oil and grease (6,300 mg/kg).

The Water Board and the Department concurred that remedial action objectives for soil have been met at the Property and that no further corrective action for soils is required other than the implementation and enforcement of the institutional controls outlined in the Final Corrective Action Plan of March 2002.

In August 2000, the Water Board issued Order No. 00-064, which identified requirements for a portion of DODHF Novato, including the Property. Pursuant to Order No. 00-064 the DON conducted a Remedial Investigation at the Property. In 2001 the Final Revised Risk Assessment identified Benzene, Toluene, Ethylbenzene, Xylene (BTEX) and Methyl Tertiary Butyl Ether (MTBE) as contaminants of concern for groundwater at the Property. It also looked at the following constituents of concern for soils at the Property: TPH-G and various gasoline-derived volatile compounds including: BTEX, MTBE, isopropylbenzene (cumene), naphthalene, n-propylbenzene, 1,2,4-trimethylbenzene (TMB), 1,3,5-TMB, and 4-isopropyltoluene. DON then submitted a Final Corrective Action Plan (CAP) in March 2002. The CAP selected a remedy that reduces the time to meet the MTBE final cleanup level at the site (maximum contaminant level) while assisting with additional cleanup of other contaminants of concern in the

petroleum plume in accordance with the Water Board Order. Biosparging with monitored natural attenuation ("MNA") and institutional controls was selected as the corrective action alternative that would most efficiently and effectively achieve the final cleanup goal established to restore the groundwater resources at the Site to their potentially most stringent domestic beneficial use.

The biosparging system began operation in August of 2002. It is expected to operate for 1.5 years, after which MNA will officially commence. During the MNA phase, results of regular groundwater monitoring will be presented semi-annually or as mutually agreed to by the DON, the Water Board, and the Department or their respective successors in interest.

1.04 The DON evaluated the human health impacts of the soil and groundwater contamination in both a 1999 Tier 3 Risk-Based Corrective Action (RBCA) assessment and a June 2001 "Final Revised Risk Assessment" as a supplement to the Tier 3 RBCA assessment. Based on the Final Revised Risk Assessment, the Department and the Covenantor have concluded that use of the Property for commercial and/or industrial uses does not pose an unacceptable cancer risk, or non-cancer hazard to the users or occupants of the Property.[2] The Department, Water Board, and the Covenantor have further concluded that the Property, as being remediated, and operated or occupied subject to the restrictions of this Covenant, does not present an unacceptable threat to human health or safety or the environment.

[2] The 1999 Tier 3 Risk-Based Corrective Action (RBCA) assessment and June 2001 "Final Revised Risk Assessment" can be found at the document depository located at Southwest Division, Naval Facilities Engineering Command (SWDIV) 1220 Pacific Highway, San Diego, California, 92132-5190. It is also currently located at the South Novato Public Library, 476 Ignacio Blvd., Novato, California, 94949.

The Final Revised Risk Assessment, as amended on September 11, 2003, evaluated the Property, which includes Building 970, the former NEX gas station at the DODHF. Based on the planned reuse of the property, the Property was evaluated for a commercial/industrial scenario, a nonresidential standard. This Risk Assessment determined that for occupational exposures, the hazard index was below a level that would necessitate further remediation with the restrictions imposed by this covenant in place.[3] Additionally, the risk assessment evaluated the potential risk to an excavation worker in the former gas station area (Former UST Site 957/970). The results of the assessment suggest that excavation workers should take precautionary measures (e.g., proper personal protective equipment) when working at the site.[4] Restrictions to ensure that appropriate health and safety measures are taken are included in Article IV of this Covenant.

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[3] Total cancer risk estimated to the occupational receptor in the Property was 3.23×10^{-6} and 1.06×10^{-5} based on the federal and Cal/EPA unit risk factors for benzene, respectively. This value falls within the risk range (1×10^{-4} to 1×10^{-6}) that warrants a site-specific risk management decision about the suitability of the property for its intended future reuse. The total hazard or hazard index (total non-cancer risk) in the Property was below 1.0 for the occupational receptor. After completion of the Risk Assessment and prior to finalizing the Finding of Suitability for Transfer, the U.S. EPA Region IX listed ethylbenzene as a carcinogen on its Preliminary Remediation Goal table. As a result, the Department required a recalculation of the cancer risk numbers to include the cancer risk associated with the ethylbenzene contaminant. After recalculation, the Department has determined that if the restrictions in this covenant are adequately implemented, the total cancer risk estimates in the Property remain health protective and future remediation activities are not necessary to protect the health of future occupational receptors. The August 5, 2003 internal DTSC memo to T. McGarry from M. Wade and P. Wong-Yim regarding the calculation and evaluation of the ethylbenzene risk is on file in the administrative file for this site at the Department and has been incorporated into the document depository found at SWDIV.

[4] Estimates of total cancer risk for the excavation worker are 5.76×10^{-6} and 2.08×10^{-5} for the Property, based on the federal and Cal/EPA unit risk factors for benzene, respectively. In an internal DTSC memo to T. McGarry from M. Wade and P. Wong-Yim dated September 15, 2003, DTSC calculated very similar risk values to those presented in the Risk Assessment Report as amended on September 11, 2003. The hazard index for the excavation worker in the Property is 1,130. These risks suggest that excavation workers should take precautionary measures (e.g., proper personal protective equipment) when working at the site.

1.05 The DON prepared a Finding of Suitability to Transfer, executed on August 11, 2003, which can be found at the document depository located at Southwest Division, Naval Facilities Engineering Command, 1220 Pacific Highway, San Diego, California, 92132-5190. The document depository also has relevant regulatory correspondence related to the Property.

ARTICLE II

DEFINITIONS

2.01 Department. "Department" means the State of California by and through the Department of Toxic Substances Control and includes its successor agencies, if any.

2.02 Owner. "Owner" means the Covenantor's successors in interest, and their successors in interest, including heirs and assigns, during their ownership of all or any portion of the Property.

2.03 Occupant. "Occupant" means Owners and any person or entity entitled by ownerships, leasehold or other legal relationship to the right to occupy any portion of the Property.

2.04 Covenantor. "Covenantor" shall mean the United States of America.

2.05 Water Board. "Water Board" shall mean the San Francisco Bay Regional Water Quality Control Board and includes its successor agencies, if any.

ARTICLE III

GENERAL PROVISIONS

3.01 Restrictions to Run with the Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively referred to as "Restrictions"), subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. These Restrictions, described in Article IV, are consistent with the separate restrictions placed in the deed by and in favor of the Covenantor, conveying the Property from the Convenantor to its successor in interest described above. Each and every Restriction: (a) runs with the land in perpetuity pursuant to H&SC sections 25222.1, 25355.5 and Civil Code section 1471; (b) inures to the benefit of and passes with each and every portion of the Property; (c) shall apply to and bind all subsequent Occupants of the Property; (d) is for the benefit of, and is enforceable by the Department and the Water Board; and (e) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.02 Binding upon Owners and Occupants. Pursuant to H&SC sections 25222.1 and 25355.5, this Covenant binds all Owners of the Property, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees, as well as any Occupants and their agents. Pursuant to Civil Code section 1471(b), all successive owners of the Property are expressly bound hereby for the benefit of the Department and the Water Board.

3.03 Written Notification of Hazardous Substance Release. The Owner shall, prior to the sale, lease, or rental of the Property, give written notice to the subsequent

transferee that a release of hazardous substances has come to be located on or beneath the Property, pursuant to H&SC section 25359.7. Such written notice shall include a copy of this Covenant.

3.04 Incorporation into Deeds and Leases. The Restrictions set forth herein shall be incorporated by reference in each and all deeds and leases for any portion of the Property.

3.05 Conveyance of Property. The Owner shall provide notice to the Department and Water Board not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding mortgages, liens, and other non-possessory encumbrances). The Department and the Water Board shall not, by reason of this Covenant alone, have authority to approve, disapprove, or otherwise affect a conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

ARTICLE IV

RESTRICTIONS

4.01 Prohibited Uses. The Property shall not be used for any of the following purposes:

(a) A residence, including any mobile home or factory built housing constructed or installed for use as residential human habitation.

(b) A hospital for humans.

(c) A school for persons under 21 years of age.

(d) A day care center for children.

4.02 Soil and Groundwater Management.

(a) The Owner or Occupant shall not:

(i) Dewater excavations unless conducted in accordance with a DON, Department, and Water Board approved workplan.

(ii) Disturb or use existing groundwater wells without the prior approval of the DON, Department, and Water Board.

(iii) Install groundwater production wells for residential, municipal, agricultural, or industrial use without the written approval of the DON, Department, and Water Board.

(iv) Conduct actions which could affect the gasoline constituent groundwater plumes (e.g., construction or creation of groundwater recharge areas, surface impoundments, or disposal trenches), unless conducted in accordance with a DON, Department, and Water Board approved workplan.

(b) The Owner or Occupant will not conduct activities which will disturb the soil at or below 5 feet below the current ground surface (e.g., excavation, grading, removal, trenching, filling, earth movement, or mining), without a DON, Department, and Water Board approved soil management plan and a health and safety plan. The Owner or Occupant shall submit written notification and request approval of the aforementioned plans no later than thirty days prior to the date on which the Owner or Occupant desires to commence the proposed restricted activity.

(c) The Owner or Occupant will not conduct activities which will disturb the soil at or below 3 feet below the current ground surface in the area of known residual contamination beneath the foundation of Building 970 (Exhibit "B"), without a DON, Department, and Water Board approved soil management plan and a health and safety plan. The Owner or Occupant shall submit written notification and request approval of the aforementioned plans no later than thirty days prior to the date on which the Owner or Occupant desires to commence the proposed restricted activity.

(d) The Owner or Occupant shall remove and dispose of contaminated soil or groundwater in accordance with all applicable federal, state, and local regulations governing removal, transport, and disposal of hazardous substances and hazardous waste.

4.03 Ongoing Corrective Actions. Construction and/or operations on the Property shall not interfere with ongoing corrective actions being conducted by or for the United States or any federal, state, or local regulatory agency.

4.04 Access. The Covenator, the Department and the Water Board shall have the right, upon reasonable notice to the Owner or Occupant, to enter and inspect the Property to ensure the viability of the selected land use controls or to perform ongoing corrective actions. The ongoing corrective actions include sampling and maintenance of subsurface groundwater wells and soil-gas probes as described in the CAP.

ARTICLE V

ENFORCEMENT

5.01 Enforcement. Failure of the Owner or Occupant to comply with any of the Restrictions specifically applicable to the Property shall be grounds for the Department and/or the Water Board to require that the Owner modify or remove any improvements ("Improvements" herein shall include but is not limited to all buildings, roads, driveways, utilities, wells and paved parking areas) constructed or placed upon any portion of the Property in violation of the Restrictions. Violation of this Covenant by the Owner or Occupant may result in the imposition of civil and/or criminal remedies including nuisance or abatement against the Owner or Occupant as provided by law. The State of California shall have all remedies as provided for in California Civil Code section 815.7 as that enactment may be from time to time amended.

ARTICLE VI

VARIANCE, TERMINATION AND RELEASE

6.01 Variance. The Owner, or with the Owner's consent, any Occupant, or any aggrieved person may apply to the Department and the Water Board for a written variance from the provisions of this Covenant. Such application shall be made in accordance with H&SC section 25233. The Department and/or water Board will grant the variance only after finding that such a variance would be protective of human health, safety and the environment.

6.02 Termination. The Owner, or with the Owner's consent, any Occupant, or any aggrieved person may apply to the Department and Water Board for a termination of

the Restrictions or other terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with H&SC section 25234. No termination or other terms of this Covenant shall extinguish or modify the retained interest held by the United States.

ARTICLE VII

MISCELLANEOUS

7.01 No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.

7.02 Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Marin within ten (10) days of the Covenantor's receipt of a fully executed original.

7.03 Notices.

(a) The Owner shall notify the Water Board of each of the following: (1) The type, cause, location and date of any disturbance to any cap, any remedial measures taken or remedial equipment installed, and of the groundwater monitoring system installed on the Property pursuant to the requirements of the Water Board, which could affect the ability of such cap or remedial measures, remedial equipment, or monitoring system to perform their respective functions and (2) the type and date of repair of such disturbance. Notification to the Water Board shall be

made by registered mail within ten (10) working days of both the discovery of such disturbance and the completion of repairs.

(b) Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Covenantor:	Commanding Officer Southwest Division Engineering Field Division Naval Facilities Engineering Command 1220 Pacific Highway San Diego, CA 92132-5190
With a copy to:	Navy BRAC Operations Office Attention: BCM Novato Southwest Division Naval Facilities Engineering Command 1220 Pacific Highway San Diego, CA 92132-5190
To:	City of Novato 900 Sherman Avenue Novato, California 94945
To Department:	Department of Toxic Substances Control Northern California Branch Office of Military Facilities 8800 Cal Center Drive Sacramento, California 95826
To Water Board:	San Francisco Bay Regional Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, California 94612 Attention: Executive Officer

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.04 Partial Invalidity. If any portion of the Restrictions or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.05 Statutory References. All statutory references include successor provisions.

7.06 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

7.07 Construction. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the Parties execute this Covenant.

UNITED STATES OF AMERICA,
Acting by and through the
Department of the Navy

By: _____ Date: 4/18/05
WILLIAM R. CARSILLO
Real Estate Contracting Officer

STATE OF CALIFORNIA,
Acting by and through the
California Environmental Protection Agency,
Department of Toxic Substances Control

By: _____ Date: _____
ANTHONY J. LANDIS, Chief
Northern California Branch
Office of Military Facilities

Acting by and through the
Regional Water Quality Control Board

By: Loretta K. Barsamian Date: 9.18.03
LORETTA K. BARSAMIAN, Executive Officer
San Francisco Bay Region

STATE OF CALIFORNIA)
)
COUNTY OF ALAMEDA)

On this 18 day of SEPTEMBER, in the year 2003,

before me HOWARD LEONG, personally appeared

LORETTA K BARSAHIAN, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is /are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

HOWARD LEONG
COMM. # 1362761
NOTARY PUBLIC - CALIFORNIA
ALAMEDA COUNTY
My Comm. Expires JUN 28, 2006

IN WITNESS WHEREOF, the Parties execute this Covenant.

UNITED STATES OF AMERICA,
Acting by and through the
Department of the Navy

By: _____ Date: _____
WILLIAM R. CARSILLO
Real Estate Contracting Officer

STATE OF CALIFORNIA,
Acting by and through the
California Environmental Protection Agency,
Department of Toxic Substances Control

By: _____ Date: 9-16-03
ANTHONY J. LANDIS, Chief
Northern California Branch
Office of Military Facilities

Acting by and through the
Regional Water Quality Control Board

By: _____ Date: _____
LORETTA K. BARSAMIAN, Executive Officer
San Francisco Bay Region

STATE OF CALIFORNIA)
)
COUNTY OF Sacramento)

On this 16th day of September, in the year 2003, before me Kathleen Duncan, personally appeared Anthony J. Landis, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is /are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Kathleen Duncan

KATHLEEN DUNCAN
Commission # 1324587
Notary Public - California
Sacramento County
My Comm. Expires Oct 26, 2005

STATE OF CALIFORNIA)
)
COUNTY OF Marin)

On this 18th day of April, in the year 2005,
before me A. Cardy, personally appeared
William R. Carrillo, personally known to me (or
proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is
/are subscribed to the within instrument and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal.

A. CARDY
Comm. # 1443905
NOTARY PUBLIC - CALIFORNIA
MARIN COUNTY
My Comm. Expires Oct. 6, 2007

Signature A. Cardy

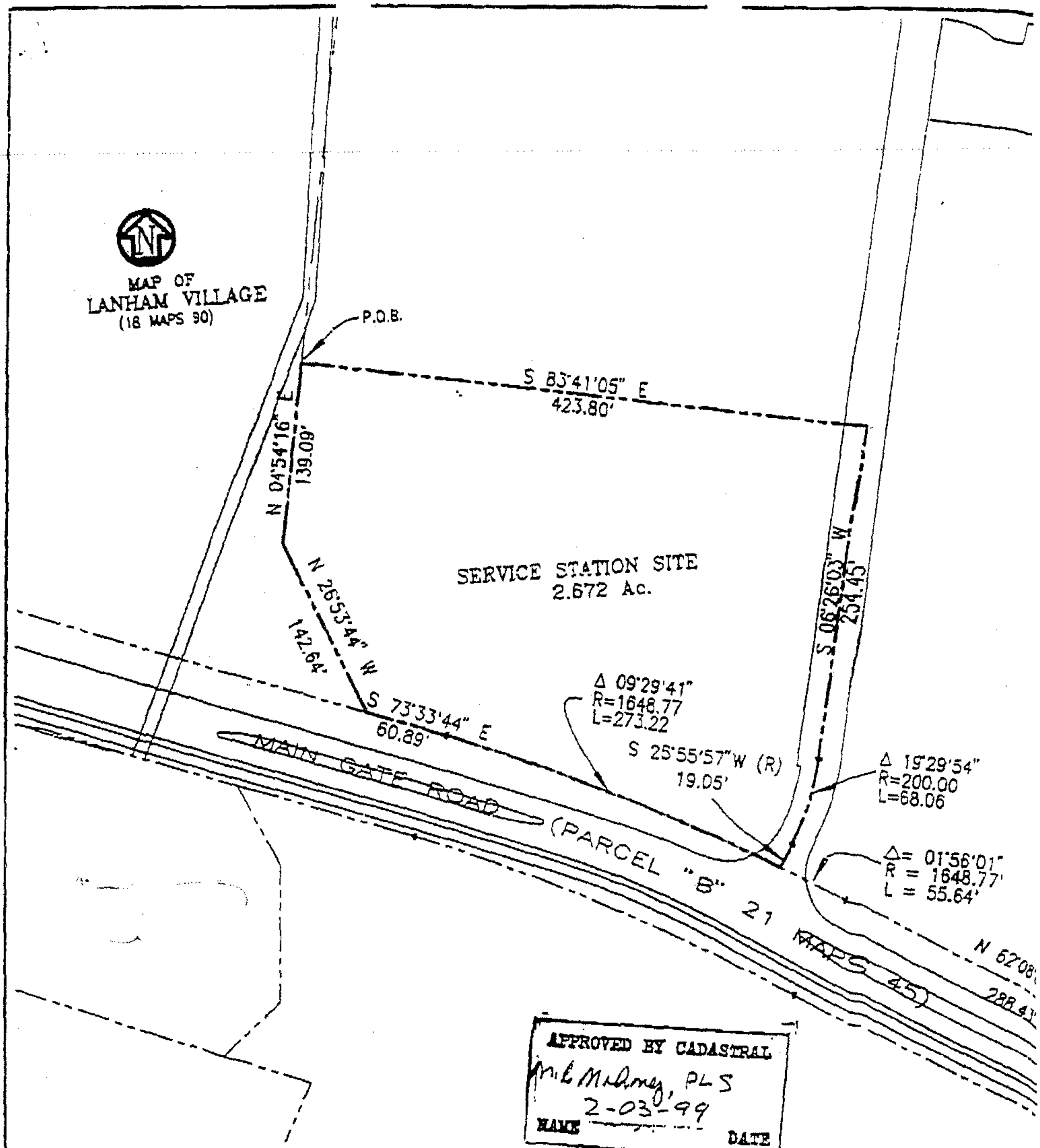
EXHIBIT A

DESCRIPTION

ESCROW NO. 316342B PB

ALL THAT CERTAIN real property situate in the City of Novato, County of Marin, State of California, described as follows:

Beginning at a point on the Easterly line of Parcel 'E', as shown on that certain Map entitled, "Map of Lanham Village", filed for record July 19, 1983 in Volume 18 of Maps, at Page 90, Marin County Records; said point being North 04° 54' 16" East 139.09 feet from the Southerly terminus of the line described as "North 04° 54' 16" East 462.75 feet" on said map; thence leaving said Easterly line of Parcel 'E', South 83° 41' 05" East 423.80 feet; thence South 06° 26' 03" West 254.45 feet; thence along a curve to the right, tangent to the preceding course, having a radius of 200.00 feet, through a central angle of 19° 29' 54", an arc length of 68.06 feet; thence South 25° 55' 57' West 19.05 feet to the Northeasterly line of Main Gate Road, as shown on the Map of Hamilton Field, filed December 18, 1995 in Volume 21 of Maps, at Page 45, Marin County Records; thence along said Northeasterly line of Main Gate Road in a Westerly direction along a curve to the left, whose radius point bears South 25° 55' 57" West, 1,648.77 feet, through a central angle of 09° 29' 41", an arc length of 273.23 feet; thence North 73° 33' 44" West 60.89 feet, to the Easterly line of said Parcel 'E'; thence leaving said Northeasterly line of Main Gate Road, and along the previously identified Easterly line of Parcel 'E' (18 Maps 90), North 26° 53' 44" West 142.64 feet; thence continuing along said Easterly line of Parcel 'E', North 04° 54' 16" East 139.09 feet to the Point of Beginning.



CSW [St]²

CSW/STUBER-STROEH ENGINEERING GROUP, INC.
CONSULTING ENGINEERS
790 DeLong Ave., Novato, CA. 94945-3246
(415) 892-4763 FAX (415) 892-4502

SCALE 1"=100'
11/19/98

JOB# 4100500

HAMILTON FIELD
SERVICE STATION SITE

NOVATO MARIN CALIFORN

4100500/SERVI

EXHIBIT B

Date: August 20, 2003
File: 5.1021.04

DESCRIPTION
HAMILTON FIELD
A PORTION OF BUILDING 970
INCLUDING 3 FOOT BUFFER ZONE

1. COMMENCING at a point on the easterly line of Parcel "E", as shown on the Map of Lanham Village, recorded July 19, 1983 in Volume 18 of Maps at Page 90, Marin County Records, said point being the southerly terminus of the line described as "North 04°54'16" East, 462.75 feet" on said map;

2. Thence leaving said easterly line of Parcel "E" North 77°01'11" East, 219.02 feet to a magnetic nail and tag LS 3303, said point being the True Point of Beginning of this description.

3. Thence South 83°38'27" East, 36.21 feet;

4. Thence South 06°21'33" West, 87.94 feet;

5. Thence North 83°38'27" West, 36.21 feet;

6. Thence North 06°21'33" East, 87.94 feet to the True Point of Beginning.

Containing 3,184 square feet more or less.

The basis of bearing for this description is taken from the "Map of Hamilton Field" filed in Book 21 of Maps, Page 45, Marin County Records.

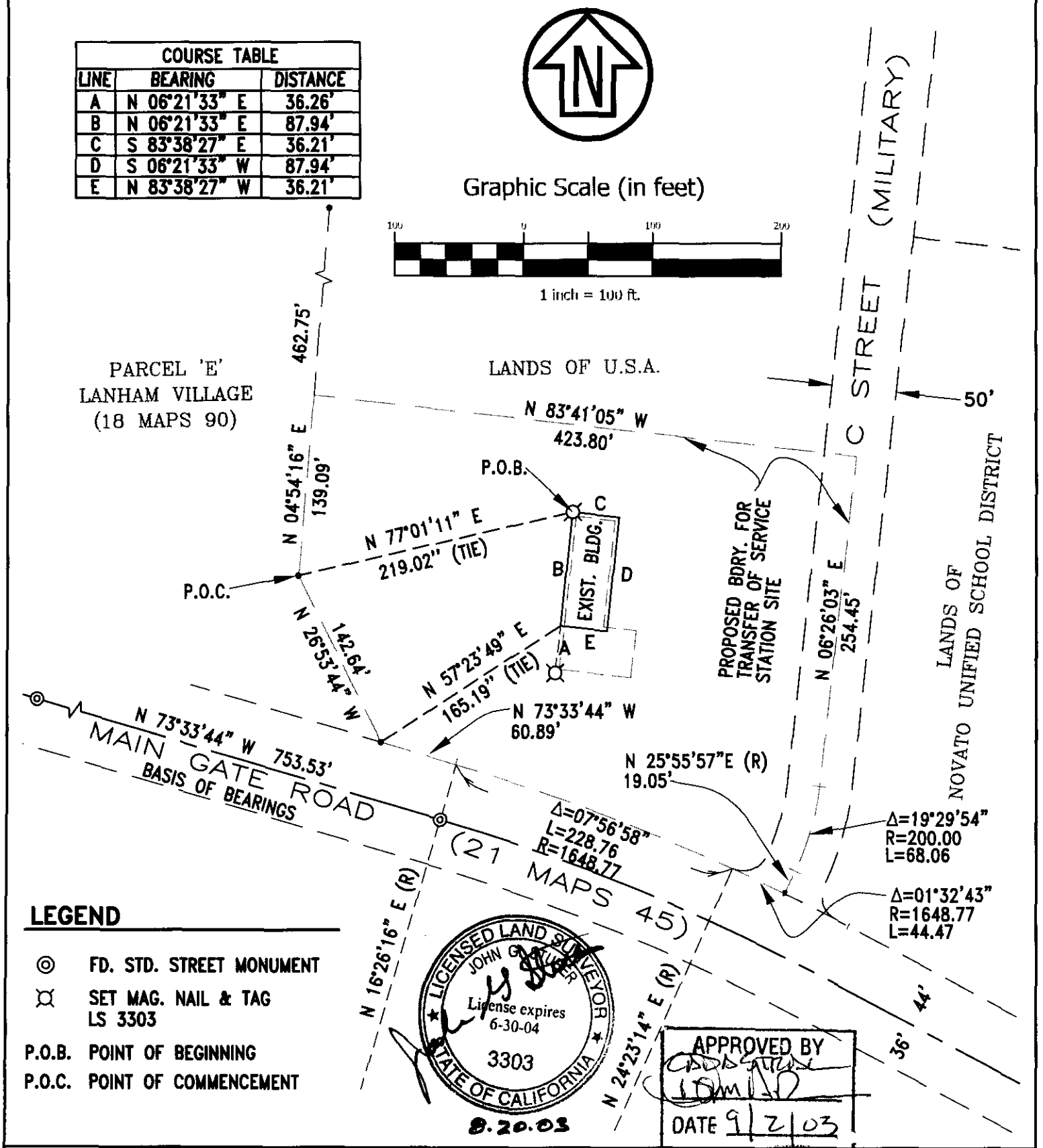
LICENSED LAND SURVEYOR
JOHN G. STIKES
License expires
6-30-04
3303
STATE OF CALIFORNIA

8.20.03

APPROVED BY
DATE 9/2/03

5\Desc\Bld 970_DescB1

COURSE TABLE		
LINE	BEARING	DISTANCE
A	N 06°21'33" E	36.26'
B	N 06°21'33" E	87.94'
C	S 83°38'27" E	36.21'
D	S 06°21'33" W	87.94'
E	N 83°38'27" W	36.21'



CSW [St]² CSW/STUBER-STROEH ENGINEERING GROUP, INC.
CONSULTING ENGINEERS
790 DeLong Ave., Novato, CA. 94945-3246
(415) 892-4763 FAX (415) 892-4502

REV.
08/20/03
SCALE: 1"=100'

HAMILTON FIELD
PORTION OF BUILDING 970 INCLUDING 3' BUFFER ZONE

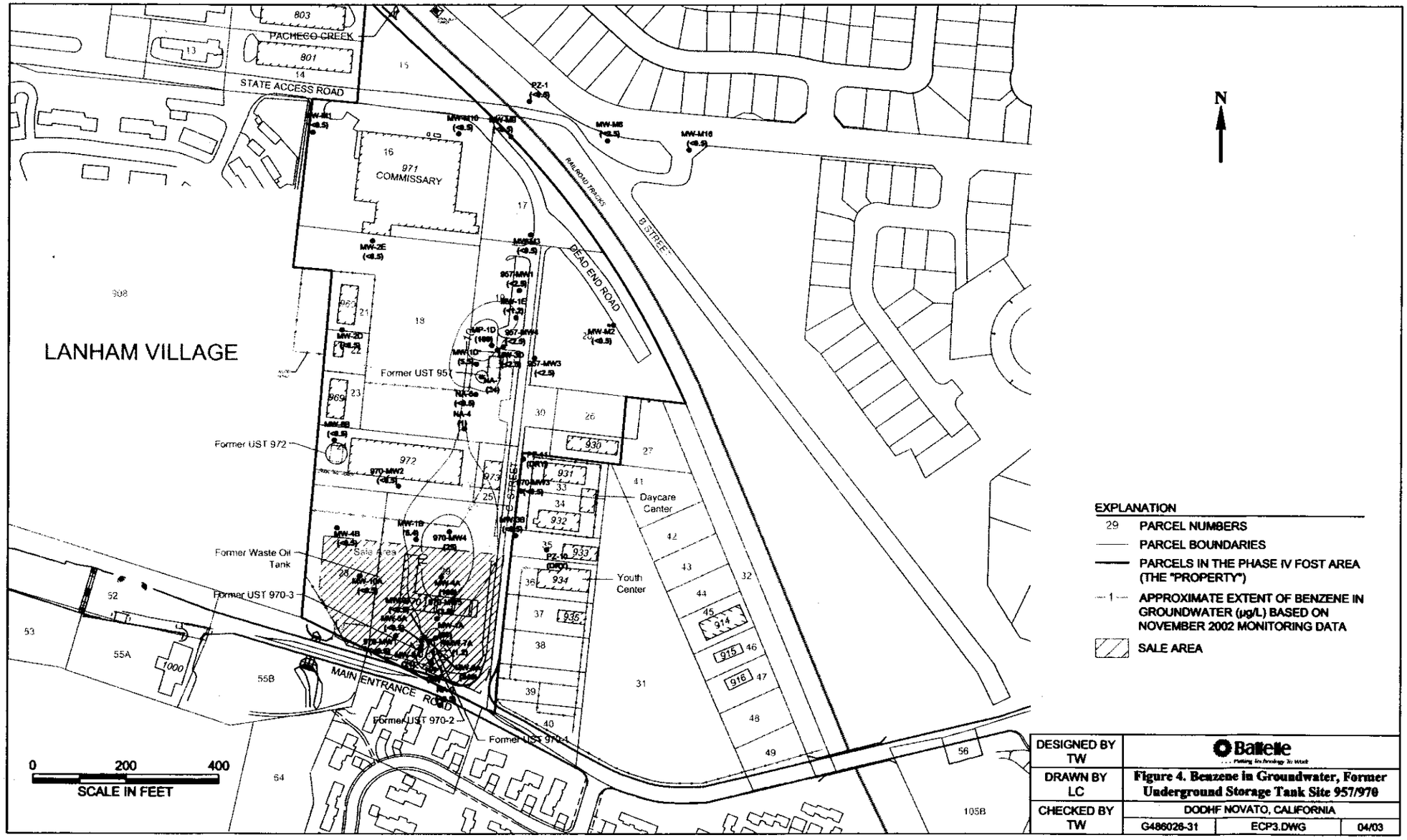
NOVATO MARIN COUNTY CALIFORNIA

JOB# 5102104

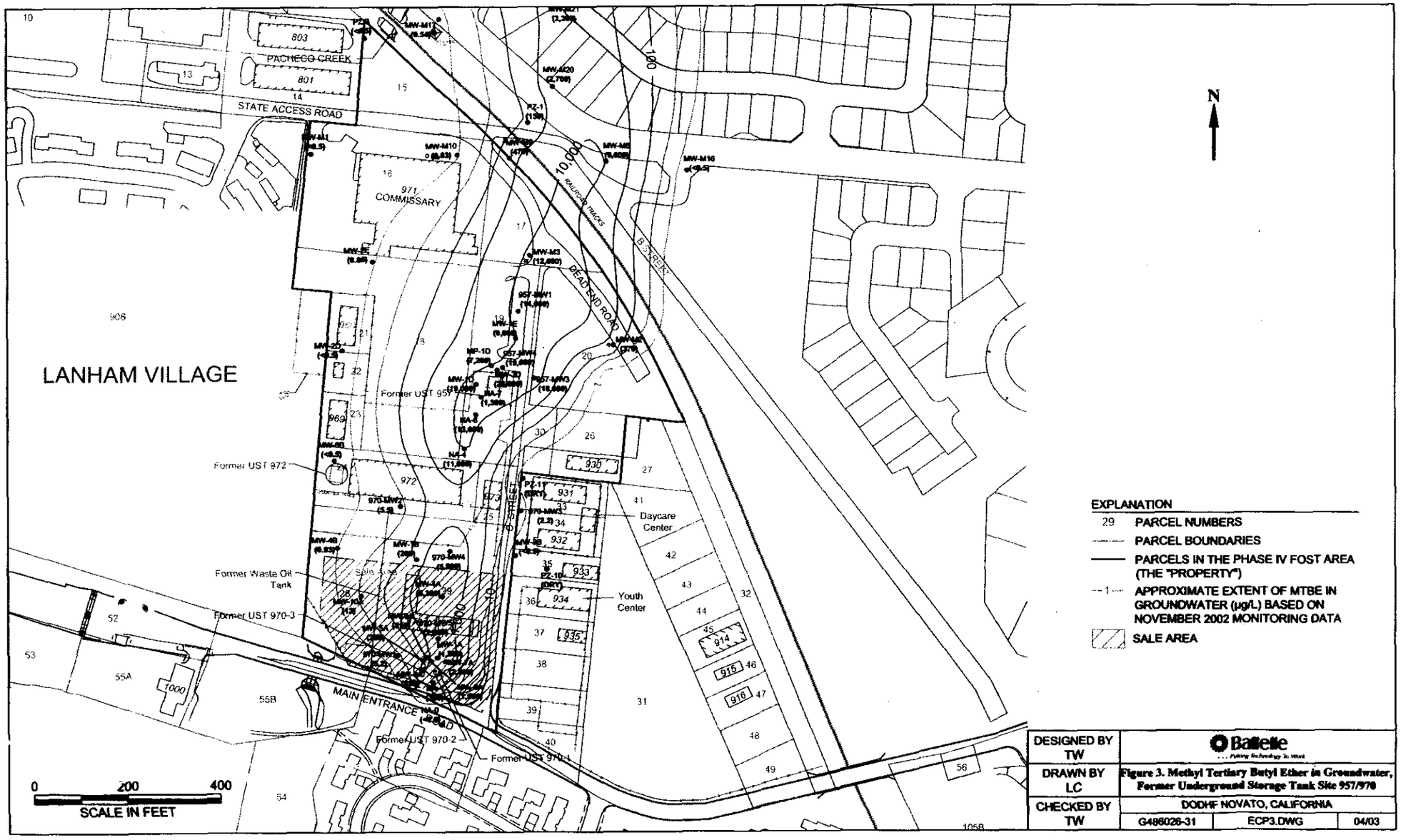
A

EXHIBIT C

MAPS CAN VIEWED AT THE
OFFICES OF THE UNITED STATES
OF AMERICA DEPARTMENT OF THE NAVY,
BRAC OPERATIONS OFFICE
1220 PACIFIC HIGHWAY
SAN DIEGO, CA. 92132-5190



DESIGNED BY TW	Battelle		
DRAWN BY LC	**Figure 4. Benzene in Groundwater, Former Underground Storage Tank Site 957/970**		
CHECKED BY TW	DODHF NOVATO, CALIFORNIA		
	G486026-31	ECP3.DWG	04/03



DESIGNED BY TW	Battelle		
DRAWN BY LC	Figure 3. Methyl Tertiary Butyl Ether in Groundwater, Former Underground Storage Tank Site 957/970		
CHECKED BY TW	DODHF NOVATO, CALIFORNIA		
	G486026-31	ECP3.DWG	04/03

EXHIBIT D

Screening Criteria For Building 970 Area

Compound	Concentration (mg/kg)	Reference
Benzene	1.3	U.S. EPA Region 9 Industrial PRG[1]
Toluene	520	U.S. EPA Region 9 Industrial PRG[1]
Ethylbenzene	20	U.S. EPA Region 9 Industrial PRG[1]
Xylenes	420	U.S. EPA Region 9 Industrial PRG[1]
MTBE	36	Cal-modified PRG
Naphthalene	190	U.S. EPA Region 9 Industrial PRG[1]
Phenanthrene	100,000	U.S. EPA Region 9 Industrial PRG[1]
Fluoranthene	22,000	U.S. EPA Region 9 Industrial PRG[1]
Pyrene	29,000	U.S. EPA Region 9 Industrial PRG[1]
2-Methylnaphthalene	520	U.S. EPA Region 9 Industrial PRG[1]
Total chromium	450	U.S. EPA Region 9 Industrial PRG[1]
Lead	750	U.S. EPA Region 9 Industrial PRG[1]
Nickel	20,000	U.S. EPA Region 9 Industrial PRG[1]
Zinc	100,000	U.S. EPA Region 9 Industrial PRG[1]
TPH-G	100	*California LUFT Guidance*[2]
TPH-D	1,000	*California LUFT Guidance*[2]
TPH-O	1,000	*California LUFT Guidance*[2]
Total Oil and Grease	1,000	*California LUFT Guidance*[2]

Notes:

[1]United States Environmental Protection Agency. 2002. Region 9 Preliminary Remediation Goals (PRGs) Table. Available from http://www.epa.gov/region09/waste/sfund/prg/files/02table.pdf.

[2]California State Water Resources Control Board. 1989. *Leaking Underground Fuel Tank Field Manual: Guidelines for Site Assessment, Cleanup, and Underground Storage Tank Closure.* Issued by the Leaking Underground Fuel Tank Task Force. October.

CALIFORNIA Water Boards

EDMUND G. BROWN JR. GOVERNOR

MATTHEW RODRIQUEZ SECRETARY FOR ENVIRONMENTAL PROTECTION

San Francisco Bay Regional Water Quality Control Board

February 23, 2016
Geotracker Case No. T10000007672

Sent via electronic mail: No hard copy to follow

West Yost Associates
Attn. Mr. Andrew S. Rodgers
425 South Main Street
Sebastopol, CA 95472

Email: arodgers@westyost.com

Subject: Conditional Concurrence - Remedial Action Plan, Sampling and Analysis Plan, and Soil Management Plan - Hamilton Square Parcel, City of Novato, Marin County

Dear Mr. Rodgers:

San Francisco Bay Regional Water Quality Control Board (Regional Water Board) staff received and reviewed public comments on the following documents: 1) the Remedial Action Plan; 2) the Sampling and Analysis Plan; and 3) the Soil Management Plan (collectively referred to as the RAP documents), dated October 2015, for the Hamilton Square Parcel, located at 970 C Street in the City of Novato. The documents were available for a 30-day public comment period that ended November 13, 2015. Water Board staff received and reviewed comments from the following people:

Ms. Amy Baxt, Mr. Erik Berkowit, Mr. James Nevin, Ms. Brigit Nevin, Ms. Steffanie Mosebrook, Ms. Tara Spellman, Ms. Cynthia Cannon, and Ms. Karen Maloney

Based on our review of the public comments we have provided comments to augment the RAP documents as described below. This letter provides concurrence with the RAP documents with the following conditions that must be completed in a manner acceptable to the Regional Water Board Executive Officer: 1) the recommendations below are incorporated into the RAP documents; and 2) any significant requirements that result from the final EIR are incorporated into the project via an amendment to the RAP documents.

Please incorporate the following into the RAP documents:

1. **Fugitive dust**: Please clarify that stockpiles will be covered immediately once they have been determined to be inactive (this requirement is in addition to the commitment to cover all piles not used within 60 minutes), and that dust control best management practices (BMPs) will be implemented throughout the site to prevent dust from being generated.
2. **Air monitoring**: The RAP documents need to include additional details regarding air monitoring, including, but not limited to, contaminants to be monitored, monitoring equipment, location(s), frequency, responsible parties, corrective action measures in the event of an exceedance, and contingency plans if monitoring equipment fails.
3. **Asbestos and lead**: Test and analyze the tile and mastic still attached to the concrete slab in the vicinity of the bathroom for lead and asbestos. Any remaining lead and asbestos must be removed from the project site prior to soil remediation activities.
4. **Soil sample point 970-W20:** This sample point as shown on Figures 5 and 6 of the RAP documents shows Benzene with a maximum concentration of 0.069 mg/kg at 8 feet. Please clarify in the RAP that the concentration is only slightly above the Environmental Screening Level (ESL) of 0.044 mg/kg (ESL Summary Table A -Residential land use - groundwater is a current or potential source of drinking water), but significantly lower than the Residential ESL of 0.74 mg/kg where groundwater is not a current or potential source of drinking water (ESL Summary Table B -Residential land use - groundwater is not a current or potential source of drinking water. The result demonstrates that soil in that area is safe for residential use and that groundwater is safe in that area when drinking water is supplied by the City of Novato. It is extremely unlikely that shallow groundwater will be utilized for drinking water in this area. In addition, clarify that a human health risk assessment will be conducted after the remediation to evaluate the disposition of both soil and groundwater concentrations, post remediation.
5. **Post-Excavation Soil Sampling:** Please clarify that, at the request of the City of Novato, West Yost has committed to collecting soil samples during the post-excavation soil vapor survey as part of the Risk Assessment.
6. **Monitoring Data:** Please clarify that West Yost shall make air monitoring data available in a timely manner, if requested.
7. **Third-Party:** Please clarify that the City of Novato will be providing a third-party consultant that will be on-site to ensure that all remediation activities are implemented as specified in the approved RAP documents.

As discussed above, this concurrence is based on the completion of conditions in a manner acceptable to the Regional Water Board Executive Officer.

If you have any questions, please contact me at (510) 622-2338 or by e-mail at margarete.beth@waterboards.ca.gov.

Sincerely,

Digitally signed by Margarete Beth
Date: 2016.02.23 10:33:24 -08'00'

Margarete Beth
Environmental Scientist
Groundwater Protection Division

Cc:

Ms. Cindy Chain-Britton, PM, DTSC, cindy.chain-britton@dtsc.ca.gov
Ms. Michelle Dalrymple, DTSC, Michelle.Dalrymple@dtsc.ca.gov
Ms. Lynn Nakayama Wong, DTSC, Lynn.Nakayamawong@dtsc.ca.gov
Ms. James Whitcomb, Navy BRAC Program Management Office West, james.h.whitcomb@navy.mil
Mr. Wilson E. Doctor, CIV NAVFAC SW, wilson.doctor@navy.mil
Mr. Stephen Marshall, City of Novato, smarshall@novato.org
Mr. Bob Brown, City of Novato, bbrown@novato.org
Ms. Veronica Nebb, City of Novato, vnebb@novato.org
Mr. Pete Dellavalle, West Yost Associations, pdellavalle@westyost.com
Ms. Casey Clement, Thompson Development, caseyc@thompsondevelopmentinc.com
Mr. Paul Thompson, Thompson Development, paul@tbcorp.com
Ms. Carla Violet, Urban Planning Partners Partners, CViolet@up-partners.com

NOVATO UNIFIED SCHOOL DISTRICT

1015 SEVENTH STREET ▪ NOVATO ▪ CA ▪ 94945 ▪ PH: (415) 897-4201 ▪ FX: (415) 898-5790

"Achievement for All – Our Call to Action"

KAREN MALONEY
Assistant Superintendent
Business & Operations

JIM HOGEBOOM
Superintendent

VIA EMAIL & US MAIL

November 12, 2015

Margarete Beth
Regional Water Quality Control Board
1515 Clay Street, Ste. 1400
Oakland, Ca. 94612

RE: Comments on the RAP, SAP and SMP for the Hamilton Main Gate soil remediation project located at 970 C Street, Novato, Ca.

Dear Ms. Beth,

Please find these comments submitted by the Novato Unified School District (NUSD) pertaining to the draft Remedial Action Plan (RAP), Sampling and Analysis Plan (SAP) and the Soil Management Plan (SMP) prepared by West Yost Associates for Thompson Development dated October 2015.

NUSD retained the environmental consulting firm, Air and Water Sciences (AWS), to assist in the review of technical documents and plans for the upcoming remediation work at the above referenced site and how the proposed remediation work could affect the adjacent NUSD schoolchildren. Based on their review a *Report of Recommendations* dated September 10, 2015 was prepared by AWS which includes recommendations to be taken during the work to ensure that the NUSD schoolchildren are protected while the work is being conducted. This report is attached for your reference.

According to AWS's review, approximately 2,800 cubic yards of contaminated soil will be excavated. This soil is impacted with fuel-related hydrocarbon contamination in the form of volatile organic compounds (VOCs) and semi-volatile organic compounds (SVOC's). An additional concern is potential remaining asbestos fibers and lead from the recent demolition project, which may not have properly mitigated lead and asbestos containing materials from the restrooms prior to demolition.

Recommendations

Due the fact that the Novato Charter School (NCS) is located directly downwind of the excavation areas it is necessary to ensure that health and safety precautions be taken to ensure that the children are protected during any potential exposure from the remedial work. As such, the AWS *Report of Recommendations* dated September 10, 2015 contains recommendations to ensure the protection of the school children during the work, however recently the City of Novato (City) has developed specific

hazard mitigation measures to be included in the conditions of approval for the project which conforms to or supersedes AWS' recommendations. The updated recommendations shown below includes: 1) the mitigation measures from the City and 2) some of the previous recommendations outlined in the AWS report.

Summary of Recommendations

In summary, NUSD requests that in order to ensure that the remediation project is conducted in a way that can ensure the protection of the school that the following measures and precautions be incorporated into the project:

1. As recommended in the AWS report: test the areas that may have been impacted with asbestos and lead prior to the start of remediation and if the results exceed the thresholds indicated in the AWS report implement the precautions as detailed in the attached AWS report.

2. As recommended in the AWS report and per the City's mitigation measures: perform the excavation of contaminated soils, including the pre-excavation exploratory soil assessment work, when the adjacent schools are not in session.

3. Per the City's mitigation measures: have a third party consultant present at all times during any remediation earthwork to oversee the excavation and ensure that all of the protective measures required are taken and that all of the required monitoring is being done.

4. Per the City's mitigation measures: prior to each period of soil excavation work, the play structures and other appropriate surfaces at the school should be tarped. At the completion of each period of excavation work these areas should have the tarps removed and the surfaces wiped down.

Please let us know if you have any questions regarding the above.

Sincerely,

Karen Maloney

Karen Maloney
Assistant Superintendent – Business & Operations

cc: Bob Brown, Community Development Director - City of Novato
Nikki Lloyd, Administrative Director – Novato Charter School
Susan Gilmore, Executive Director – North Bay Children's Center
Sara Jones, Director – Marin County Free Library
Jim Hogeboom – NUSD Superintendent
Leslie Benjamin – NUSD Public Information Officer

Air & Water SCIENCES
Environmental Consultants

AWS 1484
September 10, 2015

Karen Maloney, Assistant Superintendent
Novato Unified School District
1015 Seventh Street
Novato, CA 94945

RE: Report of Recommendations for 970 C Street Remediation Work

Dear Ms. Maloney,

Pursuant to your direction, **Air & Water SCIENCES** (AWS) is providing this Report of Recommendations pursuant to your direction to review and provide comments on the upcoming remediation work at the above referenced site with regard to the safety and health of Novato Unified School District (NUSD) students located at properties adjacent to the remediation work.

AWS reviewed the following documents for this report:

- Draft Soil Management Plan (SMP) and Health and Safety Plan (HSP), August 2015, West Yost Associates
- Draft Remedial Action Plan (RAP), August 2015, West Yost Associates
- Draft Sampling and Analysis Plan (SAP), August 2015, West Yost Associates
- Main Gate Rd and C St. Initial Study, June 2015, Urban Planning Partners
- Attachments A-L from https://970cstreet.wordpress.com/2015/07/
- All other documents and correspondence available on https://970cstreet.wordpress.com/2015/07/ and http://novato.org/government/community-development/planning-division/planning-projects/hamilton-square-townhomes

Project Background

The project site is known as 970 C Street and is proposed for residential townhome development by Thompson Development Inc. The site is approximately 2.7 acres (Assessor's Parcel Number 157-980-05) and is located on the former Hamilton Air Force Base on the southeast side of the City of Novato to the east of Highway 101. The site is located on the corner of Main Gate Road and "C" Street and is currently vacant and absent of structures.

The Novato Charter School (NCS) is located directly across "C" street from the proposed project. The NCS school property is located less than 50 feet east of the proposed project site boundary and less than 100 feet east of the proposed contaminated soil excavation area. The prevailing winds blow from the northwest and southwest at mean wind speeds of 7.4 knots to the southeast and 7.5 knots to the northwest (USACE, 2008). The NCS is located directly downwind of the proposed project. Figure 9 in Attachment A shows the 970 C Street site and the adjacent school.

The site is currently zoned for commercial development but because the proposed development is residential the area must be re-zoned for residential use. Previously a Naval Exchange (NEX) gasoline service station was located on the site and operated from the mid-1970s through the early 1990s. In 1995, after the station was closed, three 10,000-gallon underground storage tanks (USTs) formerly containing gasoline were removed. The removal of these UST's indicated that releases of gasoline-related volatile organic compounds (VOCs) to the subsurface soils and groundwater had occurred. Three hydraulic lifts, one waste oil UST, four buried collection drums, two oil/water separators and associated piping were also removed and subsurface contamination was also detected underneath many of these.

According to the RAP approximately 400 cubic yards of contaminated soils were removed in 1995 and 1996 subsequent to the UST removal. In 2000 an additional 200 cubic yards of contaminated soils were removed during another remedial action event, when hydraulic lifts, drain piping, and other features were removed from the interior of former Building 970. From June 1998 to October 1999 an air sparging and soil vapor extraction system was operated to remediate the areas of the highest groundwater contaminant concentrations. The system was effective in reducing the levels of contamination down to commercial screening levels, but they still exceed residential screening levels, which needs to be met for the development of the proposed townhomes.

Proposed Soil Remediation Work

As indicated in the RAP the following contaminants either remain in the soil or could be present in soils beneath at the site: total petroleum hydrocarbons as gasoline (TPHg), TPH as diesel (TPHd), TPH as motor oil (TPHmo), TPH as hydraulic oil (TPHo), total oil and grease (TOG), naphthalene,

benzo(a)anthracene, benzo(a)pyrene, methyl tert-butyl ether (MTBE), benzene, toluene, ethylbenzene, xylenes, butanone (MEK), propylbenzene, isopropylbenzene, 1,3,5-trimethylbenzene, 1,2,4-Trimethylbenzene, sec-butylbenzene, N-butylbenzene , vinyl acetate, tetraethyl lead and metals arsenic, barium and lead. Many of these contaminants exceed the Environmental Screening Levels (ESLs) for residential use or do not have an ESL but were found in elevated concentrations in soils at the site.

Additionally, there is a concern as to whether lead and asbestos contaminated building materials were properly removed from the site. The January 15, 2008 Ninyo and Moore report indicated that two areas ("presumably the men's and women's restrooms") could not be accessed and therefore materials inside were not tested for lead and asbestos. Based on this, and because additional documents stating that these areas were later accessed and tested were not provided, it is feasible that the building was demolished without these materials being previously removed and therefore, the presence of lead and asbestos in the soil is also a concern during the excavation process.

According to the SMP, there will be approximately 2,800 cubic yards of soil generated from the project. Figure 9 in Attachment A shows the areas off the proposed excavations. As stated in the RAP "soil will be excavated to a maximum depth of 7 ft below ground surface (bgs) downgradient of the gasoline UST excavations northward to north of the pump islands. Soil underneath Building 970, will be excavated to a maximum depth of 6 ft bgs except in one area in the former location of the northern hydraulic lift (H-N), which will be excavated to approximately 10 ft bgs." As mentioned above this soil is contaminated with fuel-related hydrocarbons (TPHg, TPHd, VOCs, SVOCs), metals and possibly asbestos.

As indicated in the RAP the soil will be excavated and loaded using a standard front-end loader. The soil may also be stockpiled on-site for later loading. According to the SMP: "If the impacted soil is stockpiled on-site prior to off-hauling, it will be placed on a paved surface and covered with visqueen plastic. The soil transport vehicles will be equipped with plastic sheeting and will be loaded using a standard front-end loader. After the soil is loaded into the transport trucks, the soil will be covered with tarps to prevent soil from spilling during transport to the disposal facility. Prior to departure, the general contractor will ensure that loose soil debris is removed from trucks via dry brushing the tires and truck body."

Review of Currently Proposed Health and Safety Precautions

AWS reviewed the relevant documents in order to determine the level of health and safety precautions proposed by the developer in order to protect the school children from exposure to the environmental contaminants during the soil remediation work at the site. The primary documents that proposed any

environmental health and safety precautions pertaining to the contaminated soil excavation were the RAP, HSP, SMP and the Initial Study.

The Health and Safety Plan (HSP), August 2015, West Yost Associates

The HSP states in the first paragraph: "This Health and Safety Plan has been prepared to minimize the threat of serious injury to **workers** during the excavation activities at 970 C Street, Novato, California (Site)." This states the intent of the HSP which is to protect workers. As indicated in the HSP:

> "The following modified Level D PPE will be used as necessary for site activities within work areas: Impervious clothing (gloves, Tyvek) shall be worn unless the Site Safety and Health Officer does not believe necessary. If hazardous materials (i.e. exposure to COCs) are encountered, employees will have the option, depending on the activity, to wear cotton/polyester, Nomex, or Tyvek coveralls large enough to fit over work clothing with sleeves and legs unrolled. Chemical-resistant, leather, electrical resistant or felt work gloves shall be worn depending upon the hazard. Safety glasses, goggles, or face shields, unless wearing a full-face respirator."

The HSP also indicates states

> "The likelihood of exceeding the OSHA PELs (Table 1) during the performance of the work outlined in this plan is considered to be low due to the ventilated conditions and low concentrations of constituents previously documented at the Site. However, half-face air purifying respirators with organic vapor cartridges, fit-tested for each employee present, will be available on site. If warranted by OVM readings, periodic air monitoring will be conducted during the on-site work with Sensidyne- or Dreager-type detector tubes and pump, which will provide immediate information on airborne benzene concentrations. Should the testing methods indicate potentially hazardous concentrations of airborne contaminants, or if any of the symptoms are noted or observed in any of the on-site personnel, corrective action will be taken, including using respirators, if necessary."

The health and safety precautions detailed above are all occupational based meant solely to protect on-site workers from exposure to hazardous chemicals. In the event that testing indicates potentially hazardous levels of airborne contaminants the corrective action proposed in the HSP only addresses the onsite workers. There is no mention in the HSP as to the protection of adjacent sensitive receptors (NCS).

Draft Remedial Action Plan (RAP), August 2015, West Yost Associates

The RAP does mention health and safety precautions or concerns in a couple of areas: Page 12 of the RAP states that:

> "COCs in subsurface soil may be expected to desorb in trenches, adsorb to soil, and volatize to subsurface soil vapor. Resulting complete pathways involve vapor migration into open excavations including utility trenches".

Page 13 of the RAP states:

> "In accordance with the soil and groundwater management plan, dust control measures will be in place during excavation activities at the Site. The on-site worker is therefore not expected to be exposed to COCs in airborne dust at the Site."

While an aggressive dust suppression plan is warranted for this project it does not minimize the release of VOC's and SVOCs from the site, which are the primary chemicals of concern.

Draft Soil Management Plan (SMP), August 2015, West Yost Associates

The SMP was also reviewed for health and safety precautions for the adjacent school. Section 6.4.1 of the SMP states that:

> "The field coordinator will monitor excavation operations for fugitive dust and direct the general contractor to take measures, as necessary, such as the application of water or a change in operations or equipment in order reduce the potential of dust leaving the Site. Stockpiled soil, if any, will be covered with plastic sheeting, or other similar material, at the end of each workday. A stockpile that is not being actively worked on for more than 60 minutes will be covered with plastic sheeting to prevent dust from leaving the Site. If Gnoss Field Airport wind conditions are reported at 25 miles per hour or higher or fugitive dust is seen to be leaving the Site, the SMP coordinator will call for a halt in work. Work will remain at a halt until windy conditions have subsided, at which time the SMP coordinator can direct general contractor to resume work. In addition the SMP also states that "Petroleum hydrocarbon odors are expected, therefore, the SMP field coordinator will monitor operations for excessive odors and direct the general contractors to take measures such as the application of water or a change in operations or equipment in order to minimize noticeable or nuisance odors from leaving the Site."

As mentioned above petroleum hydrocarbon odors are expected - which is because they are being remediated ex-situ (above-ground) in contrast to recent previous remedial efforts which took place below the surface. The SMP only addresses fugitive dust and odors, which is not proactive against minimizing the release of VOCs from the site. The main problems with the above mentioned means of mitigating chemicals from leaving the property is: 1) the concentrations need to be high enough to warrant action and by this time the children could be exposed at the school and 2) barring a complete halt in work until school is not in session, water or a change in operations will do little to prevent further releases of contaminants while the impacted soil still needs to be removed. Again, the volatile nature of the primary chemicals of concern and the means of removing the soil via excavation, make the prevention of off-site releases of these contaminants unfeasible.

The SMP also address the possibility that groundwater is encountered during the soil excavation work. In order to address this event the SMP states that:

> "If groundwater is encountered during excavation or backfilling activities and if those conditions limit the execution of the RAP, then groundwater will be pumped into a holding tank, characterized for disposal, and removed from the Site by an appropriate disposal company based on its characterization."

Although this method is suitable to manage any encountered groundwater at the site this may contribute to additional off-site hazardous volatile chemicals from the project being released.

Main Gate Rd and C St. Initial Study, (Initial Study) June 2015, Urban Planning Partners

The Initial Study states the impact is less than significant when asked if the project will "*Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*" The rational for this being a less than significant impact is stated in the Initial Study:

> "The project site is adjacent to the North Bay Children's Center, the Novato Charter School, and a vacant Novato Unified School District property. Releases of hazardous materials from contaminated soil or groundwater, and lead- and asbestos-containing building materials could potentially migrate and affect the schools, but implementation of the Soil Management Plan and Health and Safety Plan, which will be reviewed and approved by the Regional Water Board and DTSC prior to remedial action, would reduce these impacts during remedial activities to a less-than-significant level. No additional mitigation is required."

AWS reviewed the SMP and the HSP mentioned above and there is no mention of the protection of adjacent sensitive receptors or NCS from the release of hazardous materials during the excavation work in these documents, nor is it clear that these documents were reviewed and approved by the RWQCB or the DTSC.

Recommendations

Based on the above review about 2,800 cubic yards of contaminated soil is being removed from the site. This soil is impacted with fuel-related hydrocarbon contamination in the form of volatile organic compounds (VOCs), semi-volatile organic compounds (SVOC's) and metals. An additional concern is potential remaining asbestos fibers and lead from the recent demolition project.

As mentioned above, the Initial Study states that "Releases of hazardous materials from contaminated soil or groundwater, and lead- and asbestos-containing building materials could potentially migrate and affect the schools, but implementation of the Soil Management Plan and Health and Safety Plan,

which will be reviewed and approved by the Regional Water Board and DTSC prior to remedial action, would reduce these impacts during remedial activities to a less-than-significant level." However, the SMP and the HSP which are referred to in the Initial Study do not address the protection of the surrounding community or schools from the contaminated soils to be excavated. The HSP indicates that it is designed to protect on-site workers, not school children, from exposure to the chemicals of concern. The precautions mentioned in the HSP and other project documents detail dust control measures to minimize the release of dust particulates from the site. This will aid in the reduction of particulates from reaching the school and school children but will not guarantee that the children will not be exposed to contaminated particulates above the existing (baseline) air concentrations. Furthermore, dust suppression activities will not reduce the amount of VOCs and SVOCs that are released from the contaminated soil into the air.

Since the school children could be anywhere from 50 to 400 feet downwind , depending on the location of the stockpiles, of the exposed contaminated soils the health and safety of the children during this work needs to be addressed and measures taken to remove their exposure. The following recommendations have been developed to provide the utmost protection of the children during the environmental remediation work.

Lead and Asbestos

As mentioned above there is a possibility that some suspect asbestos containing materials (ACMs) were not identified or removed from the two un-accessed rooms (presumably the two restrooms) from the former Building 970 prior to demolition. AWS recommends that NUSD request documentation which shows the proper testing and removal of materials containing ACM and lead from the two un-accessed areas. If these documents cannot be provided or show that the removal or demolition of building materials from these two areas was done improperly than AWS recommends soil samples be collected to assess whether the soil to be removed contains ACM and lead. Representative soil samples should be collected from underneath the former location of the restrooms and from within 15 feet of the perimeter of this portion of the building. These samples should be analyzed for lead in soil by EPA Method 6010B. According to California Code of Regulations Title 17 (CCR, 2008) the soil is hazardous above 400ppm "in bare soil in areas where children play". The soil samples should also be sampled for asbestos by PLM CARB Level B. Concentrations above 1% are considered to be hazardous. If these soils are deemed hazardous for lead and/or asbestos from the building demolition than it will be limited to the surficial soils. We recommend that if these sample results exceed the thresholds stated above then soils proposed for excavation in this area be removed when school is not in session and with perimeter monitoring or be removed in an erected containment with perimeter monitoring.

Metals - Barium, Arsenic and Lead

Metals (barium, arsenic and lead) were detected in soils above the ELSs. Thorough and diligent dust suppression activities during the excavation work can be effective in minimizing the off-site release of metals and particulates, however, even the best implemented dust suppression plan cannot guarantee that metals will not be released from the site and deposited in the school area. Therefore, it is recommended that the soil excavation work be performed when school is not in session. Additionally, because metals can be transported and deposited off-site and the school is located directly downwind of the site it is recommended that representative surface wipe samples be collected from frequently touched surface areas of the school, particularly any picnic tables or other outdoor eating surfaces, playground equipment and other frequently touched exterior surfaces after the remediation work and before the children return to school. Baseline samples should be collected prior to the start of work to determine baseline conditions. The testing results should be received and reviewed by NUSD before the children return to school. The samples for barium and arsenic should show that these metals are below baseline in areas collected from the school.

Pertaining to lead (Pb), the Housing and Urban Development guidelines for the Evaluation of Control of Lead-Based Paint Hazards (HUD, 2012) for lead testing recommends that for play areas and high-contact areas for children, the lead in soil concentration be less than 400 µg/g (ppm) using EPA Method 3010 or 3051. For lead on surfaces such as picnic areas or playground equipment, collected via wipe sampling, NIOSH Method 9100 could be used and the EPA and HUD clearance levels for floors should not exceed 40 ug/ft^2. If any of the results should exceed the baseline or HUD levels AWS recommends that a thorough decontamination of affected surfaces with post-remediation clearance sampling performed after the decontamination work is complete.

VOCs and SVOCs

Many VOCs and SVOCs exceed the ESLs in the soil proposed for excavation at the site. The only method currently proposed to minimize the release of these chemicals from the site is to cover the stockpiles that are not being used after 60 minutes of inactivity. This leaves the contaminated soils in the excavations, the stockpiles that are in-use, the trucks being loaded into, and the buckets excavating the soil exposed to the atmosphere. Because the very nature of a VOC/SVOC is that they are volatile there is no adequate way to prevent or even reduce these chemicals from being released to the atmosphere during the work. The excavations will be monitored for VOCs using a photoionization detector (PID) and PPE (e.g. respirators, gloves, protective clothing, and goggles) will be available for the workers, but this does not protect the children from the release of contaminants from the site.

Based on the above and because the school is so close (less than 100 feet) to the site and directly downwind and there is no adequate way of preventing the release of VOCs/SVOCs from leaving the site it is recommended that the soil excavation work, and any exploratory excavation work, be

performed when school is not in session. It appears that Thompson Development already acknowledges that the work would be best performed while the children are not present; a letter from Thompson Development dated May 5, 2015 states "Our current schedule shows the work commencing in late June and wrapping up in mid-July. That would really be the best case scenario as your school would be out of session on summer break."
Due to the fact that VOCs and SVOCs are volatile in nature there is no need to collect surfaces samples after the work. Potential atmospheric concentrations of VOCs and SVOCs from the contaminated soil are considered a respiratory risk, dissimilar to the metals, which are also an ingestion risk.

Summary of Recommendations

In summary, AWS recommends that in order to ensure maximum protection of the NUSD school children that the following measures be taken:

1. Test the areas that may have been impacted with asbestos and lead prior to the start of remediation and based on the results take the above-mentioned precautions.
2. Conduct wipe sampling for lead, barium and arsenic on exterior eating, playground and other frequently touched surfaces at NCS before, to establish baseline conditions, and after remediation work is done and before the children return to school. If sample concentrations are above regulatory levels perform a thorough decontamination of all affected surfaces and collect clearance samples to confirm decontamination
3. Perform the excavation of contaminated soils, including the pre-excavation soil assessment, when NCS is not in session.

AWS recommends that the results of the testing be made available to NUSD prior to allowing work to commence and that NUSD staff be immediately notified if any sample results indicate an exceedance of regulatory or baseline levels. AWS also recommends that NUSD staff be immediately notified if any potentially hazardous subsurface features are encountered during the earth work.

Conclusion

The excavation of contaminated soil is proposed to take place directly upwind within 50 to 400 feet of the NCS School in the coming months. There is no adequate way to fully prevent the school children from being exposed to the contaminants being excavated. The 970 C Street project is overall beneficial to the community in that it removes contaminants from the subsurface but it must be done in the way that is most protective of the school children. Environmental remediation activities should not be performed directly upwind of sensitive receptors without serious protections in place to reduce their

exposure. The most effective way to protect the children is for the contaminated soil to be excavated when the children are not at school.

Thank you for the opportunity to work with you on this project. Please let us know if you have any further questions or concerns.

Air & Water SCIENCES

Chip Prokop, PE, BCEE, CIEC, CAC 08-4420
President

Heidi Bauer, PG
Senior Project Manager

References

California Code of Regulations (CCR), April 2008, Title 17, Division 1, Chapter 8, §35036. Lead-Contaminated Soil.

The Housing and Urban Development (HUD), 2012, *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (2012 Edition),* Chapter 15-Clearance

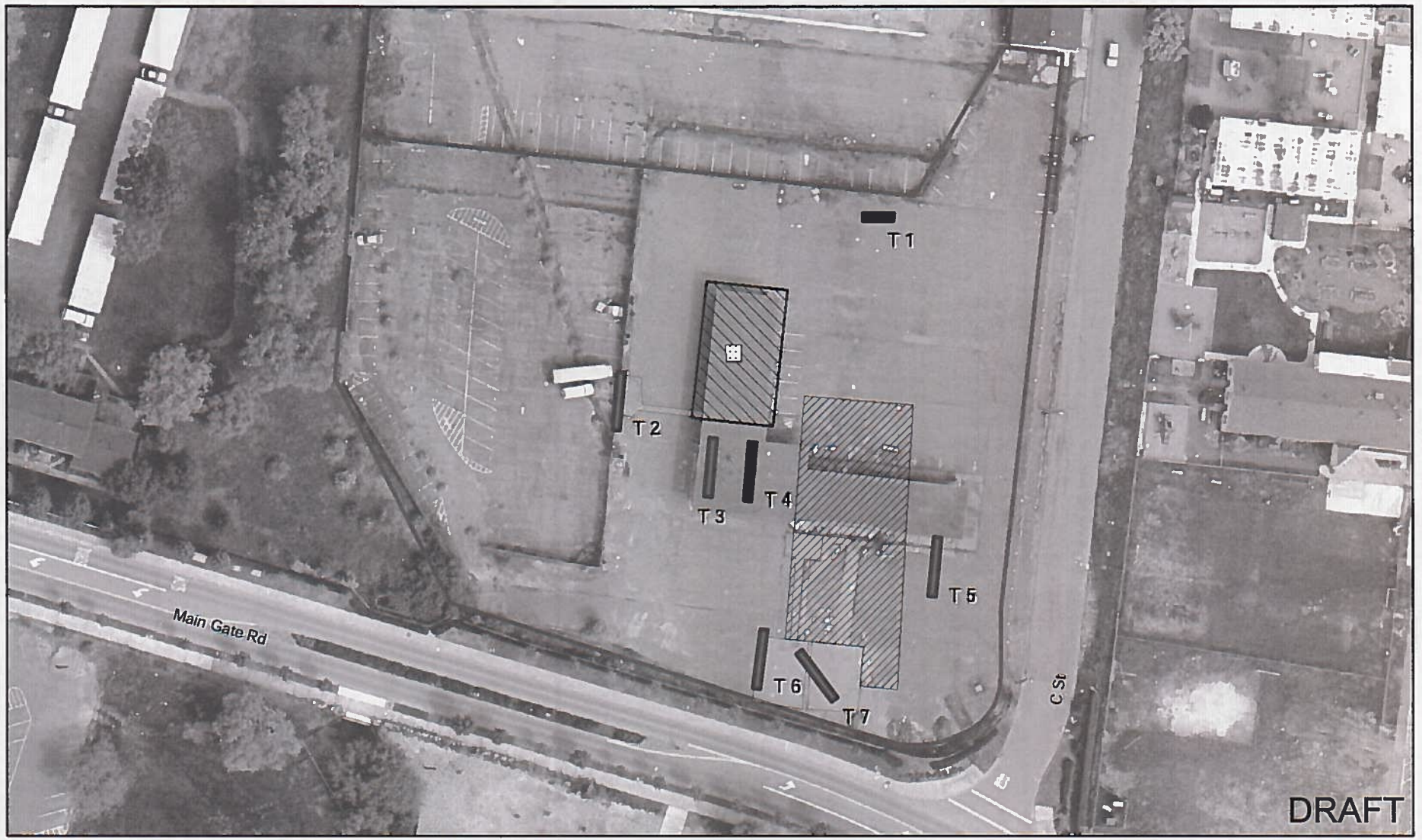
U.S. Army Corps of Engineers (USACE) and the California State Coastal Conservancy (SCC), January 14, 2008, *Restoration Design Report Seasonal and Tidal Wetlands Hamilton Wetland Restoration Project Novato, California Final Draft,* - http://scc.ca.gov/webmaster/ftp/hamilton/hwrp-marsh-restoration-plan.pdf).

ATTACHMENT A

Figure 9 From

West Yost Associates' Draft Remedial Action Plan (RAP)

August 2015



LEGEND

- Estimated Extent of Former Tank Excavation
- Approximate Site Boundary
- Pre-excavation Test Pit

Proposed Excavations

- 6' bgs (TPHd/mo)
- 7' bgs
- 10' bgs

N

0 30 60

Scale in Feet

FIGURE 9

Remedial Action Plan
Hamilton Square
970 C Street, Novato, CA
(T0609592161)

Proposed Excavations

THOMPSON DEVELOPMENT INC.

AN AFFILIATE OF WEST BAY BUILDERS INC.

WEST YOST ASSOCIATES

Main Gate Road and "C" Street Project
Planning Commission Hearing (July 13, 2015) & Revised CEQA IS/MND Comments

Planning Commission Hearing – July 13, 2015			
No.	**Commenter**	**Comments**	**Page # of Revised IS/MND where comment is addressed**
1	Elena Belsky	Personally working on issues at Hamilton for the last 15 years. She believes that these are very complicated issues and that Hamilton is full of surprises. She recommended that the City assume the worst. She believes that an MND is not the appropriate CEQA document because it is a very complicated site. She believes an EIR would be more appropriate.	• Page 10 – The IS/MND found that all potentially impacts were found to be less than significant with mitigation. Therefore an EIR is not required.
2	James Nevin	Showed video of the site after demolition of the former gas station showing strong winds blowing dust from the site. He stated his belief that there has been inadequate consideration to protect children and to recognize the cumulative impact of construction activities contemplated on three sides of the schools. He noted concerns regarding asbestos abatement which previously took place in removing the former gas station building without a fugitive dust plan. He stated his belief that asbestos materials were scraped off dry and removed dry, and that based on these past actions he has little faith in the RAP being enforced as well.	• Page iii – The City opted to develop mitigation measures that are consistent with and in some instances exceed the requirements of the Regional Board's RAP to maximize oversight for the remediation activities and improve the margins of safety for the general public, including nearby sensitive receptors. • Page 23 – Bay Area Air Quality Management District (BAAQMD) Additional Construction Mitigation Measures for fugitive dust control were added to Mitigation Measure AIR-1. • Page 30 – Mitigation Measure AIR-2 was added to reduce the exposure of existing sensitive receptors (nearby residents and schoolchildren) to pollutants from project construction to a less-than-significant level. • Pages 33-35 – Air Quality cumulative construction impacts were analyzed. An errata was prepared to address an additional

			development proposal adjacent to the project site. • Page 72-76 – Hazards cumulative construction impacts were analyzed. • Page 65 – Mitigation Measure HAZ-1 is proposed to provide additional safety measures and oversight of work conducted during soil remediation, including an independent environmental monitor to ensure compliance with RAP and mitigation requirements.
3	Stephanie Mosebrook	Expressed concern that the work be done safely and that there is an increased risk due to cumulative risk of multiple projects. She stated her opinion that the West Yost maps are out of date. She stated that the Planning Commission should not accept the recommendation to accept the CEQA document, that the City should do an EIR or focused EIR on soil remediation and that the final RAP approved by Water Board should include a comprehensive Soil Management Plan and a specific Health and Safety Plan that considers children. The public review period for the City's environmental document should not begin until all components of the RAP are made public. She requested that the City compile a history of documents similar to Hamilton Fields project on the City's website.	• See response to commenter #1. • Pages 33-35 – Air Quality cumulative construction impacts were analyzed. • Page 72-76 – Hazards cumulative construction impacts were analyzed. An errata was prepared to address an additional development proposal adjacent to the project site. • A history of documents related to the Main Gate Project (a.k.a., Hamilton Square) is available on the City's website: http://novato.org/hamiltonsquare • The Regional Quality Control Board considered the Applicant's draft RAP (October 2015), including Soil Management Plan and Sampling and Analysis Plan. A public comment period was offered by the Regional Board. In February 2016 the Regional Board issued a letter of "conditional concurrence" indicating the

			agency's general satisfaction with the draft RAP and requesting the addition of supplemental information and measures to be developed through the City's CEQA process. These activities were completed prior to release of the City's Revised IS/MND in October 2016.
4	Bridget Nevin	Stated that she is not opposed to the project, but feels that it needs to be done safely. She believes another community meeting is needed and that the non-compliance of the asbestos removal needs to be addressed. She stated her belief that the Staff report and Initial Study do not address issues and that there is a need for an EIR. She expressed concern that the Draft Soil Management Plan will not be posted for another two weeks.	• See response to commenter #1. • Additional community meetings were held October 22, 2015 and December 15, 2016.
5	Marianne Husband	Expressed concern regarding the impact of the project on low income children. She noted that 65% of students at Hamilton School receive lunch assistance. She stated that children are exposed to other elements and that there are carcinogens all around the schools in this small area.	• See response to commenter #2.
6	Lisa Van Balen	Expressed her support for the other speakers. She expressed concerns regarding the video showing dust blowing from the site, the height of the project, and traffic impacts.	• See response to public commenter #2. • Project merits will be discussed at subsequent public meetings. • Pages 108-113 – The traffic analysis found that all impacts would be less than significant (including remediation, construction, and operation of the project).

7	Shannon Delgado	Expressed agreement with the previous speakers. She asked for transparency and accountability and expressed moral and ethical concerns.	• See response to public commenter #2 and #4.
8	Maureen Zeus	Expressed compassion with parents. She noted that from Lanham Village bedroom windows she could see demolition workers scraping asbestos off the roof of the gas station. She noted that when the structures were removed some of the activity took place when children were present at the school but that most of it was done when kids were not present. She stated she did not see watering trucks on site. She expressed distrust for the process and developer's consultant team.	• All remediation activities would take place on the weekend when children are not present at the North Bay Children's Center, Novato Charter School, Wonder Nook Preschool, and Hamilton Elementary School. • See also response to commenter #2.
9	Kim Stafford	Noted that the Planning Commission needs to look at what is being requested. There is a signed easement for sewer through Lanham Village for commercial use. Adjacent to this proposed residential site is Novato Unified School District owned property which is slated for a soccer field and teacher training center. She stated her belief that commercial use is best. Her objections to residential use include height, condensed development in the area of Main Gate Road & C Street and traffic concerns. She expressed safety concerns with children.	• Pages 72-76 – The cumulative analysis includes projects in the project vicinity that are either under construction, in pre-construction building permit review, or undergoing development review with the City. At this time, no formal development plans have been released for the NUSD site. The City's CEQA document cannot speculate about what project NUSD may decide to pursue for its property. • See response to public commenter #2. • See response to public commenter #6.
10	Amy Baxt	Inquired whether the RAP considered the location of the schools, organic garden, SMART station and library. Children as young as 6-weeks old are present at the children's center. She stated that she was present during asbestos removal. She inquired as to whether the	• See response to public commenter #1. • See response to public commenter #2. • See response to public commenter #8.

		Mitigated Negative Declaration is appropriate and believes information is missing. She suggested that a focused EIR should be prepared instead.	
11	Gretchen Taylor	Noted that as an environmental consultant she participated in preparing the Mitigated Negative Declaration for Hamilton Marketplace. She stated that she is committed to health and safety of schools and believes that there appear to be significant unavoidable impacts that would trigger the preparation of an EIR based on water quality, hazards and cumulative impacts.	• See response to commenter #1.
12	Joan Goode	Believes that it would be wonderful to have something done at this site but is concerned after listening to the issues discussed tonight. She believes a full EIR is needed. She expressed concern for the general appearance of the project, 3-story homes on Main Gate and does not belief that this is a good design or a good use for the property. She expressed concerns with traffic and that there are too many amendments requested. She noted that the real estate market has changed significantly and asked that the Commission look out for interests of the community.	• See response to commenter #1. • See response to commenter #6.
13	Marie Hoch	Stated that that there is no way to make people park in their garages and no place for bike storage. She stated that the Commission needs to look at how people live.	• See response to commenter #6.
14	Pauline Yee	Expressed concerns for adequacy of disclosure to the Novato Unified School District and parents.	• Mailed and emailed notifications related to the project are being sent to NUSD officials and interested parents of the Novato Charter School who provided email contact information. Notices are available on the City's

			website: http://novato.org/government/hamiltonsquare • Mitigation Measure HAZ-1b outlines requirements for a comprehensive safety and monitoring program which includes emergency notification procedures to schools in the project vicinity.
15	Marla Fields	Expressed her belief that the level of scrutiny is very high from the resource agencies. She feels that the Federal Government did good job of MTBE cleanup of Parcel 1A. But what's happened on the building demolition is appalling. She expressed concern as to whether an MND is the best document and whether an EIR would be better.	• See response to commenter #1.
16	Hutch Turner	Expressed his opinion that fugitive dust was not handled properly. Remediation does not affect organic compounds- lead, minerals, and small children are the most vulnerable. He questioned whether state standards are sufficient to address issues for children. He stated his belief that the responsible people are not doing their job. He expressed concern with noticing.	• Pages 20-35 – The air quality analysis considered infant, child, and adult exposure to construction-period emissions (including remediation activities). • See also response to commenter #2.
17	Elena Belski	Questioned whether a permit was issued for demolition.	• Page i – Permits were issued for demolition by the City's Building Division (B2015-0940) and Bay Area Air Quality Management District (J#4M366) . More information on the project's history is provided in the Preface.

Main Gate Road and "C" Street Project
Planning Commission Hearing (July 13, 2015) & Revised CEQA IS/MND Comments

REVISED CEQA IS/MND COMMENTS			
18	Amy Baxt	Primary concern is about the cumulative impact of multiple projects in the area (including the ones that have been completed or are near completion i.e.: the library, SMART train station, removal of former gas station with hazardous materials, proximity to freeway and new bus/diesel train routes etc.). This site has not been fully remediated from former toxic wastes? Would like to understand how the cumulative impact is accounted for in a manner that considers the number of children in the area as well as full time residents.	• See response to commenters #2 and #3.
19	Brigit Nevin	Observed the cumulative air quality and hazards analysis in Revised IS/MND omitted a proposed project at North Bay Children's Center. Noted it is essential for the City to accurately address the fact that North Bay Children's Center and Hamilton Square are potentially scheduled for simultaneous construction.	An errata to the Revised IS/MND was prepared to correct the noted omission.
20	Brigit Nevin	Stated she can't reconcile the fact an authorizing agency put deed restrictions on this land [project site] forbidding it from ever becoming a school, day care facility, or hospital for good reason. At what point does the City recognize surrounding schools, residences, and day care facilities and that being said there is a significant impact. What justification is used that these sensitive receptors have to be subjected to substantial noise, contaminated fugitive dust and become potentially innocent victims as part of the remediation and construction process at 970 C street and beyond? The land was remediated to	• See response to commenters #2 and #3. • The Revised IS/MND considers the context of the proposed project and specifically identifies and analyzes potential impacts on sensitive receptors at nearby residences and children's facilities. The Revised IS/MND does disclose potentially significant impacts on these sensitive receptors. The Revised IS/MND recommends mitigation measures developed to avoid the exposure of

		commercial use and now the area surrounding it is more heavily populated and populated with more sensitive receptors. Lanham Village residents have already endured remediation phases and at what expense to their health and livelihood?	sensitive receptors to substantial noise and contaminated dust, as well as other hazards associated with remediation of the Project Site. Specifically, Mitigation Measures AIR-1, AIR-2, GEO-2, HAZ-1, HAZ-2, HYD-1, and NOI-2 are recommended to avoid or reduce potentially significant impacts to a less than significant level.
21	Brigit Nevin	Perhaps the land use should remain commercial for everyone's benefit. At what point because it's not a school, a day care facility or hospital, does logic then validate the land use for residences? If residential use is being highly demanded then why aren't highly stringent tenting options similar to the current remediation at the former PG&E site in San Rafael being explored? Cost should never be a factor in protecting the citizens of Novato. It is my opinion that Novato holds itself to the highest standards.	The Applicant has a right to request approvals to remediate the site to residential screening levels and petition the Navy to remove the restrictive covenant prohibiting residential use of the property. Assuming the remediation effort is approved and successfully completed, the Applicant has the right to pursue City Council approval to modify the land use designation applicable to the site from Neighborhood Commercial (CN) to Medium Density Multiple Family Residential (R10). However, the City Council has full discretion over whether such a land use change is granted. The Revised IS/MND makes no judgement with respect to whether commercial or residential use of the site is more appropriate. In this instance, the Revised IS/MND merely identifies the potential consequences of granting amendments and entitlements to establish residential use of the

			Project Site. This is information that will be weighed by the Planning Commission and City Council when considering the Applicant's request to develop the Project Site with residential condominiums. A discussion of tenting the Project Site during remediation is included in the Planning Commission staff report of May 17, 2017.
22	James Nevin	Suggested a much safer, and not significantly more expensive solution is to tent the project site like the PG&E site in San Rafael. Tenting is not even considered, discussed, or addressed in any of the current documents despite being repeatedly raised by members of the public.	The issue of tenting the site has been discussed and considered by City staff, the environmental specialists working on behalf of the City, and staff of the Regional Water Quality Control Board. City staff contacted the Bay Area Air Quality Management District regarding the tent structure placed at the PG&E site in San Rafael. The matter of tenting the site was discussed at a neighborhood meeting hosted by city staff on December 15, 2016, regarding the mitigation program for the project. This discussion included information regarding the tent utilized for the PG&E project in San Rafael. A discussion of tenting the Project Site is included in the Planning Commission staff report of May 17, 2017.

23	James Nevin	Commented the project site, although being remediated to a residential limit, will still have contaminated soil. Noted the project's construction phase would disturb soil and release contaminated dust. The developer should be required to remove all contaminated dirt during the remediation phase or the protective measures of the remediation phase (or tent as requested by the public) should be extended through all soil disturbance phases of construction.	The construction phase of the project would be subject to compliance with the dust management measures specified in Mitigation Measure AIR-1. The application of Mitigation Measure AIR-1 during the construction phase is premised on the project site being remediated to residential screening levels based the findings of a human health risk assessment. Should the project site meet residential screening levels it would be indicative, from a regulatory risk perspective, that any residual contamination is at a level that does not represent a hazard to human health. Given this circumstance, the dust control measures of Mitigation Measure AIR-1 were judged to be appropriate for the construction phase of the project. The application of Mitigation Measure AIR-1 to the construction phase is also appropriate based on the characteristics of the contamination and proposed remediation at the Project Site. As indicated on the soil sampling figure (Figure 6) presented in the RAP, soil contaminants are concentrated in areas that will be excavated during the remediation phase. Recognizing this contaminated soil will be removed and replaced with clean fill material, subsequent grading in these

			areas is not anticipated to present a risk of exposure to soil contaminants. Where soil contaminants exceeding cleanup goals have been detected outside the proposed remediation area, additional soil testing will be conducted as part of the data gap analysis, as indicated in Section 2.3.5 and Figure 9 of the RAP. Compliance with the RAP is included as part of the mitigation. If the exceedances are confirmed, the remediation plan would be modified to include excavating soil in those areas subject to implementation of all mitigation measures prescribed for the remediation phase.

May 1, 2017 Statement of James Nevin Re 970 C Street For Official Public Record

My name is James Nevin.

I am a Novato resident and a parent of 4 children at Novato Charter School (NCS). I am also a partner at the law firm of Brayton Purcell LLP, a Novato business with 250 employees, where we specialize in representing individuals and families who suffer injury and death from exposure to toxins and carcinogens. My wife, Brigit Nevin, is a former CA EPA and U.S. EPA Enforcement Scientist.

I am pro-development, but it has to be done safely.

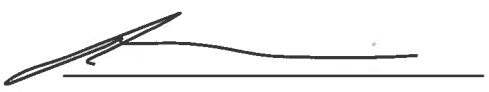
I incorporate herein by reference, and attach as exhibits, my prior August 4, 2015 and November 9, 2015 statements for official public record.

While the October 2016 Revised IS/MND is certainly an improvement over previous versions, it still contains many of the fundamental flaws that I previously raised. Further, the February 2, 2017 errata is rather sad, after a year and a half of study, the resulting errata can arguably be summarized as 'well... it is someone else's child at risk for cancer'.

While there is much that could be written, I have narrowed down my public statement to the following two most important points, both of which remain unaddressed entirely in any of the documentation:

1. Given the past history of utter failure to mandate or use proper methods for contaminated fugitive dust control at this site by the City, air board, Thompson Development, West Yost, and various sub-contractors, as well as the expenses associated with the proposed future mitigation methods, a much safer, and not significantly more expensive, solution is to tent the project like the recent PG&E site in San Rafael. Tenting is not even considered, discussed, or addressed in any of the current site documents (despite having been repeatedly raised by members of the public at virtually every public forum discussing this site).

2. During remediation, Thompson plans on ONLY removing the most HEAVILY contaminated soil until the AVERAGE contamination level for the ENTIRE parcel falls just below residential limits. Next, during the regular construction grading and trenching phase, WITHOUT any of the extra protections used during the remediation phase in place, Thompson will be disturbing a lot of soil, some of which will still be MODERATELY contaminated (because when averaged with the non-contamination portions, the total parcel will be under residential limits), and thereby release contaminated fugitive dust. Unfortunately, the infants, children, teachers, residents, and workers who will be exposed to that fugitive dust (some breaths with no contamination, some breaths with moderate contamination) won't be breathing averages - that is not how our lungs work. To prevent this, the developer should either be required to remove all of the contaminated dirt during the remediation phase, or the remediation phase protective measures (either the currently proposed measures in the revised IS/MND or the public proposed full tenting) should be extended through all soil disturbance phases on construction.



James P. Nevin Jr.

November 9, 2015 Statement of James Nevin Re 970 C Street to the SFBRWQCB and the DTSC For Official Public Record

My name is James Nevin.

I am a Novato resident, a parent of 3 children at Novato Charter School (NCS), and until I moved him out because of all this, a parent of 1 child at North Bay Children's Center (NBCC). I am also a partner at the law firm of Brayton Purcell LLP, a Novato business with 275 employees, where we specialize in representing individuals and families who suffer injury and death from toxins and carcinogens. My wife, Brigit Nevin, is a former CA EPA and U.S. EPA Enforcement Scientist.

I am pro-development, but it has to be done safely.

I incorporate herein by reference, and attach, my August 4, 2015 statement for official public record submitted to the Novato Planning Commission, which was later echoed and supported by the attached September 10, 2015 independent report from Air & Water Sciences Environmental Consultants. Notably the issues raised by Air & Water Sciences Environmental Consultants and me regarding past improper abatement, building demolition, and well demolition at 970 C have essentially been ignored by Thompson and remain unrefuted. The City staff at least have acknowledged the problems. At the community meeting re 970 C on October 22, 2015, regarding the past actions at 970 C, Bob Brown repeatedly stated: "we unfortunately leaned some hard lessons", "divisions within the City failed to communicate with each other", "we failed to monitor", etc.

Focusing on the future work at issue in the RAP and supporting documents, despite many months of detailed input from knowledgeable individuals as well as Air & Water Sciences Environmental Consultants, and despite many promises from Thompson, the October 2015 draft RAP and associated documents remain fundamentally flawed for several reasons.

1. It appears the plan is leave all the recommended protections out of the RAP and ask the public to trust that those protections will be later included in the Mitigated Negative Declaration. Especially given the history of failures at this site, such a plan is folly. All of the recommended protections need to be explicitly included in the RAP.
2. As I orally raised, with no answer from Thompson or West Yost, at the October 22, 2015 meeting, and as can easily be seen on the attached Figures 4 – 10 from the draft RAP, Thompson plans on a) starting the remediation without doing any prior testing of their own, b) during remediation only test within their proposed remediation zone, c) not remediate significant amounts of areas that previous tests have shown to be contaminated above commercial levels, d) not remediate areas that have never been tested at all, e) ask us to trust that post remediation even though nothing about this is in the draft RAP that they will then test all areas to make sure the dirt is at residential levels before starting normal construction grading.
3. The RAP should require that the site be tented during all remediation work.
4. All of the ESLs used are based on Time Weighted Average Construction worker exposures and on levels of a resident in the building post-construction post-contaminated soil disturbance, NOT on safe exposure levels to adjacent children during construction while the contaminated soil is being disturbed.
5. None of the ESLs take into consideration the cumulative impact of exposures from all sides that I set forth in my August 5, 2015 statement.

6. Thompson's promise to include extensive fugitive dust controls is not in the draft RAP.
7. Thompson's promise to have third party monitoring during remediation is not in the draft RAP.
8. Thompson's promise to do no remediation work while children are present is not in the draft RAP.
9. David Elias' from the SFBRWQCB statement that they "don't anticipate release of any detectible levels of contamination" while well intended unfortunately runs contrary to the prior test results, and runs contrary to the previously submitted eyewitness and video evidence of clouds of contaminated dust blowing directly on to the children during the past work at the site.
10. The October 2015 draft RAP is filled with guesses, speculation, assertions, and discounting of test results:
    a) Page 3 – "According to Battelle, over excavation of hydrocarbon-impacted soils beneath the building was performed "to the extent practicable to remove affected soils encountered during removal activities. **Complete removal of affected soil was constrained by the limited work area inside the building and the potential to undermine building foundations.** Verification samples were collected to confirm the absence of impacted soils or to define the degree and extent of impacted soils left in place."
    b) Page 5 - "West Yost **considers** soil samples collected from a depth of eight feet or greater to be **affected by the groundwater plume and not representative of soil impacts**. Figure 5 illustrates the locations of all soil samples collected above the groundwater table. Based on this figure it is clear that impacted areas are **mostly confined** to the former service station and areas adjacent to it with a few exceptions."
    c) Page 5 – "Upon review of this data it appears that there are **some data gaps**."
    d) Page 5-6 – "TPHd- and TPHmo-impacted soil was also detected in one sample collected from the southern end of the former gasoline UST excavation (NMSB-24). The sample was collected from a depth of 6 inches bgs; **it was not clear** in the report if this soil was **collected in fill** that had been placed over the UST backfill, or if it is **possible that this sample is actually affected** by the asphalt paving."
    e) Page 6 – "**Arsenic, barium, and lead were each detected** during Ninyo & Moore's Phase II investigation in different samples in concentrations exceeding the current residential ESLs. Based on the frequency and extent of occurrence, however, **these concentrations should be considered background** based on the established background concentration guidelines."
    f) Page 7 – "Although the **AS samples** contain petroleum hydrocarbon concentrations **exceeding the residential ESL, these samples** were **collected before** the air sparging system was started and after 11 years of operation it is **unlikely that this data represents current conditions**. The same can be said about the "SG" samples which were installed in 2005, four years before the sparging system was shut down. MTBE in groundwater has decreased substantially since these soil vapor samples were collected. As a result, **soil gas concentrations have likely decreased**.
    g) Page 8 – "Based on a review of subsurface data collected to date, West Yost has **identified a few minor data gaps**."
    h) Page 8 – "In all cases, the **sample data is relatively old, and/or it was collected in suspect material**."

i) Page 9 – "Soil vapor **data is limited and dated**. West Yost **conduct a soil vapor investigation after remediation** has been completed to support the updated human health risk assessment"
j) Page 11 – "MTBE concentrations are **predicted** to be below maximum contaminant levels (MCLs) at the Site within five years.
k) Page 18 – "A separate HHRA will be conducted **after completion of the remedial action**."
l) Page 18 – "The extent of soil vapor sampling will be **determined after completion of the remedial** action."
m) Page 18 – "**Judgments leading to conclusions and recommendations** are generally **made with an incomplete knowledge of the conditions present. More extensive studies**, including additional environmental investigation, **can reduce the inherent uncertainties** associated with such studies. **If Thompson Development wishes to reduce the uncertainty** beyond the level associated with this study, **West Yost should be notified for additional consultation.**"

11. The October draft RAP contains provisions to protect the workers, but nothing for the adjacent children.
    a) Page 13 - "**Workers** will be made aware of the potential hazard and will be **advised to wear personal protective equipment and to wash hands before eating or drinking.**"
    b) Page 13 – "Site **workers will be required to wear personal protective equipment (PPE) such as gloves, coveralls, Tyvek, or like material to limit or prevent contact with soil.**"
    c) Page 14 – "It **is highly unlikely that workers will be inclined to eat vegetation** growing at the Site."
12. The October draft Soil Management Plan is equally flawed for the same reasons as the RAP, as well as the following:
    a) Page 5 - Thompson plans on using West Yost and Musco Excavators, the same "qualified sub-contractors" the improperly demolished the building and the wells.
    b) Page 7 – "West Yost has prepared a **HSP to protect West Yost's workers and subcontractors from chemicals** that might be encountered," but does not include any protections for the children.
    c) Page 7, the plan purports to protect the children with a vague "pre-work meeting": "The meeting will include **review of** the weather conditions forecast, **activities and associated measures** to mitigate potential impacts and **address concerns** of the neighboring school and residential properties, and review all conditions related to plan and permit approvals."
    d) Page 9 - The plan includes incredibly vague, incredibly subjective, incredible discretionary plans for fugitive dust control: "The SMP field coordinator will **monitor** excavation operations for fugitive dust and direct the general contractor to **take measures, as necessary**, such as the application of water or a **change** in operations or equipment in order **reduce** the potential of dust leaving the Site."
    e) Page 9 – "A total volatile organics instrument shall be used to **periodically monitor** airborne concentrations of contaminants on site."
    f) Page 10 – "Air monitoring shall be conducted at **15 minute intervals, unless it is determined** that air monitoring **may occur at less frequent** intervals."
    g) Page 10 – "Monitoring shall be conducted **at least two times each day**, with a total volatile organics direct reading instrument, at location upwind and downwind at the perimeter of

the site. Measurements shall also be **taken periodically** downwind of each active sampling site to assess the potential for off-site migration. If airborne levels of contamination **exceed background levels for a sustained period** of time at the perimeter of the site, the work area shall be expanded to encompass all area subjected to the elevated levels. If airborne levels of contaminants exceed background levels by 5 ppm at the perimeter of the site, the work will be stopped, the suspected source of the contamination will be covered to eliminate emissions. If airborne levels of contaminants exceed background levels**, a decision will then be made** as to how to proceed with the work and how to more fully characterize the airborne emissions."

13. The October 2015 draft Sampling and Analysis plan is equally flawed for the same reasons as the RAP and Soil Management Plan, as well as the following:
    a) Page 12: "The **criterion for successful soil remediation is achieving average contaminant concentrations in soil below Remediation Goals**." While an average residential level may comply with the regulatory standards for a future resident living in the completed building post-construction, post-contaminated soil disturbance, and may comply with the time weighted average that OHSA unfortunately allows the construction workers to be subjected to, it in no way protects the adjacent children from the cumulative peak level exposures during or after the remediation.
14. Despite many months up input, the publically submitted draft Health & Safety Plan is still the August 2015 version, and is still entirely focused on the workers, and utterly ignores the adjacent children, page 2: "This **site safety plan is designed to protect the health and safety of personnel engaged in excavation activities** from potential hazards associated with those activities."

In conclusion, based on the past improper abatement, building demolition, and well demolition, that developer, its sub-contractors, and the City staff have demonstrated that they cannot be trusted to properly do the work absent real-time oversight from competent independent specialists. Promises are not enough. Plans to include protections in the city's mitigated negative declaration are not enough. The official RAP and associated documents that must be approved by SFBRWQCB and the DTSC must explicitly include all the protections to insure that there are no more "mistakes" during the remediation and construction.

James P. Nevin Jr.

August 4, 2015 Statement of James Nevin Re 970C Street For Official Public Record

My name is James Nevin.

I am a Novato resident, a parent of 3 children at Novato Charter School (NCS), and until I moved him out because of all this, a parent of 1 child at North Bay Children's Center (NBCC). I am also a partner at the law firm of Brayton Purcell LLP, a Novato business with 275 employees, where we specialize in representing individuals and families who suffer injury and death from toxins and carcinogens. My wife, Brigit Nevin, is a former CA EPA and U.S. EPA Enforcement Scientist.

I am pro-development, but it has to be done safely.

When it comes to protecting the children at NCS and NBCC from toxins and carcinogens, the City staff, Thompson Development, and its subcontractors, have completely blown it every step of the way so far. They have all utterly failed our children. After getting caught in the act, they have issued numerous blatantly false statements that ignore or misstate the actual words in their own documents and the documents they rely on.

They are creating a cancer cluster, and in addition to each individual failure, they also fail to address the cumulative impact on the children. Cancer epidemiology demonstrates that the younger the child, the higher the risk of cancer. This is because the younger we are, the more rapidly our cells divide and also there is literally more time for carcinogens to be in our body, thus providing greater opportunities for carcinogens to cause mutated cells during cell division. One large source of toxins and carcinogens is bad enough, but these children are now surrounded on all sides.

NCS and NBCC have become an island, surrounded on 4 sides by improperly done construction work exposing them to toxins and carcinogens.

A. 970 C Street is on one side of the two schools, about 30 feet away across a narrow street.

Subsequent to being called out for the work thus far, the developer Thompson has made many misstatements such as "the abatement was all done correctly" and "least likely to pose any type of impact to workers and/or the environment" and "fibers are not disbursed during removal", "safely demolish the old gas station", "we are prepared to go above and beyond all of the safety measures required by the State and Federal law", "the three contractors...conducted their work according to the many rules and regulations that govern abatement, demolition and removal", "all of the work was done correctly and according to all of the many Federal, State, and local laws governing this type of work", "dust blowing off the site during a windy day was likely comprised of the dust that had settled on the site after decades of sitting unused", and "because all of the asbestos and lead paint was abated prior to demolition, the dust resulting from demolition would not contain any of these harmful substances", "all potentially hazardous materials identified in the building survey had already been removed".

City staff, such as Bob Brown, have made similar misstatements, such as "the contractor has receipts for a huge amount of recycled water which was used" and "asbestos removed was impregnated in asphaltic tiles so it doesn't get airborne".

However, a careful reading of the actual facts and words in their own documents, and the documents they have relied on, show that their statements are all false.

Per the **August 3, 2003 Navy Finding of Suitability to Transfer report**, this site contained a NEX gas station, and as a result the water and soil still contains MTBE (methyl tertiary butyl ether), benzene, TPH, toluene, ethylbenzene, xylenes, PCBs, lead, insecticides, termitcides, rodenticides, and herbicides. While the Navy conducted various remediations, they only brought the contamination levels down to commercial zoning levels for most of the property, and one location on the property still exceeds even commercial zoning levels. The Navy also conducted various cancer risk assessments and concluded that additional remediation was unnecessary, but none of it took into consideration that the adjacent plots would become schools or that 970 C would be used for residential purposes. Moreover, directly underneath the gas station was never tested at all. The Navy report stated many cubic yards of contaminated soil remained, and that "potential for exposure would likely be greater by disturbing the soils than leaving them in place". The Navy report also includes the transfer deed restriction of no "activities that will disturb the soil at or below 5 feet below current ground surface (e.g. excavation, grading, removal, trenching filling, earth movement, or mining) on the entire property [or 3 feet below...the foundation of the building] without a Navy, DTSC, and RWQCB approved soil management plan and a health and safety plan."

While the inside of the gas station on 970C St. was abated by the Navy in 1998, only the "damaged asbestos containing materials" were removed, the rest of the asbestos was "left in place" and the exterior was not abated at all per the 2003 Navy Suitability of Transfer Report. The Navy did not test for lead prior to the transfer, but noted that it assumed it was present.

Per the **1/15/08 Ninyo & Moore report** prepared for Thompson Development, they observed presumed asbestos containing "exterior stucco walls, vinyl floor tiles and associated mastic, ceramic wall tiles, lay-in acoustic ceiling tiles...roof assemblies and associated mastic." They also noted that due to equipment storage, "many floor areas were not observed" and due to having "no keys to these rooms" "access was not gained to" "two small rooms". And, they noted "this assessment did not include a subsurface assessment...there may be asbestos-containing pipes... beneath the project area."

Ninyo also noted that per the April 1998 Navy Asbestos Remediation report, "areas...were... sprayed with paint and encapsulant" (meaning not removed), no asbestos abatement was done "in above-ceiling areas", and that the remaining asbestos containing materials included "vinyl floor tile" and "acoustic ceiling tiles." **Ninyo also notes that per the Navy 1/17/03 Final Asbestos Survey**, the building still contained asbestos "vinyl floor tile", pipe "insulation", "tile grout" and "exterior stucco".

Ninyo "conducted a limited asbestos and [lead] survey" of only the areas they could access, and despite the Navy reports of remaining asbestos containing ceiling tiles, insulation, grout, exterior stucco, and wall tiles that was left in place, Ninyo only tested the vinyl floor tile (5% chrysotile asbestos) and mastic, and roof material (5% chrysotile asbestos) and mastic (10%

chrysotile asbestos), and the exterior stucco. While Ninyo found asbestos in the vinyl floor tile and mastic and roofing material and mastic, despite the Navy report that the Stucco contained asbestos and despite the fact that when the gas station was built stucco almost universally contained asbestos, Ninyo did not detect any in their 7 samples – likely because they used the less sensitive and less expensive PLM microscope rather than the more expensive and more sensitive TEM microscope. They report that much of the asbestos vinyl floor tile was "broken" and "crushed".

All of the 7 paint samples for lead came back positive for lead.

Ninyo concludes that "if these materials remain in good, **undisturbed** condition, exposure to building occupants is expected to be negligible. If these materials **deteriorate** over time, are **damaged**, or are **disturbed**, such as **during** renovation or **demolition** operations, then **asbestos fibers or lead dust may be released**, creating a potential health hazard...**prior to**...**demolition work**...**remove the asbestos** containing materials."

Furthermore, it is vital to understand the word "friable" means damaged, crumbled, or pulverized, or capable of being made as such. Floor tile, roofing material, and any other supposed "non-friable" materials are only "non-friable" when they are undisturbed, not deteriorated, sitting under normal use conditions on a roof or floor etc., and are literally not in the process of being scraped up. And, "asbestos abatement" means either removal or sealing in place (as the Navy noted that it did). Asbestos that was abated in place was STILL there when the building was demolished.

From April 7, 2015 to April 10, 2015, Jakela, the abatement contractor hired by Thompson performed asbestos and lead abatement work. **Jakela submitted an undated letter** describing the scope of their work. Ignoring the Navy and Ninyo reports, Jakela repeatedly misstates that all the asbestos containing materials were "non-friable". Also, Jakela ignores the regulation that they themselves attached to their letter. The **August 1994 EPA Applicability of the Asbestos NESHAPS to Asbestos Roofing Removal Operations Guidance Manual** only exempts material that is **not** "crumbled" or "pulverized", "**assuming** it is not friable" and "when such removal is **not** a **part of a demolition** project".

This abatement work was done with no notice to the parents of NCS or NBCC, during the 4 days in the middle of the school week, during the day, while the children were present inside and outside of the schools as close as 30 feet away by workers in full asbestos hazmat suits wearing asbestos hazmat respirators. Apparently Jakela had no written abatement plan, because they have not submitted one. A proper written abatement plan would have required the use of amended (surfactant) water to wet down all the asbestos material, and then carefully put it in sealed double bags. Also, it would have addressed methods to prevent fugitive dust from migrating to the schools. And, they would have taken air samples to ensure that no fugitive dust was released.

Jakela claims it properly scraped up the interior floor tile and mastic (since this was interior work, nobody else observed this, and apparently they did not do any air sampling, so we have no basis to dispute their claim). Jakela also claims it properly scraped up the roofing material and mastic. Jakela claims it used "water misting sprayers" during this process and that the "asbestos containing material portion of the roof was packaged on the roof and placed in our truck for disposal". However, in addition to other parents, my wife and I, both with specialized knowledge as noted above, personally observed them not using water, not packaging it into double bags on the roof, and rather scraping it up dry and tossing it off the roof dry and not packaged. I showed the planning commission a photograph. At the time, we did not know of any reason to start taking videos. And we observed the resulting dust. And, Jakela did not take air samples.

Per their own records, Jakela did not remove any of the other asbestos containing material identified and left in place by the Navy and/or identified by Ninyo.

Furthermore, in regards to lead, Jakela only removed "loose/flakey [lead] paint in preparation of demolition activities, very little paint was removed as most of the paint around the building was intact at the time of our abatement operations."

Next, per the **July 15, 2015 letter from Musco Excavators**, **from Wednsesay 4/15/15 to Friday 4/17/15, and from Monday 4/20/15 to Wednesday 4/22/15**, again with no notice, and again in the middle of the week and during the days as the children were present inside and outside as close as 30 feet away, Musco demolished the gas station that was still filled with asbestos and lead, as well as everything else in construction products, and they removed the debris. The **Musco receipt from NMWD** shows they only purchased 500 gallons of recycled water for each day. 500 gallons is only sufficient to prevent fugitive dust from building demolition for less than 1 hour.

In violation of fugitive dust control laws such as CA Health & Safety Code 41700, and BAAQMD regulations, based on the personal observations of multiple parents as well as multiple residents of Lanham Village, Musco's demolition blew huge amounts of fugitive dust containing asbestos, lead and other particles onto the children and residents.

In sum, the facts that we have from the combination of two Navy reports, the Ninyo report, and the Jakela letter are:

- Asbestos floor tile and mastic, much of it broken and crushed and thus very much friable, removed by Jakela.
- Exterior stucco walls (asbestos per Navy) (claimed not asbestos by Ninyo), not removed by Jakela, then demolished by Musco with no fugitive dust control.
- Ceramic wall tiles (likely asbestos), not tested by Ninyo, not removed by Jakela, then demolished by Musco with no fugitive dust controls.
- Acoustical ceiling tiles (asbestos per Navy), not tested by Ninyo, not removed by Jakela, then demolished by Musco.

- Asbestos roofing felt and mastic, which per Ninyo releases asbestos when disturbed, damaged, removed, or demolished, and which per the EPA document relied on by Jakela is only not friable when not crumbled, and not being removed as part of a demolition, was scraped up and tossed off the roof by Jakela without water or packaging.
- Many floor areas were not observed or tested by Ninyo, and two rooms were not inspected at all by Ninyo, and the subsurface areas was not inspected at all by Ninyo, the asbestos likely present in those walls, ceilings, and floors were then demolished by Musco with no fugitive dust controls.
- Areas (likely walls and pipes) containing asbestos that was encapsulated and left in place by the Navy were not tested by Ninyo, not removed by Jakela, and were then demolished by Musco with no fugitive dust controls.
- The asbestos pipe insulation (per the Navy) was not tested by Ninyo, not removed by Jakela, and was then demolished by Musco with no fugitive dust controls.
- The asbestos tile grout (per the Navy) was not tested by Ninyo, not removed by Jakela, and was then demolished by Musco with no fugitive dust controls.
- Most of the lead paint (per Navy and Ninyo) was left in place by Jakela, then demolished by Musco with no fugitive dust controls.

Next, overlapping with some of Musco's work, **from April 20th to April 24, 2015**, **per the July 17, 2015 letter from West Yost**, and again with no notice to parents, and again in the middle of the school week, in the middle of the day, while children were present inside and outside as close as 30 feet away, West Yost destroyed the 20 test wells. The wells were destroyed by over-drilling, meaning the contaminated soil around and under the wells was removed, and the contaminated sandpack in each well was removed (and presumably the MTBE contaminated ground water that the wells tapped into was also disturbed).

Per **West Yost's March 10, 2015 written Work Plan**, they acknowledge that the ground is heavily contaminated with toxins and carcinogens, and that their waste will include "soil cuttings", "well debris, and of course because they were over-drilling 20 wells it will include "soil removed during excavation activities", but yet their **Health & Safety Plan** completely ignored the two schools 30 feet away and provided no fugitive dust prevention measures whatsoever to prevent all the toxins and carcinogens from blowing on to the children as they played outside in violation of the Navy restrictions, CA Health & Safety Code 41700, and BAAQMD regulations. Their workers were warned to "keep hands away from face" and "do not eat" or "drink", and they had "chemically resistant coveralls" and "gloves" and "respiratory protection" available, but nothing to protect the children. Per their plan, they were required to take organic vapor meter (OVM) readings while they did the work to monitor the release of volatile organic compounds (VOCs). However, no readings have been produced despite all the requests for documentation and all the documentation that has been produced, suggesting they did not actually take any or adequate readings.

Multiple parents and Lanham village residents personally observed the huge amounts of dust blowing onto the children. And, I showed the planning commission a video example. Thompson's excuse that it was a windy day, or that it must have been dust that had simply

settled on the concrete over the decades and coincidently while they were doing the demolition that dust which had remained undisturbed by all the wind for decades finally blew off is quite simply absurd, and demonstrates that despite their current lip-service, they have little concern for the health and safety of those they expose.

Next, the City Staff now wants to allow Thompson to do remediation of the toxins and carcinogens including MTBE, benzene, ethyl-benzene, toluene, and xylenes so they can get it rezoned for residential use. The draft Health & Safety plan included in the draft RAP released to the public ONLY focused on the construction workers who will have respirators, gloves, and Tyvek suits, and be warned not to touch their mouths or eat, but it includes nothing to protect the children, their lungs, their play fields, their organic gardens, as close as 30 feet away, no fugitive dust control measures are included at all.

Only hours before the July 13, 2015 planning commission hearing, finally paying attention to the months of detailed emails from my wife Brigit, Thompson and the City staff abandoned their plan to bum-rush the project approval through the commission that night. But, even as of today, August 4, 2015, this long after the hearing, Thompson and the City staff have STILL not released to the public even a draft of the Soil Management Plan, and their draft Health & Safety Plan released to the public still does not include any fugitive dust control measures.

The final complete RAP needs to include a) real fugitive dust protection measures and b) legitimate cancer risk analysis, and be c) provided long prior to a public hearing such as this in accordance with CEQA. d) And, a focused Environmental Impact Report on the soil remediation should be required. And, given their history to not follow the dust mitigation regulations, other health and safety laws, and their own reports, as noted in detail above, e) the City needs to appoint someone who is available 24/7, who can monitor the work, and will immediately stop all work if an infraction is reported.

B. Smart Train – On another side of the schools, the City is already allowing a Smart Train station to go in within 30 feet of the NCS organic garden and play fields. Once the station comes online, our children will be breathing all day long the toxic and carcinogenic diesel buses and diesel train fumes.

C. Parcel 1B & 1A: On another side of the schools, the October 2013 ECON (now West Yost) Endangerment Assessment for Parcel 1A & B admits that much of the area now owned by NUSD was used as a gas station, for hazardous materials storage, and other similar purposes. It still contains toxins and carcinogens such as lead, gasoline, benzene, toluene, ethylbenzene, xylene, MTBEs, trichloroethene, vinyl chloride, and butadiene in the soil and groundwater. It notes that the worst contamination is under former building 965 on Parcel 1A. It notes that the Navy land use deed controls of a) no residential or sensitive use such as schools or day care centers, and no digging are still in place for 1A, and for 1B no digging can occur that reaches down to the MTBE contaminated ground water. It also notes that pesticides, insecticides, termiticides, and rodenticides were regularly used on both parcels.

1. Parcel 1A remains at commercial or worse remediation level, and the owner, the Novato Unified School District (NUSD) has future plans to develop it into play fields and other uses.
2. Focusing now only on 1B since that is the area of current construction for the library, former building 926 which is on the edge of the area currently being worked on, was a warehouse, and whether or not it ever contained toxins and carcinogens is "unknown". Former building 928 was a gym and whether or not it ever contained toxins and carcinogens is "unknown", and it is entirely within the area currently being worked on. Former building 930 was a barracks that was known to contain friable asbestos, and was located where NBCC now is.
3. It is vital to understand that despite all the past various partial remediations, that there are still two separate contamination vectors today at 1B – water and soil.
4. The first vector is the MTBE ground water plume, which - while it started under 970C and 1A - has expanded very far, including under most of 1B. This plume well exceeds the maximum "allowable" (not safe, but regulatory) level of 13 ug/l. In fact, according to ECON, under 1B it ranges up to 100 ug/l. (It is worth noting that per the deed according to the 2008 report for the Navy, it was as high as 620 ug/l. It is hard to believe ECON that the level was reduced so quickly in 4 years. Regardless, up to 100 ug/l is still off the charts.) For 1B, the upper depth of the ground water is 9 to 13 feet below ground surface. For 1B, this leads to exposures in two ways. First, if they dig too deep and hit groundwater, they are releasing the contaminated water into the soil and the air. Second, the MTBE plume releases vapor intrusion to indoor air, and that process is elevated by the digging. A third way not addressed at all by the report is these are VOCs, volatile organic compounds, they can easily transfer from the ground water to the soil, and back and forth, thus contaminating the soil even if it was previously declared remediated.
5. The second contamination is the soil. Most of 1B was not tested at all by ECON. So to be clear, it was not – 'tested and declared "safe"' – it was simply not tested - meaning 'we don't know what is in the soil'. A very few spots were tested for Organochloride Pesticides (OCP), and none was found in those few spots. A very few spots were tested for lead, and it was found in most of those spots, all of which are where the digging is now occurring. No other testing was done by ECON at all of the soil in 1B. There is a reference in the 2008 deed to a 2001 Final Remedial Investigation, but I have not yet found a copy of that report. On a positive note, unlike 1A, the deed declares the soil of 1B sufficiently remediated for residential use, with the exception of the no digging down to the groundwater restriction because of the MTBE plume in the groundwater, although this is hard to reconcile that with some of the above. So to be clear for 1B, we know there is lead in the soil, we know the ground water is full of MTBE and that MTBE transfers to the soil and to the air via vapor intrusion and due to the very nature of VOCs, and we know they are digging fairly deep in some places and may hit groundwater, and we don't know what else is in the soil because it was not tested by ECON. Also, we should be mindful of the advice from the Sierra Club representative who spoke at the planning commission hearing for 970C St regarding her 15 years of

work on Hamilton – that the soil and water is full of surprises, and we really don't know much about what is in it.

6. The NUSD Amended Mitigated Negative Declaration for 1B includes fugitive dust controls. At page 39 and 41, it states that fugitive dust controls are required. Page 41 provides that only if all the mitigation measures are followed, the cancer risk to NBCC children is .62 children per million, and the cancer risk to NCS children is .028 children per million. The major problem with this figure of course is that a) it intentionally dilutes and averages out the exposures to arrive at lower figures, b) its meaningless if fugitive dust controls are not being followed and c) it does not take into account any cumulative impact from the other exposure sources surrounding the school island.
7. Page 43-44 sets forth the required fugitive dust controls, including "periodic watering or sprinkling of soil piles and unpaved portions of the site (translation anywhere there are digging or grading) to prevent dust from leaving the site and increasing watering whenever wind speeds exceed 15 miles per hour (which it is often there)...covering or watering all excavated materials prior to transportation off-site...sweeping (it means wet street sweeper as dry sweeping makes the problem worse) of adjacent streets as needed to remove accumulated dirt...." In addition to the Amended AMD, this is quite simply the law under CA Health & Safety Code 41700, and BAAQMD air quality regulations, and must be followed.
8. However, for the first 1.5 weeks of work, the contractor at 1B totally ignored the fugitive dust mitigation requirements, and nobody from the City, from NUSD, from the County, or from any government agency was there to stop it. We have taken and provided the video evidence and photographs. Only after extensive complaints from me and other NCS parents did they finally start using the wet down methods and tarping of dirt piles as required by their own plan, however their 500 gallon water tank is way too small to be completely effective.

D. Hamilton Hospital – 516 E. Hospital Drive – on the last side of the schools, is the proposed Assisted Living Facility at the now vacant Hamilton Hospital Building located .25 miles from NCS and NBCC, 500 feet from the Novato State PreSchool Program, and less than 500 feet from the Novato Park & Recreation PreSchool (which is not even mentioned in the Intial Study). According to the Initial Study in support of the developer's request for a Mitigated Negative Declaration, the project will include the demolition of all except the front façade of the existing building, built in 1941. The Study acknowledges that the site and building is known to be full of damaged friable asbestos, lead, PCBs, spilled diesel, and other toxins and carcinogens, but that testing has not yet been done. They also acknowledge that the ground water level us only 2 to 6.5 feet below the surface. They assert that all hazards will be mitigated and will have a "less than significant impact" on the schools, but they don't even yet know what the extent of the hazards is because they have not yet done testing, nor do they have any plan in place to protect the neighboring areas from any hazard or fugitive dust from the remediation, demolition, or construction. Like Thompson at 970C, they are seeking approval before they have done complete testing or created a complete fugitive dust control plan.

If the City staff and the various agencies don't do their job, and make sure these construction projects by Thompson and others both have, and follow, extensive fugitive dust mitigation measures, as well as other health and safety measures, they are recklessly exposing the children at the two schools (as well as neighboring residents) to toxins and carcinogens from all 4 sides of the schools.

A construction project should never needlessly endanger a child.

Air & Water SCIENCES
Environmental Consultants

AWS 1484
September 10, 2015

Karen Maloney, Assistant Superintendent
Novato Unified School District
1015 Seventh Street
Novato, CA 94945

RE: Report of Recommendations for 970 C Street Remediation Work

Dear Ms. Maloney,

Pursuant to your direction, Air & Water SCIENCES (AWS) is providing this Report of Recommendations pursuant to your direction to review and provide comments on the upcoming remediation work at the above referenced site with regard to the safety and health of Novato Unified School District (NUSD) students located at properties adjacent to the remediation work.

AWS reviewed the following documents for this report:

- Draft Soil Management Plan (SMP) and Health and Safety Plan (HSP), August 2015, West Yost Associates
- Draft Remedial Action Plan (RAP), August 2015, West Yost Associates
- Draft Sampling and Analysis Plan (SAP), August 2015, West Yost Associates
- Main Gate Rd and C St. Initial Study, June 2015, Urban Planning Partners
- Attachments A-L from https://970cstreet.wordpress.com/2015/07/
- All other documents and correspondence available on https://970cstreet.wordpress.com/2015/07/ and http://novato.org/government/community-development/planning-division/planning-projects/hamilton-square-townhomes

Project Background

The project site is known as 970 C Street and is proposed for residential townhome development by Thompson Development Inc. The site is approximately 2.7 acres (Assessor's Parcel Number 157-980-05) and is located on the former Hamilton Air Force Base on the southeast side of the City of Novato to the east of Highway 101. The site is located on the corner of Main Gate Road and "C" Street and is currently vacant and absent of structures.

The Novato Charter School (NCS) is located directly across "C" street from the proposed project. The NCS school property is located less than 50 feet east of the proposed project site boundary and less than 100 feet east of the proposed contaminated soil excavation area. The prevailing winds blow from the northwest and southwest at mean wind speeds of 7.4 knots to the southeast and 7.5 knots to the northwest (USACE, 2008). The NCS is located directly downwind of the proposed project. Figure 9 in Attachment A shows the 970 C Street site and the adjacent school.

The site is currently zoned for commercial development but because the proposed development is residential the area must be re-zoned for residential use. Previously a Naval Exchange (NEX) gasoline service station was located on the site and operated from the mid-1970s through the early 1990s. In 1995, after the station was closed, three 10,000-gallon underground storage tanks (USTs) formerly containing gasoline were removed. The removal of these UST's indicated that releases of gasoline-related volatile organic compounds (VOCs) to the subsurface soils and groundwater had occurred. Three hydraulic lifts, one waste oil UST, four buried collection drums, two oil/water separators and associated piping were also removed and subsurface contamination was also detected underneath many of these.

According to the RAP approximately 400 cubic yards of contaminated soils were removed in 1995 and 1996 subsequent to the UST removal. In 2000 an additional 200 cubic yards of contaminated soils were removed during another remedial action event, when hydraulic lifts, drain piping, and other features were removed from the interior of former Building 970. From June 1998 to October 1999 an air sparging and soil vapor extraction system was operated to remediate the areas of the highest groundwater contaminant concentrations. The system was effective in reducing the levels of contamination down to commercial screening levels, but they still exceed residential screening levels, which needs to be met for the development of the proposed townhomes.

Proposed Soil Remediation Work

As indicated in the RAP the following contaminants either remain in the soil or could be present in soils beneath at the site: total petroleum hydrocarbons as gasoline (TPHg), TPH as diesel (TPHd), TPH as motor oil (TPHmo), TPH as hydraulic oil (TPHo), total oil and grease (TOG), naphthalene,

benzo(a)anthracene, benzo(a)pyrene, methyl tert-butyl ether (MTBE), benzene, toluene, ethylbenzene, xylenes, butanone (MEK), propylbenzene, isopropylbenzene, 1,3,5-trimethylbenzene, 1,2,4-Trimethylbenzene, sec-butylbenzene, N-butylbenzene , vinyl acetate, tetraethyl lead and metals arsenic, barium and lead. Many of these contaminants exceed the Environmental Screening Levels (ESLs) for residential use or do not have an ESL but were found in elevated concentrations in soils at the site.

Additionally, there is a concern as to whether lead and asbestos contaminated building materials were properly removed from the site. The January 15, 2008 Ninyo and Moore report indicated that two areas ("presumably the men's and women's restrooms") could not be accessed and therefore materials inside were not tested for lead and asbestos. Based on this, and because additional documents stating that these areas were later accessed and tested were not provided, it is feasible that the building was demolished without these materials being previously removed and therefore, the presence of lead and asbestos in the soil is also a concern during the excavation process.

According to the SMP, there will be approximately 2,800 cubic yards of soil generated from the project. Figure 9 in Attachment A shows the areas off the proposed excavations. As stated in the RAP "soil will be excavated to a maximum depth of 7 ft below ground surface (bgs) downgradient of the gasoline UST excavations northward to north of the pump islands. Soil underneath Building 970, will be excavated to a maximum depth of 6 ft bgs except in one area in the former location of the northern hydraulic lift (H-N), which will be excavated to approximately 10 ft bgs." As mentioned above this soil is contaminated with fuel-related hydrocarbons (TPHg, TPHd, VOCs, SVOCs), metals and possibly asbestos.

As indicated in the RAP the soil will be excavated and loaded using a standard front-end loader. The soil may also be stockpiled on-site for later loading. According to the SMP: "If the impacted soil is stockpiled on-site prior to off-hauling, it will be placed on a paved surface and covered with visqueen plastic. The soil transport vehicles will be equipped with plastic sheeting and will be loaded using a standard front-end loader. After the soil is loaded into the transport trucks, the soil will be covered with tarps to prevent soil from spilling during transport to the disposal facility. Prior to departure, the general contractor will ensure that loose soil debris is removed from trucks via dry brushing the tires and truck body."

Review of Currently Proposed Health and Safety Precautions

AWS reviewed the relevant documents in order to determine the level of health and safety precautions proposed by the developer in order to protect the school children from exposure to the environmental contaminants during the soil remediation work at the site. The primary documents that proposed any

environmental health and safety precautions pertaining to the contaminated soil excavation were the RAP, HSP, SMP and the Initial Study.

The Health and Safety Plan (HSP), August 2015, West Yost Associates

The HSP states in the first paragraph: "This Health and Safety Plan has been prepared to minimize the threat of serious injury to **workers** during the excavation activities at 970 C Street, Novato, California (Site)." This states the intent of the HSP which is to protect workers. As indicated in the HSP:

> "The following modified Level D PPE will be used as necessary for site activities within work areas: Impervious clothing (gloves, Tyvek) shall be worn unless the Site Safety and Health Officer does not believe necessary. If hazardous materials (i.e. exposure to COCs) are encountered, employees will have the option, depending on the activity, to wear cotton/polyester, Nomex, or Tyvek coveralls large enough to fit over work clothing with sleeves and legs unrolled. Chemical-resistant, leather, electrical resistant or felt work gloves shall be worn depending upon the hazard. Safety glasses, goggles, or face shields, unless wearing a full-face respirator."

The HSP also indicates states

> "The likelihood of exceeding the OSHA PELs (Table 1) during the performance of the work outlined in this plan is considered to be low due to the ventilated conditions and low concentrations of constituents previously documented at the Site. However, half-face air purifying respirators with organic vapor cartridges, fit-tested for each employee present, will be available on site. If warranted by OVM readings, periodic air monitoring will be conducted during the on-site work with Sensidyne- or Dreager-type detector tubes and pump, which will provide immediate information on airborne benzene concentrations. Should the testing methods indicate potentially hazardous concentrations of airborne contaminants, or if any of the symptoms are noted or observed in any of the on-site personnel, corrective action will be taken, including using respirators, if necessary."

The health and safety precautions detailed above are all occupational based meant solely to protect on-site workers from exposure to hazardous chemicals. In the event that testing indicates potentially hazardous levels of airborne contaminants the corrective action proposed in the HSP only addresses the onsite workers. There is no mention in the HSP as to the protection of adjacent sensitive receptors (NCS).

Draft Remedial Action Plan (RAP), August 2015, West Yost Associates

The RAP does mention health and safety precautions or concerns in a couple of areas: Page 12 of the RAP states that:

> "COCs in subsurface soil may be expected to desorb in trenches, adsorb to soil, and volatize to subsurface soil vapor. Resulting complete pathways involve vapor migration into open excavations including utility trenches".

Page 13 of the RAP states:

> "In accordance with the soil and groundwater management plan, dust control measures will be in place during excavation activities at the Site. The on-site worker is therefore not expected to be exposed to COCs in airborne dust at the Site."

While an aggressive dust suppression plan is warranted for this project it does not minimize the release of VOC's and SVOCs from the site, which are the primary chemicals of concern.

Draft Soil Management Plan (SMP), August 2015, West Yost Associates

The SMP was also reviewed for health and safety precautions for the adjacent school. Section 6.4.1 of the SMP states that:

> "The field coordinator will monitor excavation operations for fugitive dust and direct the general contractor to take measures, as necessary, such as the application of water or a change in operations or equipment in order reduce the potential of dust leaving the Site. Stockpiled soil, if any, will be covered with plastic sheeting, or other similar material, at the end of each workday. A stockpile that is not being actively worked on for more than 60 minutes will be covered with plastic sheeting to prevent dust from leaving the Site. If Gnoss Field Airport wind conditions are reported at 25 miles per hour or higher or fugitive dust is seen to be leaving the Site, the SMP coordinator will call for a halt in work. Work will remain at a halt until windy conditions have subsided, at which time the SMP coordinator can direct general contractor to resume work. In addition the SMP also states that "Petroleum hydrocarbon odors are expected, therefore, the SMP field coordinator will monitor operations for excessive odors and direct the general contractors to take measures such as the application of water or a change in operations or equipment in order to minimize noticeable or nuisance odors from leaving the Site."

As mentioned above petroleum hydrocarbon odors are expected - which is because they are being remediated ex-situ (above-ground) in contrast to recent previous remedial efforts which took place below the surface. The SMP only addresses fugitive dust and odors, which is not proactive against minimizing the release of VOCs from the site. The main problems with the above mentioned means of mitigating chemicals from leaving the property is: 1) the concentrations need to be high enough to warrant action and by this time the children could be exposed at the school and 2) barring a complete halt in work until school is not in session, water or a change in operations will do little to prevent further releases of contaminants while the impacted soil still needs to be removed. Again, the volatile nature of the primary chemicals of concern and the means of removing the soil via excavation, make the prevention of off-site releases of these contaminants unfeasible.

The SMP also address the possibility that groundwater is encountered during the soil excavation work. In order to address this event the SMP states that:

> "If groundwater is encountered during excavation or backfilling activities and if those conditions limit the execution of the RAP, then groundwater will be pumped into a holding tank, characterized for disposal, and removed from the Site by an appropriate disposal company based on its characterization."

Although this method is suitable to manage any encountered groundwater at the site this may contribute to additional off-site hazardous volatile chemicals from the project being released.

Main Gate Rd and C St. Initial Study, (Initial Study) June 2015, Urban Planning Partners

The Initial Study states the impact is less than significant when asked if the project will "*Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*" The rational for this being a less than significant impact is stated in the Initial Study:

> "The project site is adjacent to the North Bay Children's Center, the Novato Charter School, and a vacant Novato Unified School District property. Releases of hazardous materials from contaminated soil or groundwater, and lead- and asbestos-containing building materials could potentially migrate and affect the schools, but implementation of the Soil Management Plan and Health and Safety Plan, which will be reviewed and approved by the Regional Water Board and DTSC prior to remedial action, would reduce these impacts during remedial activities to a less-than-significant level. No additional mitigation is required."

AWS reviewed the SMP and the HSP mentioned above and there is no mention of the protection of adjacent sensitive receptors or NCS from the release of hazardous materials during the excavation work in these documents, nor is it clear that these documents were reviewed and approved by the RWQCB or the DTSC.

Recommendations

Based on the above review about 2,800 cubic yards of contaminated soil is being removed from the site. This soil is impacted with fuel-related hydrocarbon contamination in the form of volatile organic compounds (VOCs), semi-volatile organic compounds (SVOC's) and metals. An additional concern is potential remaining asbestos fibers and lead from the recent demolition project.

As mentioned above, the Initial Study states that "Releases of hazardous materials from contaminated soil or groundwater, and lead- and asbestos-containing building materials could potentially migrate and affect the schools, but implementation of the Soil Management Plan and Health and Safety Plan,

which will be reviewed and approved by the Regional Water Board and DTSC prior to remedial action, would reduce these impacts during remedial activities to a less-than-significant level." However, the SMP and the HSP which are referred to in the Initial Study do not address the protection of the surrounding community or schools from the contaminated soils to be excavated. The HSP indicates that it is designed to protect on-site workers, not school children, from exposure to the chemicals of concern. The precautions mentioned in the HSP and other project documents detail dust control measures to minimize the release of dust particulates from the site. This will aid in the reduction of particulates from reaching the school and school children but will not guarantee that the children will not be exposed to contaminated particulates above the existing (baseline) air concentrations. Furthermore, dust suppression activities will not reduce the amount of VOCs and SVOCs that are released from the contaminated soil into the air.

Since the school children could be anywhere from 50 to 400 feet downwind , depending on the location of the stockpiles, of the exposed contaminated soils the health and safety of the children during this work needs to be addressed and measures taken to remove their exposure. The following recommendations have been developed to provide the utmost protection of the children during the environmental remediation work.

Lead and Asbestos

As mentioned above there is a possibility that some suspect asbestos containing materials (ACMs) were not identified or removed from the two un-accessed rooms (presumably the two restrooms) from the former Building 970 prior to demolition. AWS recommends that NUSD request documentation which shows the proper testing and removal of materials containing ACM and lead from the two un-accessed areas. If these documents cannot be provided or show that the removal or demolition of building materials from these two areas was done improperly than AWS recommends soil samples be collected to assess whether the soil to be removed contains ACM and lead. Representative soil samples should be collected from underneath the former location of the restrooms and from within 15 feet of the perimeter of this portion of the building. These samples should be analyzed for lead in soil by EPA Method 6010B. According to California Code of Regulations Title 17 (CCR, 2008) the soil is hazardous above 400ppm "in bare soil in areas where children play". The soil samples should also be sampled for asbestos by PLM CARB Level B. Concentrations above 1% are considered to be hazardous. If these soils are deemed hazardous for lead and/or asbestos from the building demolition than it will be limited to the surficial soils. We recommend that if these sample results exceed the thresholds stated above then soils proposed for excavation in this area be removed when school is not in session and with perimeter monitoring or be removed in an erected containment with perimeter monitoring.

Metals - Barium, Arsenic and Lead

Metals (barium, arsenic and lead) were detected in soils above the ELSs. Thorough and diligent dust suppression activities during the excavation work can be effective in minimizing the off-site release of metals and particulates, however, even the best implemented dust suppression plan cannot guarantee that metals will not be released from the site and deposited in the school area. Therefore, it is recommended that the soil excavation work be performed when school is not in session. Additionally, because metals can be transported and deposited off-site and the school is located directly downwind of the site it is recommended that representative surface wipe samples be collected from frequently touched surface areas of the school, particularly any picnic tables or other outdoor eating surfaces, playground equipment and other frequently touched exterior surfaces after the remediation work and before the children return to school. Baseline samples should be collected prior to the start of work to determine baseline conditions. The testing results should be received and reviewed by NUSD before the children return to school. The samples for barium and arsenic should show that these metals are below baseline in areas collected from the school.

Pertaining to lead (Pb), the Housing and Urban Development guidelines for the Evaluation of Control of Lead-Based Paint Hazards (HUD, 2012) for lead testing recommends that for play areas and high-contact areas for children, the lead in soil concentration be less than 400 µg/g (ppm) using EPA Method 3010 or 3051. For lead on surfaces such as picnic areas or playground equipment, collected via wipe sampling, NIOSH Method 9100 could be used and the EPA and HUD clearance levels for floors should not exceed 40 ug/ft^2. If any of the results should exceed the baseline or HUD levels AWS recommends that a thorough decontamination of affected surfaces with post-remediation clearance sampling performed after the decontamination work is complete.

VOCs and SVOCs

Many VOCs and SVOCs exceed the ESLs in the soil proposed for excavation at the site. The only method currently proposed to minimize the release of these chemicals from the site is to cover the stockpiles that are not being used after 60 minutes of inactivity. This leaves the contaminated soils in the excavations, the stockpiles that are in-use, the trucks being loaded into, and the buckets excavating the soil exposed to the atmosphere. Because the very nature of a VOC/SVOC is that they are volatile there is no adequate way to prevent or even reduce these chemicals from being released to the atmosphere during the work. The excavations will be monitored for VOCs using a photoionization detector (PID) and PPE (e.g. respirators, gloves, protective clothing, and goggles) will be available for the workers, but this does not protect the children from the release of contaminants from the site.

Based on the above and because the school is so close (less than 100 feet) to the site and directly downwind and there is no adequate way of preventing the release of VOCs/SVOCs from leaving the site it is recommended that the soil excavation work, and any exploratory excavation work, be

performed when school is not in session. It appears that Thompson Development already acknowledges that the work would be best performed while the children are not present; a letter from Thompson Development dated May 5, 2015 states "Our current schedule shows the work commencing in late June and wrapping up in mid-July. That would really be the best case scenario as your school would be out of session on summer break."
Due to the fact that VOCs and SVOCs are volatile in nature there is no need to collect surfaces samples after the work. Potential atmospheric concentrations of VOCs and SVOCs from the contaminated soil are considered a respiratory risk, dissimilar to the metals, which are also an ingestion risk.

Summary of Recommendations

In summary, AWS recommends that in order to ensure maximum protection of the NUSD school children that the following measures be taken:

1. Test the areas that may have been impacted with asbestos and lead prior to the start of remediation and based on the results take the above-mentioned precautions.
2. Conduct wipe sampling for lead, barium and arsenic on exterior eating, playground and other frequently touched surfaces at NCS before, to establish baseline conditions, and after remediation work is done and before the children return to school. If sample concentrations are above regulatory levels perform a thorough decontamination of all affected surfaces and collect clearance samples to confirm decontamination
3. Perform the excavation of contaminated soils, including the pre-excavation soil assessment, when NCS is not in session.

AWS recommends that the results of the testing be made available to NUSD prior to allowing work to commence and that NUSD staff be immediately notified if any sample results indicate an exceedance of regulatory or baseline levels. AWS also recommends that NUSD staff be immediately notified if any potentially hazardous subsurface features are encountered during the earth work.

Conclusion

The excavation of contaminated soil is proposed to take place directly upwind within 50 to 400 feet of the NCS School in the coming months. There is no adequate way to fully prevent the school children from being exposed to the contaminants being excavated. The 970 C Street project is overall beneficial to the community in that it removes contaminants from the subsurface but it must be done in the way that is most protective of the school children. Environmental remediation activities should not be performed directly upwind of sensitive receptors without serious protections in place to reduce their

exposure. The most effective way to protect the children is for the contaminated soil to be excavated when the children are not at school.

Thank you for the opportunity to work with you on this project. Please let us know if you have any further questions or concerns.

Air & Water SCIENCES

Chip Prokop, PE, BCEE, CIEC, CAC 08-4420
President

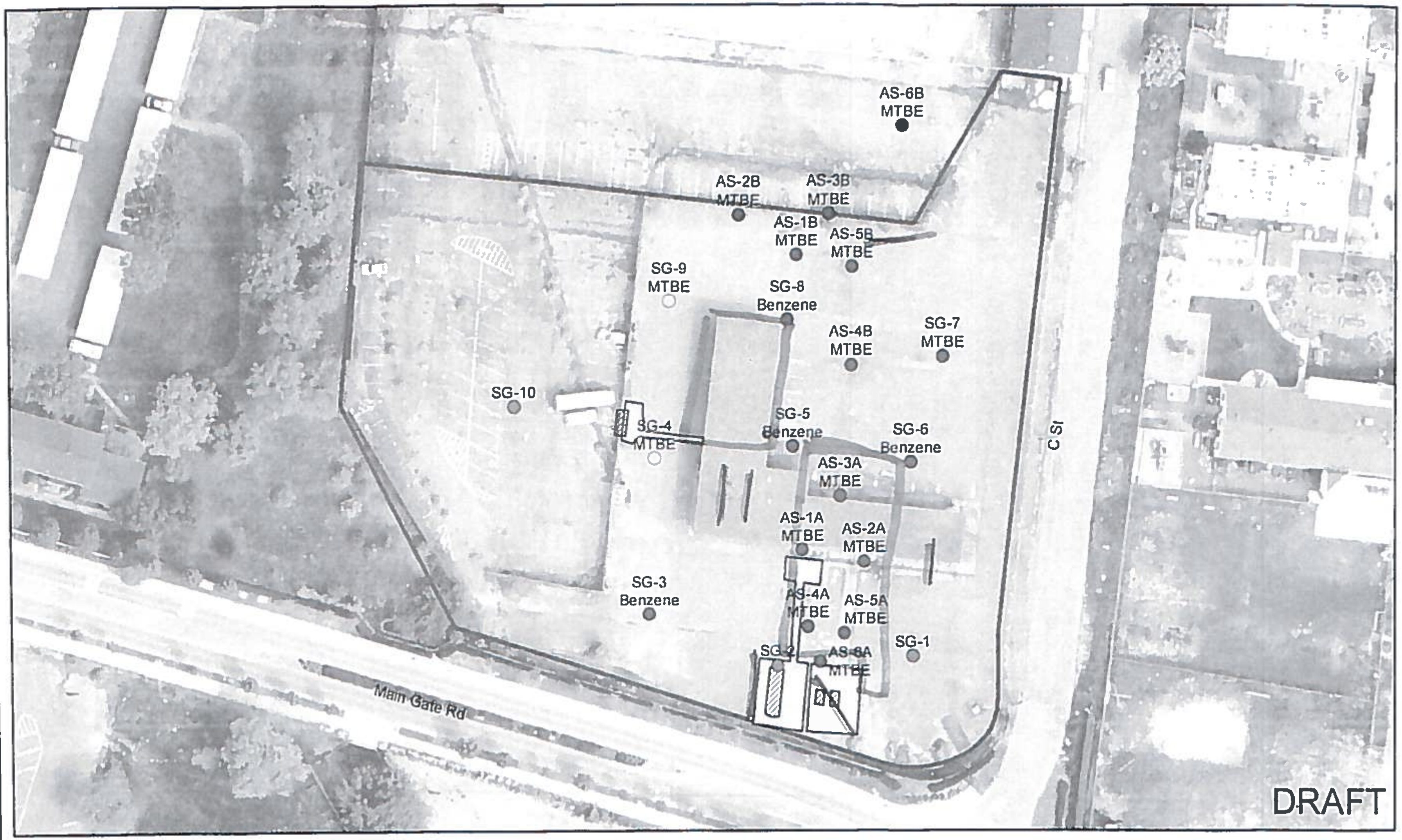
Heidi Bauer, PG
Senior Project Manager

References

California Code of Regulations (CCR), April 2008, Title 17, Division 1, Chapter 8, §35036. Lead-Contaminated Soil.

The Housing and Urban Development (HUD), 2012, *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (2012 Edition),* Chapter 15-Clearance

U.S. Army Corps of Engineers (USACE) and the California State Coastal Conservancy (SCC), January 14, 2008, *Restoration Design Report Seasonal and Tidal Wetlands Hamilton Wetland Restoration Project Novato, California Final Draft,* - http://scc.ca.gov/webmaster/ftp/hamilton/hwrp-marsh-restoration-plan.pdf).



LEGEND

- Former UST Location
- Estimated Extent of Tank Excavation
- Approximate Site Boundary

Maximum Contaminant Concentration

- ND
- < Residential ESL
- > Residential ESL

0 20 40

Scale in Feet

FIGURE 8
Remedial Action Plan
Hamilton Square
970 C Street, Novato, CA
(T0609592161)

Summary of
Maximum Concentrations in Soil Vapor

THOMPSON DEVELOPMENT INC.

WEST YOST ASSOCIATES

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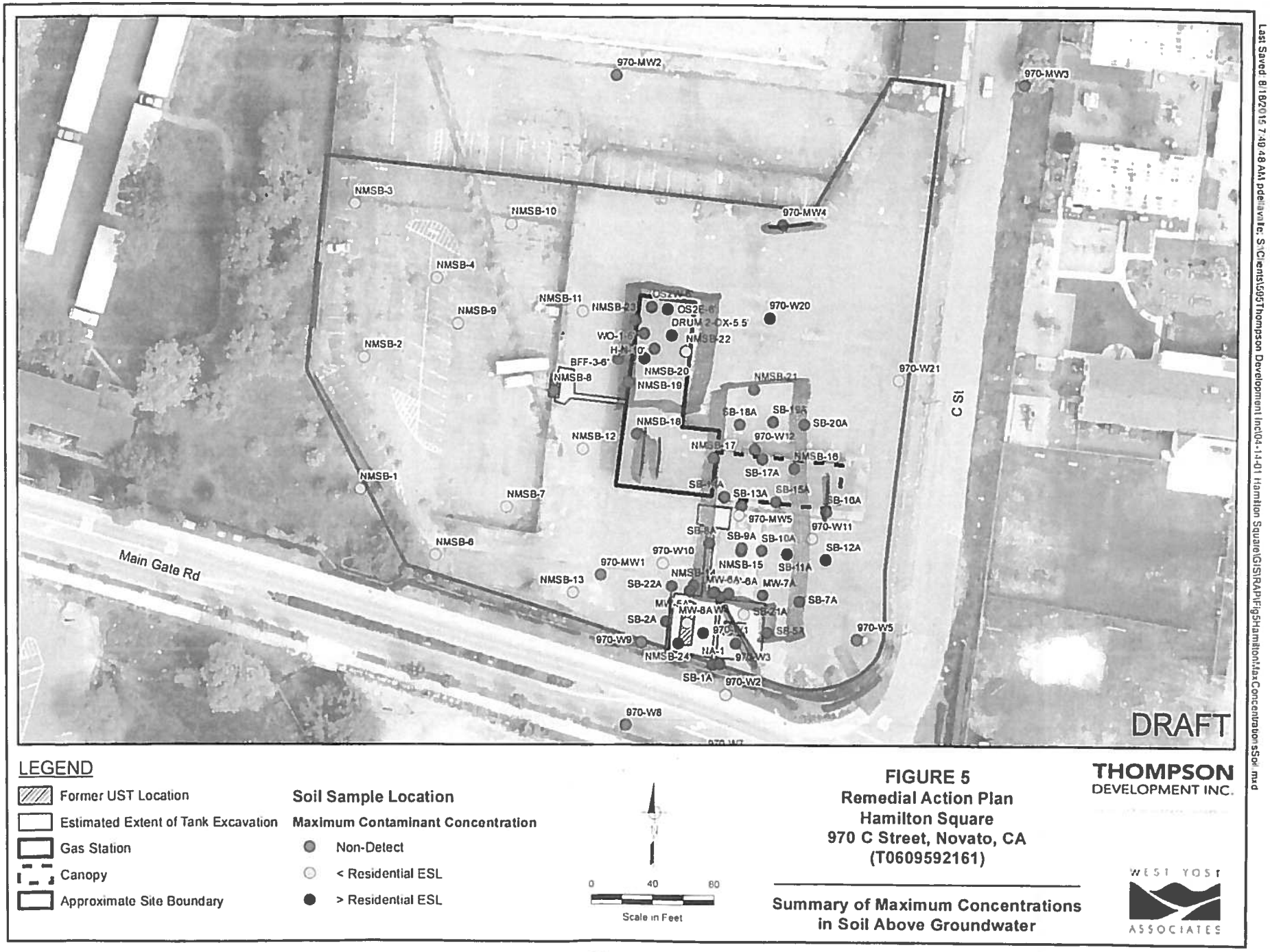

LEGEND

- Former UST Location
- Estimated Extent of Tank Excavation
- Gas Station
- Canopy
- Approximate Site Boundary

Soil Sample Location

Maximum Contaminant Concentration

- Non-Detect
- < Residential ESL
- > Residential ESL

0 40 80

Scale in Feet

FIGURE 5
Remedial Action Plan
Hamilton Square
970 C Street, Novato, CA
(T0609592161)

Summary of Maximum Concentrations in Soil Above Groundwater

THOMPSON DEVELOPMENT INC.

WEST YOST ASSOCIATES

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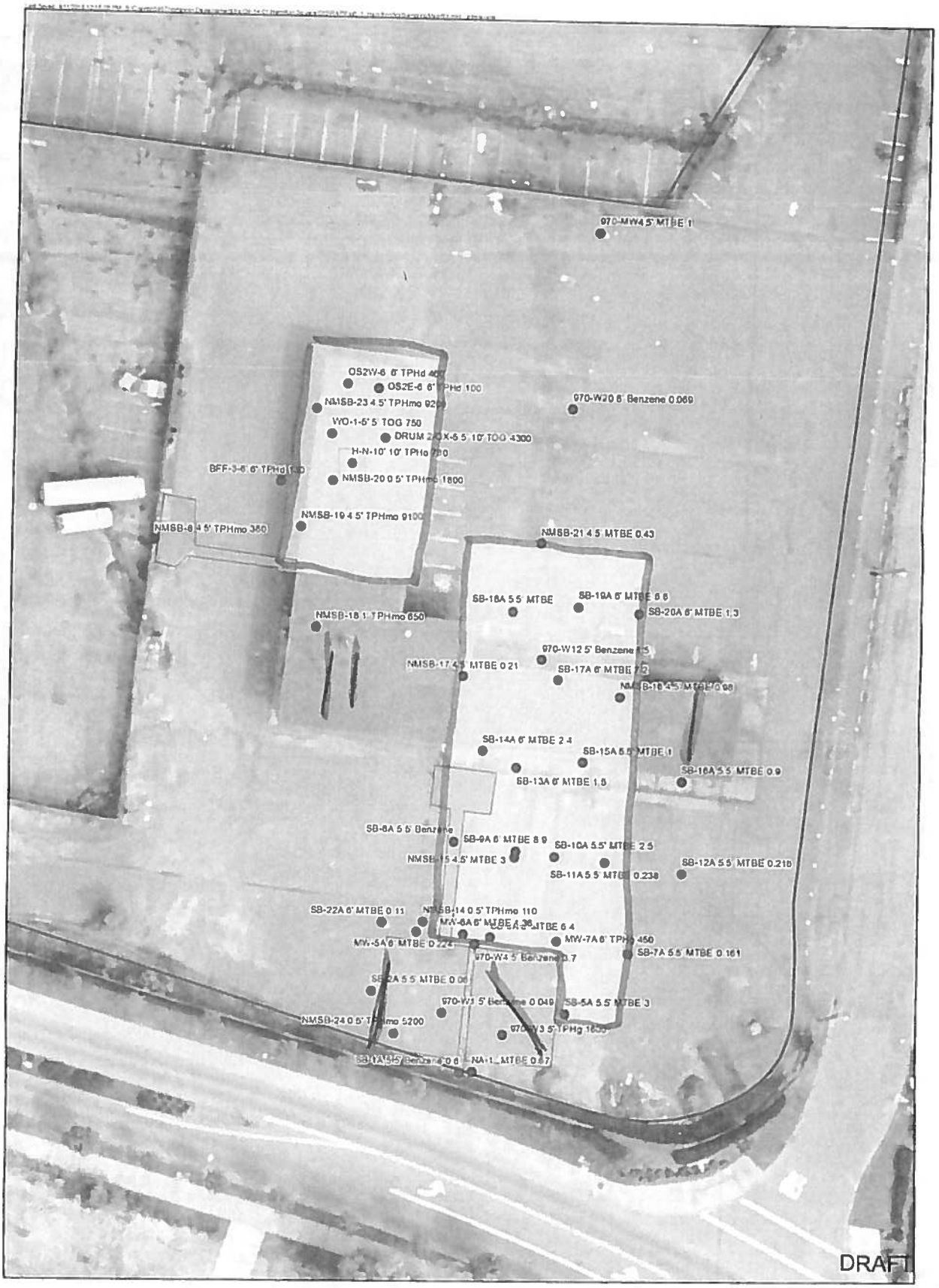


LEGEND

- Approximate Site Boundary
- Estimated Extent of Former Tank Excavation
- Proposed Excavation Area
- Soil Sample Location

970-W1 5' Benzene 0.049

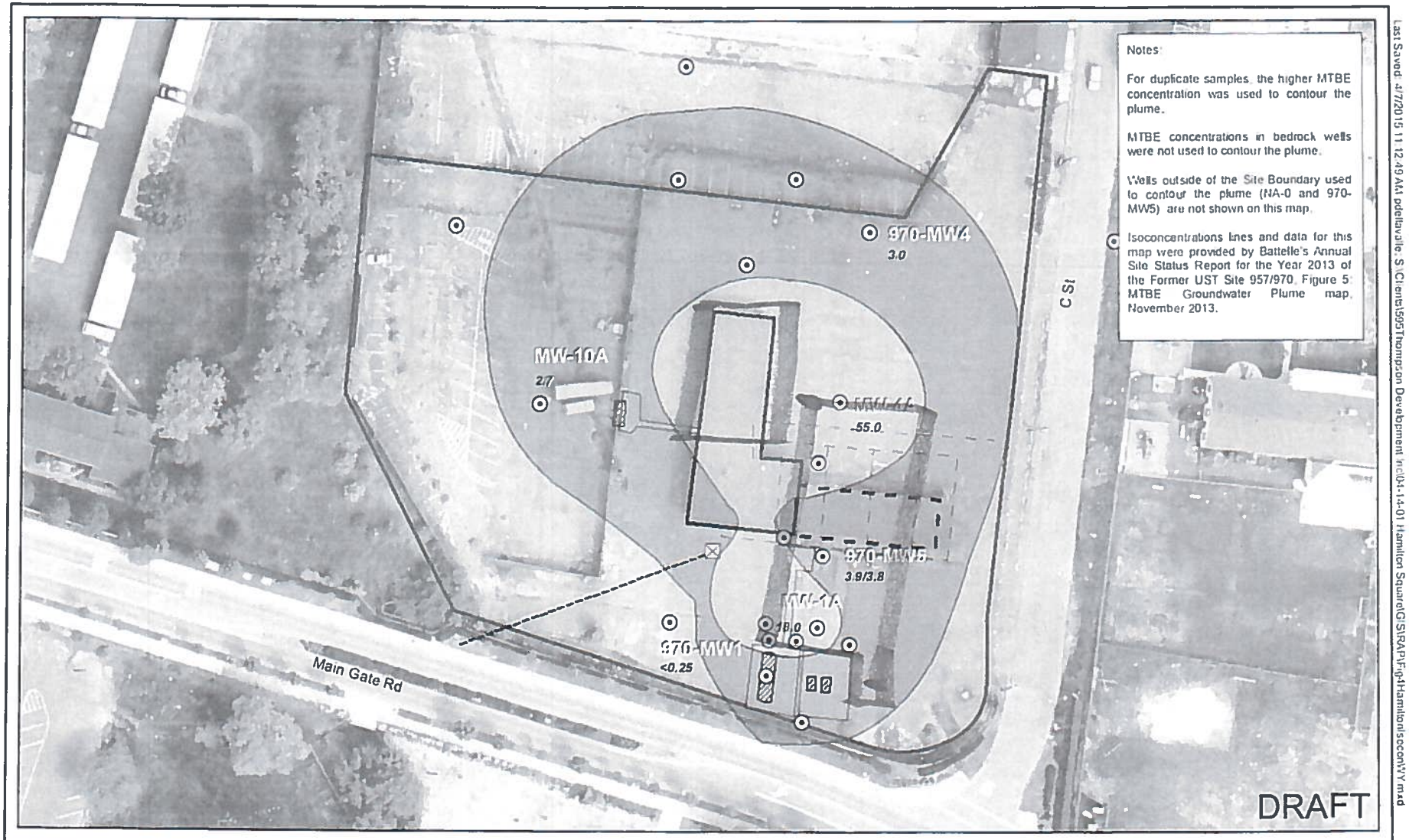
THOMPSON DEVELOPMENT INC

WEST YOST ASSOCIATES

FIGURE 6

Remedial Action Plan
Hamilton Square
970 C Street, Novato, CA
(T0609592161)

Soil Sample Locations Exceeding ESLs



LEGEND

- Monitoring Well Location Used to Contour
- Monitoring Well Location Not Used to Contour
- MTBE Concentrations (November 2013)
- 1 - 13 µg/l
- 13 - 100 µg/l
- 55.0 MTBE Concentration in µg/l
- Storm Drain Inlet
- Approximate Water Line Location
- Approximate Storm Drain Location
- Former UST Location
- Estimated Extent of Tank Excavation
- Gas Station
- Canopy
- Approximate Site Boundary

0 40 80
Scale in Feet

FIGURE 4

Remedial Action Plan
Hamilton Square
970 C Street, Novato, CA
(T0609592161)

MTBE Isoconcentration Contours

THOMPSON DEVELOPMENT INC.

WEST YOST ASSOCIATES

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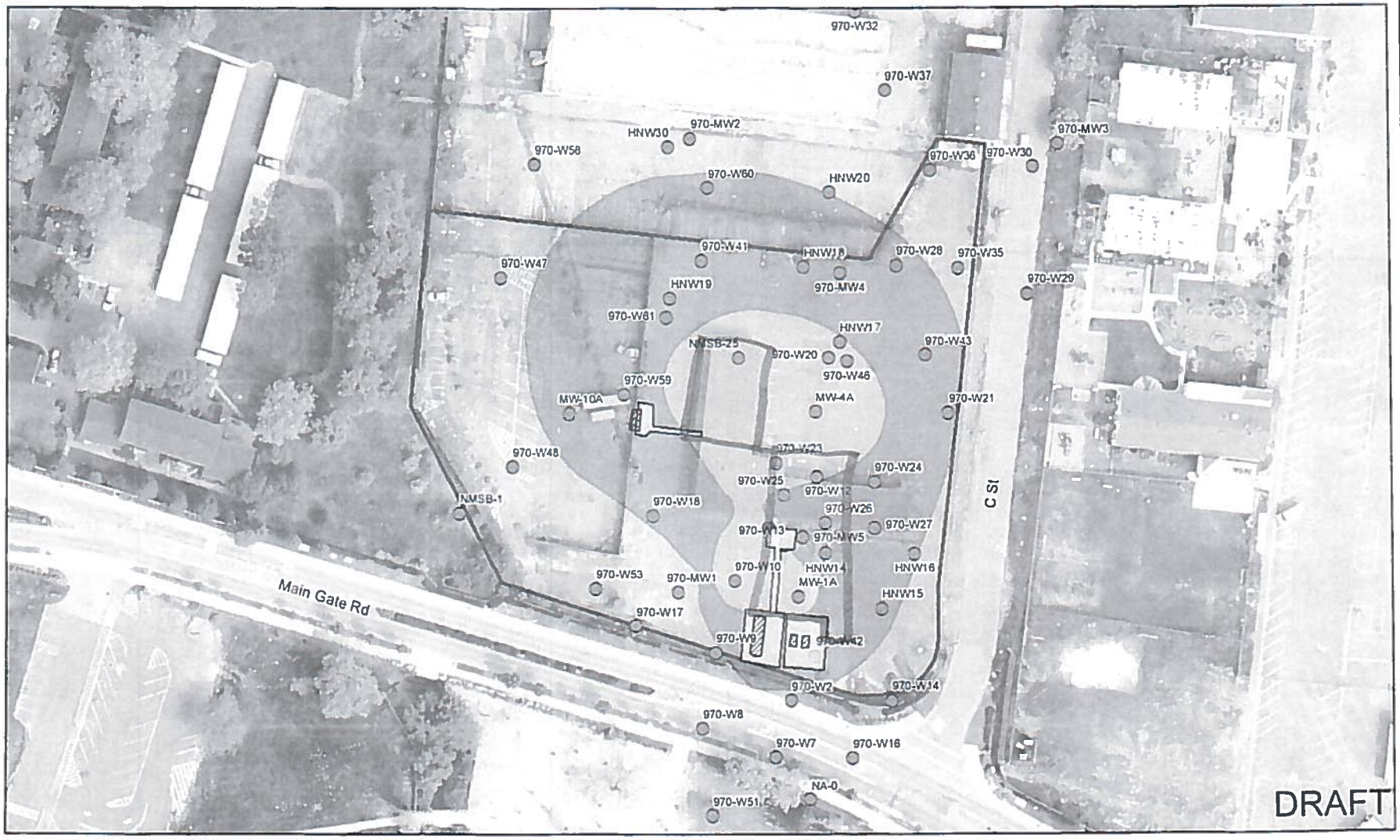


LEGEND

- Former UST Location
- Estimated Extent of Tank Excavation
- Approximate Site Boundary
- Groundwater Sample

Plume 2013

MTBE Concentrations (November 2013)

- 1 - 13 µg/l
- 13 - 100 µg/l

N

0 50 100

Scale in Feet

FIGURE 7
Remedial Action Plan
Hamilton Square
970 C Street, Novato, CA
(T0609592161)

Summary of Groundwater Investigations and 2013 Plume Conditions

THOMPSON DEVELOPMENT INC.

WEST YOST ASSOCIATES

LEGEND

- Estimated Extent of Tank Excavation
- Approximate Site Boundary

N

0 30 60

Scale in Feet

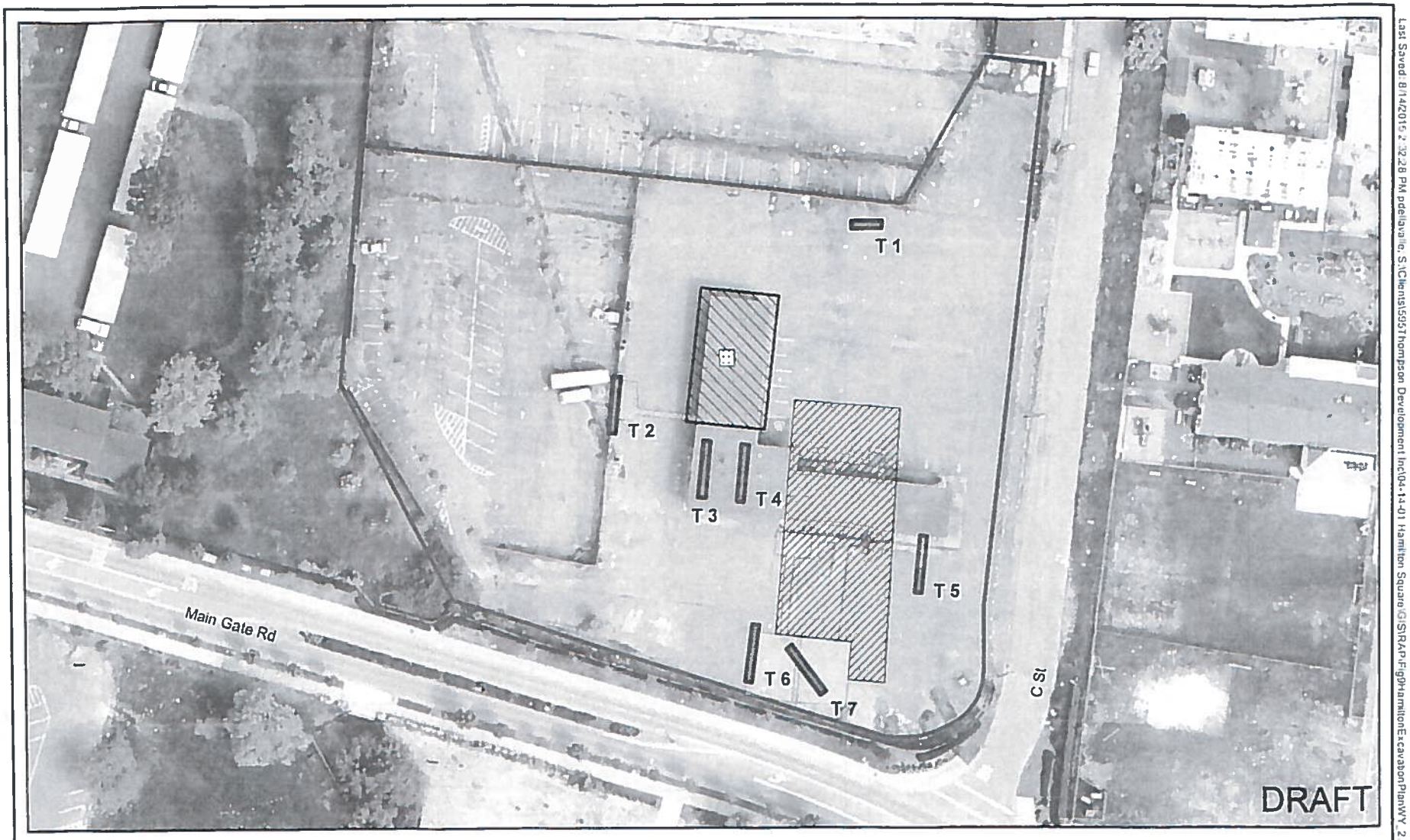
FIGURE 10

Remedial Action Plan
Hamilton Square
970 C Street, Novato, CA
(T0609592161)

Incremental Sampling Methodology Plan

THOMPSON DEVELOPMENT INC.

WEST YOST ASSOCIATES



LEGEND

Estimated Extent of Former Tank Excavation

Approximate Site Boundary

Pre-excavation Test Pit

Proposed Excavations

6' bgs (TPHd/mo)

7' bgs

10' bgs

0 30 60

Scale in Feet

FIGURE 9

Remedial Action Plan
Hamilton Square
970 C Street, Novato, CA
(T0609592161)

Proposed Excavations

THOMPSON DEVELOPMENT INC.

WEST YOST ASSOCIATES

DEPARTMENT OF TRANSPORTATION
DISTRICT 4
P.O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5528
FAX (510) 286-5559
TTY 711
www.dot.ca.gov

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November 15, 2016

04-MRN-2016-00019
MRN101444
SCH # 2015072001

Mr. Stephen Marshall
Planning Division
City of Novato
922 Machin Avenue
Novato, CA 94945

Main Gate Road and C Street Project – Mitigated Negative Declaration (MND)

Dear Mr. Marshall:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced project. In tandem with the Metropolitan Transportation Commission's (MTC) Sustainable Communities Strategy (SCS), Caltrans new mission signals a modernization of our approach to evaluating and mitigating impacts to the State Transportation Network (STN). We aim to reduce Vehicle Miles Travelled (VMT) by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the MND.

Project Understanding
The proposed project includes two key components: site remediation and site development. The remediation component will include excavation of soil impacted by the release of hazardous materials, post-excavation soil sampling, and backfilling of clean soil. Following the remediation process, the site would be developed with 31 residential units in eight three-story buildings and one two-story building. The project includes a large central common park space and a small pavilion and parklet along the sidewalk fronting Main Gate Road. There are two vehicular access points on C Street and one on Main Gate Road. Each unit is provided with two parking spaces, along with an additional 17 spaces for guests. Access to the development will be provided via the US 101 on- and off-ramps at Bel Marin Keys Boulevard and Ignacio Boulevard connecting to Nave Drive which leads to Main Gate Road and C Street.

Lead Agency
As the lead agency, the City of Novato is responsible for all project mitigation, including any needed improvements to State highways or reduction in VMT. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring

should be fully discussed for all proposed mitigation measures.

Travel Demand Analysis

With the enactment of Senate Bill (SB) 743, Caltrans is focusing on transportation infrastructure that supports smart growth and efficient development. Recently approved guidance for implementing SB 743 (*Local Development-Intergovernmental Review Program Interim Guidance, September 2016*) intends to ensure that development projects align with State policies through the use of efficient development patterns, innovative travel demand reduction strategies, and necessary multimodal roadway improvements. Please submit a travel demand analysis that provides VMT analysis resulting from the proposed project, applying local agency thresholds or absent those, thresholds recommended by the most recent draft of Caltrans' Office of Planning and Research's CEQA Guidelines (http://resources.ca.gov/ceqa/docs/2016_CEQA_Statutes_and_Guidelines.pdf). The final Traffic Impact Analysis dated June 11, 2007 is outdated and only provided analysis on local street intersections.

Multimodal Planning

The project should be conditioned to ensure connections to existing bike lanes and multi-use trails to facilitate walking and biking to nearby jobs, and neighborhood services. Therefore, the proposed project should be conditioned to connect to the existing Class I Bikeway/Multi-Use Path on Randolph Drive and Class III signed route/shoulder bike facilities on Main Gate Road as shown in the *2008 Marin County Unincorporated Area Bicycle and Pedestrian Master Plan.*

Additionally, we recommend adding bicycle wayfinding signage on State Access Road, C Street, Main Gate Road, and Nave Drive to provide residents with information on these alternative routes and reduce short trips on this section of US 101.

Vehicle Trip Reduction

In Caltrans' *Smart Mobility 2010: A Call to Action for the New Decade*, this project falls under Place Type 5 Rural Towns, which includes projects with a mix of housing, services and public institutions in compact form that serve surrounding rural areas. Therefore, we encourage you to establish a Transportation Management Association (TMA) in partnership with other developments in the area, and pursue aggressive trip reduction targets with Lead Agency monitoring and enforcement. In addition, the Transportation Demand Management (TDM) elements described below should be included in the program and are the most effective measures to promote smart mobility and reduce regional VMT and traffic impacts to the STN given the project's Place Type:

- Project design to encourage walking, bicycling, and convenient transit access;
- Lower parking ratios;
- Transit fare incentives for residents and employees such as subsidized transit passes on a continuing basis;
- Enhanced bus stops including benches and bus shelters;

- Designated bicycle parking;
- Charging stations for electric vehicles;
- Carpool and clean-fuel parking spaces; and
- Reducing headway times of nearby Marin Transit Bus Routes 49, 151, 251, and 257 and Golden Gate Transit Bus Route 58.

For additional TDM options, please refer to Chapter 8 of FHWA's *Integrating Demand Management into the Transportation Planning Process: A Desk Reference*, regarding TDM at the local planning level. The reference is available online at: http://www.ops.fhwa.dot.gov/publications/fhwahop12035/fhwahop12035.pdf. For information about parking ratios, please see MTC's report, Reforming Parking Policies to Support Smart Growth, or visit the MTC parking webpage: http://www.mtc.ca.gov/planning/smart_growth/parking.

Traffic Impact Fees
Given the project's contribution to area traffic and its proximity to US 101, the project should contribute fair share traffic impact fees. These contributions would be used to lessen future traffic congestion and improve transit and other multi-modal forms of transportation in the project vicinity.

This information should also be presented in the Mitigation Monitoring and Reporting Plan of the environmental document. Required roadway improvements should be completed prior to issuance of the Certificate of Occupancy. Since an encroachment permit is required for work in the State right-of-way (ROW), and Caltrans will not issue a permit until our concerns are adequately addressed, we strongly recommend that the County work with both the applicant and Caltrans to ensure that our concerns are resolved during the environmental process, and in any case prior to submittal of an encroachment permit application. Further comments will be provided during the encroachment permit process; see end of this letter for more information regarding encroachment permits.

Encroachment Permit
Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by Caltrans. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the following address: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process. See the website linked below for more information: http://www.dot.ca.gov/hq/traffops/developserv/permits.

Should you have any questions regarding this letter, please call Erik Bird at 510-286-5521 or Erik.Bird@dot.ca.gov.

Sincerely,

PATRICIA MAURICE
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

Steve Marshall

From: Beth, Margarete@Waterboards <Margarete.Beth@waterboards.ca.gov>
Sent: Thursday, November 10, 2016 3:37 PM
To: Steve Marshall; Elias, David@Waterboards; Chain-Britton, Cindy@DTSC; pgrazzini@baaqmd.gov; james.h.whitcomb@navy.mil; Bill Tyler; tkehoe@nmwd.com; erikb@novatosan.com; TWilliams@marincounty.org; jhogeboom@nusd.org; NLLOYD@nusd.org; yhawkins@nusd.org; CORNEALLAS@nusd.org; heidi@awsciences.com; scott@unicycler.com; lgradia@marintransit.org; rdowning@goldengate.org; Dodson, Timothy@Wildlife; bgamlen@sonomamarintrain.org; bmcquillen@gratonrancheria.com; THPO@gratonrancheria.com
Cc: Carla Violet
Subject: RE: Hamilton Square - 970 C Street, Novato, CA

Hello Mr. Marshall,

Regional Water Board staff has reviewed the Main Gate Road and "C" Street Revised Initial Study, October 2016, and do not have any comments.

Thank you.

Margarete "Maggie" Beth
Environmental Scientist
S.F. Bay Regional Water Quality Control Board
1515 Clay Street, 14th Floor
Oakland, CA 94612
Ph: 510:622-2338
Fx: 510-622-2501
mabeth@waterboards.ca.gov

From: Steve Marshall [mailto:smarshall@novato.org]
Sent: Thursday, October 13, 2016 7:00 PM
To: Beth, Margarete@Waterboards; Elias, David@Waterboards; Chain-Britton, Cindy@DTSC; pgrazzini@baaqmd.gov; james.h.whitcomb@navy.mil; Bill Tyler; tkehoe@nmwd.com; erikb@novatosan.com; TWilliams@marincounty.org; jhogeboom@nusd.org; NLLOYD@nusd.org; yhawkins@nusd.org; CORNEALLAS@nusd.org; heidi@awsciences.com; scott@unicycler.com; lgradia@marintransit.org; rdowning@goldengate.org; Dodson, Timothy@Wildlife; bgamlen@sonomamarintrain.org; bmcquillen@gratonrancheria.com; THPO@gratonrancheria.com
Cc: Carla Violet
Subject: Hamilton Square - 970 C Street, Novato, CA

Dear Agency Staff:

The Novato Planning Division is pleased to release a revised CEQA Initial Study and Mitigated Negative Declaration ("MND") for Hamilton Square. A copy of the revised MND and notice of availability/public hearing are attached for your review. The public comment period for the MND will cover 30-days, commencing on October 14, 2016, and ending on November 14, 2016.

Hamilton Square involves the remediation of contaminated soil and the subsequent construction of 31 for-sale townhomes on a 2.7-acre site located at 970 C Street, Novato. Remediation activities would involve the removal of soil

contaminated by the past operation of a gas station; clean soil material would be imported to backfill excavated areas. The balance of the project would involve the construction and occupancy of the proposed townhomes.

Key aspects of the MND include the air quality and hazardous materials analyses and the corresponding mitigation measures assigned to these impact categories. The mitigation measures addressing the remediation phase reflect recommendations made by the S.F. Bay Regional Water Quality Control Board, Novato Unified School District/Novato Charter School, North Bay Children's Center, and members of the public who previously commented on the project.

For additional information regarding Hamilton Square, please visit: http://novato.org/government/community-development/planning-division/planning-projects/hamilton-square

If you have questions regarding the project or MND, please feel free to call or email me. If you intend to submit comments on the MND, you may send written correspondence to my attention at the address below.

Sincerely,

Steve Marshall, AICP
Planning & Environmental Services Manager

City of Novato
Community Development Department
922 Machin Avenue
Novato, CA 94945

Main: (415)899-8989
Direct: (415)899-8942
Fax: (415)899-8216

www.novato.org

Steve Marshall

From: kstaff@comcast.net
Sent: Friday, October 14, 2016 10:08 AM
To: Steve Marshall
Cc: board@lanhamvillage.net
Subject: Re: Hamilton Square - 970 C Street, Novato - CEQA Initial Study & Mitigated Negative Declaration

Hi Steve:
I'm very concerned with many aspects of information from this report. As seen in several site maps it looks like we've had exposure
to some serious substances. My main concern is that Thompson has an easement for Commercial not Residential period.
We need to meet and discuss this report.
Kim

From: "Steve Marshall" <smarshall@novato.org>
Sent: Thursday, October 13, 2016 8:08:40 PM
Subject: Hamilton Square - 970 C Street, Novato - CEQA Initial Study & Mitigated Negative Declaration

Dear Charter School Parents and Residents:

The Novato Planning Division is pleased to release a revised Initial Study and Mitigated Negative Declaration (MND) for Hamilton Square. A copy of the revised MND and a notice of availability/public hearing are attached for your review.

Hamilton Square was the subject of significant concern regarding the demolition of a former Navy gas station building and the planned removal of contaminated soil from the site. Many of you participated in public meetings regarding the project at which the overwhelming sentiments expressed were concerns about the health and safety of children attending the various school and daycare facilities adjacent to Hamilton Square and that of the general public.

Over the past year, Planning Division staff, the city's environmental consultant, and representatives of the S.F. Bay Area Regional Water Quality Control Board have worked carefully and thoughtfully to revise the MND to more clearly describe the potential environmental effects of Hamilton Square and develop detailed mitigation measures focusing on the implementation of robust safety and testing procedures and third-party monitoring during the remediation phase. A conservative, safety oriented approach was taken by staff.

I encourage you to review the MND, in particular the preface and mitigation measures addressing air quality and hazardous materials. A table describing the mitigation measures begins on page nine (p. 9) of the attached MND.

Speaking on behalf of the Planning Division and larger city organization, I am hopeful you will find the revised MND and its enhanced mitigation measures to not only effectively safeguard the health and safety of your children and the public, but also reflect an acknowledgement by staff that we understood and respected your concerns.

If you have questions regarding Hamilton Square or the revised MND, please feel free to call or email me. If you would like to submit formal comments on the MND, you may submit written correspondence to my attention at the address below.

For additional information regarding Hamilton Square, please visit: http://novato.org/government/community-development/planning-division/planning-projects/hamilton-square

Sincerely,

Steve Marshall, AICP
Planning & Environmental Services Manager

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922 Machin Avenue
Novato, CA 94945

Main: (415)899-8989
Direct: (415)899-8942
Fax: (415)899-8216

www.novato.org

Steve Marshall

From: amy baxt <amybaxt@gmail.com>
Sent: Monday, December 05, 2016 11:21 AM
To: Steve Marshall
Subject: Fwd: Notice of Neighborhood Meeting: Hamilton Square

Hello Mr. Marshall,

I have received this notice. Are there documents that citizens should be reviewing in the next 10 days to prepare questions for this meeting? My primary concern is about the cumulative impact of multiple projects in the area (including the ones that have been completed or are near completion ie: the library, SMART train station, removal of former gas station with hazardous materials, proximity to freeway and new bus/diesel train routes etc). I believe this site has not been fully remediated from former toxic wastes? I would like to understand how the cumulative impact is accounted for in a manner that considers the number of children in the area as well as full time residents.

Are there documents which would summarize the accounting for cumulative impact, or might you be able to provide summary information in time for me to gather questions for the meeting?

Thank you for the information,
Amy Baxt
Novato Resident

Begin forwarded message:

From: "Terri K. Brown" <tkbrown@novato.org>
Subject: Notice of Neighborhood Meeting: Hamilton Square
Date: December 5, 2016 at 11:04:10 AM PST
To: Steve Marshall <smarshall@novato.org>

THE CITY OF NOVATO CALIFORNIA

CITY OF NOVATO
NOTICE OF NEIGHBORHOOD MEETING

A NEIGHBORHOOD MEETING TO REVIEW AND ANSWER QUESTIONS REGARDING THE ENVIRONMENTAL REVIEW DOCUMENTATION PREPARED FOR THE HAMILTON SQUARE PROJECT

Meeting Date Time & Location	**Thursday, December 15**, 2016, at 7:45 PM in the War Room, 500 Palm Drive, Novato
Project Name & Application	Hamilton Square P2013-040
Project Location & APN	970 C Street 157-980-05
Project Description	Hamilton Square involves the remediation of contaminated soil and the subsequent construction of 31 for-sale townhomes on a 2.7-acre site. Remediation activities involve removal of soil contaminated by the past operation of a Navy gas station and import of clean soil to backfill excavated areas. A CEQA Initial Study/Mitigated Negative Declaration has been prepared for the project and may downloaded at the project webpage listed below.
Applicant Contact	Casey Clement, Development Manager Thompson Builders (415)456-8972;caseyc@thompsondevelopmentinc.com
City Staff Contact	Steve Marshall, Planning Manager (415)899-8942; smarshall@novato.org
Application Information for Public Review	Project Website: www.novato.org/hamiltonsquare City Offices: 922 Machin Avenue, Novato, CA 94945 (open Mon. – Thurs. and alternating Fridays from 9 AM - 1 PM and 2 PM - 5 PM)

12/5/2016

Steve Marshall

From: Brigit Nevin <bcfitting@yahoo.com>
Sent: Thursday, October 13, 2016 11:34 PM
To: Steve Marshall
Cc: maguila@nusd.org; sgilmore@nbcc.net; CYD ORNEALLAS; jnevin@braytonlaw.com; Novato Council; kjsfmc@comcast.net; kstaff@comcast.net
Subject: Fwd: Hamilton Square - 970 C Street, Novato - CEQA Initial Study & Mitigated Negative Declaration
Attachments: Hamilton Square - NOA & PC Hearing Notice - 10 14 16.pdf; ATT00001.htm; Revised Hamilton Square CEQA IS-MND_Rev Public_16_1011 (1) - Final Release.pdf; ATT00002.htm

Steve:

Thanks for your email. After a quick glance at the updated version I can't comprehend why NBCC's slated construction project is not included in the adjacent simultaneous construction projects to determine cumulative impact/risk along with those already included such as the Smart Train, Hamilton Cottages, Hamilton Hospital, Senior Apartments and the Sports Complex.

I was quick to notice the substantial increased cancer risk because of redevelopment of 970 C street to infants at NBCC when sensitive receptors were identified in categories in the updated report. I hope NBCC takes a closer look at this updated information towards their most sensitive population.

I think it is essential that the city of Novato more accurately address the fact that NBCC and Hamilton Square, to the best of my knowledge, are scheduled for simultaneous construction in this Hamilton Exchange Triangle area also shared with Novato Charter School.

Furthermore, I can't reconcile the fact that the authorizing agency put deed restrictions on this land forbidding it from ever becoming a school, day care facility or hospital for good reason. With that being said, at what point does the city of Novato recognize that all the parcels adjacent to this land include 2 schools, 2 day care facilities and residences and that being said there is significant impact?

What justification is used that these sensitive receptors have to be subjected to substantial noise, contaminated fugitive dust and become potentially innocent victims as part of the remediation and construction process at 970 C street and beyond? The land was remediated to commercial use and now the area surrounding it is more heavily populated and populated with more sensitive receptors. Lanham Village residents have already endured remediation phases and at what expense to their health and livelihood?

Perhaps the land use should remain commercial for everyone's benefit. At what point because it's not a school, a day care facility or hospital, does logic then validate the land use for residences? If residential use is being highly demanded then why aren't highly stringent tenting options similar to the current remediation at the former PG&E site in San Rafael being explored? Cost should never be a factor in protecting the citizens of Novato. It is my opinion that Novato holds itself to the highest standards.

I have copied Novato City Council, Forrest Craig (NBCC), Susan Gilmore (NBCC), Maria Aguila (NUSD), Cyd Ornellas (NCS), Kim Stafford (Lanham Village) as well as my husband James Nevin.

I have spent the last two evenings engaged in NBCC's redevelopment plans. I have been asking if anyone had knowledge of 970 C street and the timeline of simultaneous construction. Only a few folks, at best, had vague knowledge of the

parcel's history or current stage of redevelopment. I encourage you to have inclusive conversations with all parties involved moving forward.

I am sure I will have many more comments after tackling the full 308 pages, but for now I wanted to bring some of these issues to you and others for immediate attention.

Sincerely:
Brigit Nevin

Sent from my iPhone

Begin forwarded message:

> **From:** Steve Marshall <smarshall@novato.org>
> **Date:** October 13, 2016 at 8:08:40 PM PDT
> **Subject: Hamilton Square - 970 C Street, Novato - CEQA Initial Study & Mitigated Negative Declaration**
>
> Dear Charter School Parents and Residents:
>
> The Novato Planning Division is pleased to release a revised Initial Study and Mitigated Negative Declaration (MND) for Hamilton Square. A copy of the revised MND and a notice of availability/public hearing are attached for your review.
>
> Hamilton Square was the subject of significant concern regarding the demolition of a former Navy gas station building and the planned removal of contaminated soil from the site. Many of you participated in public meetings regarding the project at which the overwhelming sentiments expressed were concerns about the health and safety of children attending the various school and daycare facilities adjacent to Hamilton Square and that of the general public.
>
> Over the past year, Planning Division staff, the city's environmental consultant, and representatives of the S.F. Bay Area Regional Water Quality Control Board have worked carefully and thoughtfully to revise the MND to more clearly describe the potential environmental effects of Hamilton Square and develop detailed mitigation measures focusing on the implementation of robust safety and testing procedures and third-party monitoring during the remediation phase. A conservative, safety oriented approach was taken by staff.
>
> I encourage you to review the MND, in particular the preface and mitigation measures addressing air quality and hazardous materials. A table describing the mitigation measures begins on page nine (p. 9) of the attached MND.
>
> Speaking on behalf of the Planning Division and larger city organization, I am hopeful you will find the revised MND and its enhanced mitigation measures to not only effectively safeguard the health and safety of your children and the public, but also reflect an acknowledgement by staff that we understood and respected your concerns.
>
> If you have questions regarding Hamilton Square or the revised MND, please feel free to call or email me. If you would like to submit formal comments on the MND, you may submit written correspondence to my attention at the address below.
>
> For additional information regarding Hamilton Square, please visit:
> http://novato.org/government/community-development/planning-division/planning-projects/hamilton-square

Steve Marshall

From: amy baxt <amybaxt@gmail.com>
Sent: Friday, November 13, 2015 4:45 PM
To: margarete.beth@waterboards.ca.gov
Cc: Brigit Nevin; James Nevin; Andy Rodgers; Casey Clement; Bob Brown; Stephen Marshall; Steffanie Mosebrook
Subject: Re: 970 C Street - public comment

Dear Maggie,

My name is Amy Baxt. I concur with comments submitted by James Nevin, Brigit Nevin and Steffanie Mosebrook.

Following community meetings I still remain confused as to whom holds the responsibility of calculating the cumulative impact of the projects in the Hamilton area (library, sports complex, smart train, hospital, new bus routes, housing etc.). As previously noted they cannot be considered independently as far as "safe exposure for sensitive receptors" since residents, students and those working in the area have already had some level of exposure during recent phases of development and would potentially continue to incur additional toxic loads. I would very much appreciate if somebody from the development team or government agencies could let me know who will be calculating the combined impact.

I would also like to be assured that "safe levels of exposure" will be calculated for the most sensitive receptors (infants as young as 6 weeks spend the day at North Bay Children's Center).

It would put me at greater ease if I understood how the public will be able to tell that all phases which should be monitored will be monitored. How on any given day when working is going on will we be able to tell if monitoring is needed and that it is done at every critical instance?

At the most recent community meeting I asked if I should be concerned about potential toxins spreading over the construction area in the event that emergency protocols are triggered. If I am understanding correctly, the answer was not to worry because the levels would be very low. But they would be high enough to register as "too high" and thus shut down the operation - so that does not seem "very low" too me.. that seems like - high enough to trigger a shut down. Then what happens to those toxins that were released? How are they contained with schools, daycare and residents literally right across the street?

Thanks very much for giving this your highest level of scrutiny, care and integrity, Amy Baxt, Novato Resident

NOVATO UNIFIED SCHOOL DISTRICT

1015 SEVENTH STREET ▪ NOVATO ▪ CA ▪ 94945 ▪ PH: (415) 897-4201 ▪ FX: (415) 898-5790

"Achievement for All – Our Call to Action"

KAREN MALONEY
Assistant Superintendent
Business & Operations

JIM HOGEBOOM
Superintendent

September 16, 2015

Casey Clement
Thompson Development, Inc.
250 Bel Marin Keys, Building A
Novato, CA 94949

RE: 970 C Street Remediation Work

Dear Mr. Clement,

We are aware that Thompson Development Inc.(TDI) is moving forward with preparing the 970 C Street property for the construction of townhomes and as such contaminated soils must be removed from the property to meet regulatory standards for residential development. Due to the fact that Novato Unified School District (NUSD) has schools in very close proximity (50-100 feet downwind) to the remediation project we had an environmental consulting firm, Air and Water Sciences (AWS), review the project documents and provide recommendations on how best to ensure the children's health and safety while at school during the remediation work. The "Report of Recommendations - 970 C Street Remediation Work" prepared by AWS is attached for your reference. Based on their review NUSD requests that the remediation work be conducted following the below detailed recommendations.

Recommendations

Based on the above review about 2,800 cubic yards of contaminated soil is being removed from the site. This soil is impacted with fuel-related hydrocarbon contamination in the form of volatile organic compounds (VOCs), semi-volatile organic compounds (SVOC's) and metals. An additional concern is potential remaining asbestos fibers and lead from the recent demolition project.

The school children could be anywhere from 50 to 400 feet downwind, depending on the location of the children and the stockpiles, of the exposed contaminated soils the health and safety of the children during this work needs to be addressed and measures taken to remove

their exposure. The following recommendations have been developed to provide the utmost protection of the children during the environmental remediation work.

Lead and Asbestos

As mentioned above there is a possibility that some suspect asbestos containing materials (ACMs) were not identified or removed from the two un-accessed rooms (presumably the two restrooms) from the former Building 970 prior to demolition. NUSD requested documentation from TDI to show the proper testing and removal of materials containing ACM and lead from the two un-accessed areas. These documents have not been provided to date and if they cannot be provided or it cannot be shown that the removal or demolition of building materials from these two areas was done properly than AWS recommended that soil samples be collected to assess whether the soil to be removed contains ACM and lead. Representative soil samples should be collected from underneath the former location of the restrooms and from within 15 feet of the perimeter of this portion of the building. These samples should be analyzed for lead in soil by EPA Method 6010B. According to California Code of Regulations Title 17 (CCR, 2008) the soil is hazardous above 400ppm "in bare soil in areas where children play". The soil samples should also be sampled for asbestos by PLM CARB Level B. Concentrations above 1% are considered to be hazardous. If these soils are deemed hazardous for lead and/or asbestos from the building demolition than it will be limited to the surficial soils. We recommend that if these sample results exceed the thresholds stated above then soils proposed for excavation in this area be removed when school is not in session and with perimeter monitoring or be removed in an erected containment with perimeter monitoring.

Metals - Barium, Arsenic and Lead

Metals (barium, arsenic and lead) were detected in soils above the ELSs. Thorough and diligent dust suppression activities during the excavation work can be effective in minimizing the off-site release of metals and particulates, however, even the best implemented dust suppression plan cannot guarantee that metals will not be released from the site and deposited in the school area. Therefore, it is recommended that the soil excavation work be performed when school is not in session. Additionally, because metals can be transported and deposited off-site and the school is located directly downwind of the site it is recommended that representative surface wipe samples be collected from frequently touched surface areas of the school, particularly any picnic tables or other outdoor eating surfaces, playground equipment and other frequently touched exterior surfaces after the remediation work and before the children return to school. Baseline samples should be collected prior to the start of work to determine baseline conditions. The testing results should be received and reviewed by NUSD before the children return to school. The samples for barium and arsenic should show that these metals are below baseline in areas collected from the school.

Pertaining to lead (Pb), the Housing and Urban Development guidelines for the Evaluation of Control of Lead-Based Paint Hazards (HUD, 2012) for lead testing recommends that for play areas and high-contact areas for children, the lead in soil concentration be less than 400 µg/g (ppm) using EPA Method 3010 or 3051. For lead on surfaces such as picnic areas or playground equipment, collected via wipe sampling, NIOSH Method 9100 could be used and the EPA and HUD clearance levels for floors should not exceed 40 ug/ft^2. If any of the results should exceed the baseline or HUD levels AWS recommended that a thorough decontamination of affected surfaces with post-remediation clearance sampling performed after the decontamination work is complete.

VOCs and SVOCs

Many VOCs and SVOCs exceed the ESLs in the soil proposed for excavation at the site. The only method currently proposed to minimize the release of these chemicals from the site is to cover the stockpiles that are not being used after 60 minutes of inactivity. This leaves the contaminated soils in the excavations, the stockpiles that are in-use, the trucks being loaded into, and the buckets excavating the soil exposed to the atmosphere. Because the very nature of a VOC/SVOC is that they are volatile there is no adequate way to prevent or even reduce these chemicals from being released to the atmosphere during the work. The excavations will be monitored for VOCs using a photoionization detector (PID) and PPE (e.g. respirators, gloves, protective clothing, and goggles) will be available for the workers, but this does not protect the children from the release of contaminants from the site.

Based on the above and because the school is so close (less than 100 feet) to the site and directly downwind and there is no adequate way of preventing the release of VOCs/SVOCs from leaving the site it is recommended that the soil excavation work, and any exploratory excavation work, be performed when school is not in session. Due to the fact that VOCs and SVOCs are volatile in nature there is no need to collect surfaces samples after the work.

Summary of Recommendations

In summary, NUSD recommends that in order to ensure maximum protection of the NUSD school children during the remediation work that the following measures be taken:

1. Test the areas that may have been impacted with asbestos and lead prior to the start of remediation and if the results exceed the thresholds indicated above implement the above-mentioned precautions.

2. Conduct wipe sampling for lead, barium and arsenic on exterior eating, playground and other frequently touched surfaces at NCS before, to establish baseline conditions, and

after remediation work is done and before the children return to school. If sample concentrations are above regulatory levels perform a thorough decontamination of all affected surfaces and collect clearance samples to confirm decontamination.

3. Perform the excavation of contaminated soils, including the pre-excavation exploratory soil assessment work, when NCS is not in session.

NUSD also requests that the results of the testing be made available to us prior to allowing work to commence and that NUSD staff be immediately notified if any sample results indicate an exceedance of regulatory or baseline levels. We also request that NUSD staff be immediately notified if any potentially hazardous subsurface features are encountered during the earth work.

The excavation of contaminated soil is proposed to take place directly upwind within 50 to 400 feet of the NCS School. According to AWS there is no adequate way to fully prevent the school children from being exposed to the volatile contaminants being excavated. We realize that the 970 C Street project is overall beneficial to our community but it must be done in the way that is most protective of the school children. Environmental remediation activities should not be performed directly upwind of sensitive receptors without serious protections in place to reduce their exposure. The most effective way to protect the children is for the contaminated soil to be excavated when the children are not at school.

Please let us know if you have any questions regarding the above.

Sincerely,

Karen Maloney
Assistant Superintendent – Business & Operations

References

California Code of Regulations (CCR), April 2008, Title 17, Division 1, Chapter 8, §35036. Lead-Contaminated Soil.

The Housing and Urban Development (HUD), 2012, *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (2012 Edition),* Chapter 15-Clearance

Air & Water SCIENCES
Environmental Consultants

AWS 1484
September 10, 2015

Karen Maloney, Assistant Superintendent
Novato Unified School District
1015 Seventh Street
Novato, CA 94945

RE: Report of Recommendations for 970 C Street Remediation Work

Dear Ms. Maloney,

Pursuant to your direction, **Air & Water SCIENCES** (AWS) is providing this Report of Recommendations pursuant to your direction to review and provide comments on the upcoming remediation work at the above referenced site with regard to the safety and health of Novato Unified School District (NUSD) students located at properties adjacent to the remediation work.

AWS reviewed the following documents for this report:

- Draft Soil Management Plan (SMP) and Health and Safety Plan (HSP), August 2015, West Yost Associates
- Draft Remedial Action Plan (RAP), August 2015, West Yost Associates
- Draft Sampling and Analysis Plan (SAP), August 2015, West Yost Associates
- Main Gate Rd and C St. Initial Study, June 2015, Urban Planning Partners
- Attachments A-L from https://970cstreet.wordpress.com/2015/07/
- All other documents and correspondence available on https://970cstreet.wordpress.com/2015/07/ and http://novato.org/government/community-development/planning-division/planning-projects/hamilton-square-townhomes

Project Background

The project site is known as 970 C Street and is proposed for residential townhome development by Thompson Development Inc. The site is approximately 2.7 acres (Assessor's Parcel Number 157-980-05) and is located on the former Hamilton Air Force Base on the southeast side of the City of Novato to the east of Highway 101. The site is located on the corner of Main Gate Road and "C" Street and is currently vacant and absent of structures.

The Novato Charter School (NCS) is located directly across "C" street from the proposed project. The NCS school property is located less than 50 feet east of the proposed project site boundary and less than 100 feet east of the proposed contaminated soil excavation area. The prevailing winds blow from the northwest and southwest at mean wind speeds of 7.4 knots to the southeast and 7.5 knots to the northwest (USACE, 2008). The NCS is located directly downwind of the proposed project. Figure 9 in Attachment A shows the 970 C Street site and the adjacent school.

The site is currently zoned for commercial development but because the proposed development is residential the area must be re-zoned for residential use. Previously a Naval Exchange (NEX) gasoline service station was located on the site and operated from the mid-1970s through the early 1990s. In 1995, after the station was closed, three 10,000-gallon underground storage tanks (USTs) formerly containing gasoline were removed. The removal of these UST's indicated that releases of gasoline-related volatile organic compounds (VOCs) to the subsurface soils and groundwater had occurred. Three hydraulic lifts, one waste oil UST, four buried collection drums, two oil/water separators and associated piping were also removed and subsurface contamination was also detected underneath many of these.

According to the RAP approximately 400 cubic yards of contaminated soils were removed in 1995 and 1996 subsequent to the UST removal. In 2000 an additional 200 cubic yards of contaminated soils were removed during another remedial action event, when hydraulic lifts, drain piping, and other features were removed from the interior of former Building 970. From June 1998 to October 1999 an air sparging and soil vapor extraction system was operated to remediate the areas of the highest groundwater contaminant concentrations. The system was effective in reducing the levels of contamination down to commercial screening levels, but they still exceed residential screening levels, which needs to be met for the development of the proposed townhomes.

Proposed Soil Remediation Work

As indicated in the RAP the following contaminants either remain in the soil or could be present in soils beneath at the site: total petroleum hydrocarbons as gasoline (TPHg), TPH as diesel (TPHd), TPH as motor oil (TPHmo), TPH as hydraulic oil (TPHo), total oil and grease (TOG), naphthalene,

benzo(a)anthracene, benzo(a)pyrene, methyl tert-butyl ether (MTBE), benzene, toluene, ethylbenzene, xylenes, butanone (MEK), propylbenzene, isopropylbenzene, 1,3,5-trimethylbenzene, 1,2,4-Trimethylbenzene, sec-butylbenzene, N-butylbenzene , vinyl acetate, tetraethyl lead and metals arsenic, barium and lead. Many of these contaminants exceed the Environmental Screening Levels (ESLs) for residential use or do not have an ESL but were found in elevated concentrations in soils at the site.

Additionally, there is a concern as to whether lead and asbestos contaminated building materials were properly removed from the site. The January 15, 2008 Ninyo and Moore report indicated that two areas ("presumably the men's and women's restrooms") could not be accessed and therefore materials inside were not tested for lead and asbestos. Based on this, and because additional documents stating that these areas were later accessed and tested were not provided, it is feasible that the building was demolished without these materials being previously removed and therefore, the presence of lead and asbestos in the soil is also a concern during the excavation process.

According to the SMP, there will be approximately 2,800 cubic yards of soil generated from the project. Figure 9 in Attachment A shows the areas off the proposed excavations. As stated in the RAP "soil will be excavated to a maximum depth of 7 ft below ground surface (bgs) downgradient of the gasoline UST excavations northward to north of the pump islands. Soil underneath Building 970, will be excavated to a maximum depth of 6 ft bgs except in one area in the former location of the northern hydraulic lift (H-N), which will be excavated to approximately 10 ft bgs." As mentioned above this soil is contaminated with fuel-related hydrocarbons (TPHg, TPHd, VOCs, SVOCs), metals and possibly asbestos.

As indicated in the RAP the soil will be excavated and loaded using a standard front-end loader. The soil may also be stockpiled on-site for later loading. According to the SMP: "If the impacted soil is stockpiled on-site prior to off-hauling, it will be placed on a paved surface and covered with visqueen plastic. The soil transport vehicles will be equipped with plastic sheeting and will be loaded using a standard front-end loader. After the soil is loaded into the transport trucks, the soil will be covered with tarps to prevent soil from spilling during transport to the disposal facility. Prior to departure, the general contractor will ensure that loose soil debris is removed from trucks via dry brushing the tires and truck body."

Review of Currently Proposed Health and Safety Precautions

AWS reviewed the relevant documents in order to determine the level of health and safety precautions proposed by the developer in order to protect the school children from exposure to the environmental contaminants during the soil remediation work at the site. The primary documents that proposed any

environmental health and safety precautions pertaining to the contaminated soil excavation were the RAP, HSP, SMP and the Initial Study.

The Health and Safety Plan (HSP), August 2015, West Yost Associates

The HSP states in the first paragraph: "This Health and Safety Plan has been prepared to minimize the threat of serious injury to **workers** during the excavation activities at 970 C Street, Novato, California (Site)." This states the intent of the HSP which is to protect workers. As indicated in the HSP:

> "The following modified Level D PPE will be used as necessary for site activities within work areas: Impervious clothing (gloves, Tyvek) shall be worn unless the Site Safety and Health Officer does not believe necessary. If hazardous materials (i.e. exposure to COCs) are encountered, employees will have the option, depending on the activity, to wear cotton/polyester, Nomex, or Tyvek coveralls large enough to fit over work clothing with sleeves and legs unrolled. Chemical-resistant, leather, electrical resistant or felt work gloves shall be worn depending upon the hazard. Safety glasses, goggles, or face shields, unless wearing a full-face respirator."

The HSP also indicates states

> "The likelihood of exceeding the OSHA PELs (Table 1) during the performance of the work outlined in this plan is considered to be low due to the ventilated conditions and low concentrations of constituents previously documented at the Site. However, half-face air purifying respirators with organic vapor cartridges, fit-tested for each employee present, will be available on site. If warranted by OVM readings, periodic air monitoring will be conducted during the on-site work with Sensidyne- or Dreager-type detector tubes and pump, which will provide immediate information on airborne benzene concentrations. Should the testing methods indicate potentially hazardous concentrations of airborne contaminants, or if any of the symptoms are noted or observed in any of the on-site personnel, corrective action will be taken, including using respirators, if necessary."

The health and safety precautions detailed above are all occupational based meant solely to protect on-site workers from exposure to hazardous chemicals. In the event that testing indicates potentially hazardous levels of airborne contaminants the corrective action proposed in the HSP only addresses the onsite workers. There is no mention in the HSP as to the protection of adjacent sensitive receptors (NCS).

Draft Remedial Action Plan (RAP), August 2015, West Yost Associates

The RAP does mention health and safety precautions or concerns in a couple of areas: Page 12 of the RAP states that:

> "COCs in subsurface soil may be expected to desorb in trenches, adsorb to soil, and volatize to subsurface soil vapor. Resulting complete pathways involve vapor migration into open excavations including utility trenches".

Page 13 of the RAP states:

> "In accordance with the soil and groundwater management plan, dust control measures will be in place during excavation activities at the Site. The on-site worker is therefore not expected to be exposed to COCs in airborne dust at the Site."

While an aggressive dust suppression plan is warranted for this project it does not minimize the release of VOC's and SVOCs from the site, which are the primary chemicals of concern.

Draft Soil Management Plan (SMP), August 2015, West Yost Associates

The SMP was also reviewed for health and safety precautions for the adjacent school. Section 6.4.1 of the SMP states that:

> "The field coordinator will monitor excavation operations for fugitive dust and direct the general contractor to take measures, as necessary, such as the application of water or a change in operations or equipment in order reduce the potential of dust leaving the Site. Stockpiled soil, if any, will be covered with plastic sheeting, or other similar material, at the end of each workday. A stockpile that is not being actively worked on for more than 60 minutes will be covered with plastic sheeting to prevent dust from leaving the Site. If Gnoss Field Airport wind conditions are reported at 25 miles per hour or higher or fugitive dust is seen to be leaving the Site, the SMP coordinator will call for a halt in work. Work will remain at a halt until windy conditions have subsided, at which time the SMP coordinator can direct general contractor to resume work. In addition the SMP also states that "Petroleum hydrocarbon odors are expected, therefore, the SMP field coordinator will monitor operations for excessive odors and direct the general contractors to take measures such as the application of water or a change in operations or equipment in order to minimize noticeable or nuisance odors from leaving the Site."

As mentioned above petroleum hydrocarbon odors are expected - which is because they are being remediated ex-situ (above-ground) in contrast to recent previous remedial efforts which took place below the surface. The SMP only addresses fugitive dust and odors, which is not proactive against minimizing the release of VOCs from the site. The main problems with the above mentioned means of mitigating chemicals from leaving the property is: 1) the concentrations need to be high enough to warrant action and by this time the children could be exposed at the school and 2) barring a complete halt in work until school is not in session, water or a change in operations will do little to prevent further releases of contaminants while the impacted soil still needs to be removed. Again, the volatile nature of the primary chemicals of concern and the means of removing the soil via excavation, make the prevention of off-site releases of these contaminants unfeasible.

The SMP also address the possibility that groundwater is encountered during the soil excavation work. In order to address this event the SMP states that:

> "If groundwater is encountered during excavation or backfilling activities and if those conditions limit the execution of the RAP, then groundwater will be pumped into a holding tank, characterized for disposal, and removed from the Site by an appropriate disposal company based on its characterization."

Although this method is suitable to manage any encountered groundwater at the site this may contribute to additional off-site hazardous volatile chemicals from the project being released.

Main Gate Rd and C St. Initial Study, (Initial Study) June 2015, Urban Planning Partners

The Initial Study states the impact is less than significant when asked if the project will "*Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*" The rational for this being a less than significant impact is stated in the Initial Study:

> "The project site is adjacent to the North Bay Children's Center, the Novato Charter School, and a vacant Novato Unified School District property. Releases of hazardous materials from contaminated soil or groundwater, and lead- and asbestos-containing building materials could potentially migrate and affect the schools, but implementation of the Soil Management Plan and Health and Safety Plan, which will be reviewed and approved by the Regional Water Board and DTSC prior to remedial action, would reduce these impacts during remedial activities to a less-than-significant level. No additional mitigation is required."

AWS reviewed the SMP and the HSP mentioned above and there is no mention of the protection of adjacent sensitive receptors or NCS from the release of hazardous materials during the excavation work in these documents, nor is it clear that these documents were reviewed and approved by the RWQCB or the DTSC.

Recommendations

Based on the above review about 2,800 cubic yards of contaminated soil is being removed from the site. This soil is impacted with fuel-related hydrocarbon contamination in the form of volatile organic compounds (VOCs), semi-volatile organic compounds (SVOC's) and metals. An additional concern is potential remaining asbestos fibers and lead from the recent demolition project.

As mentioned above, the Initial Study states that "Releases of hazardous materials from contaminated soil or groundwater, and lead- and asbestos-containing building materials could potentially migrate and affect the schools, but implementation of the Soil Management Plan and Health and Safety Plan,

which will be reviewed and approved by the Regional Water Board and DTSC prior to remedial action, would reduce these impacts during remedial activities to a less-than-significant level." However, the SMP and the HSP which are referred to in the Initial Study do not address the protection of the surrounding community or schools from the contaminated soils to be excavated. The HSP indicates that it is designed to protect on-site workers, not school children, from exposure to the chemicals of concern. The precautions mentioned in the HSP and other project documents detail dust control measures to minimize the release of dust particulates from the site. This will aid in the reduction of particulates from reaching the school and school children but will not guarantee that the children will not be exposed to contaminated particulates above the existing (baseline) air concentrations. Furthermore, dust suppression activities will not reduce the amount of VOCs and SVOCs that are released from the contaminated soil into the air.

Since the school children could be anywhere from 50 to 400 feet downwind , depending on the location of the stockpiles, of the exposed contaminated soils the health and safety of the children during this work needs to be addressed and measures taken to remove their exposure. The following recommendations have been developed to provide the utmost protection of the children during the environmental remediation work.

Lead and Asbestos

As mentioned above there is a possibility that some suspect asbestos containing materials (ACMs) were not identified or removed from the two un-accessed rooms (presumably the two restrooms) from the former Building 970 prior to demolition. AWS recommends that NUSD request documentation which shows the proper testing and removal of materials containing ACM and lead from the two un-accessed areas. If these documents cannot be provided or show that the removal or demolition of building materials from these two areas was done improperly than AWS recommends soil samples be collected to assess whether the soil to be removed contains ACM and lead. Representative soil samples should be collected from underneath the former location of the restrooms and from within 15 feet of the perimeter of this portion of the building. These samples should be analyzed for lead in soil by EPA Method 6010B. According to California Code of Regulations Title 17 (CCR, 2008) the soil is hazardous above 400ppm "in bare soil in areas where children play". The soil samples should also be sampled for asbestos by PLM CARB Level B. Concentrations above 1% are considered to be hazardous. If these soils are deemed hazardous for lead and/or asbestos from the building demolition than it will be limited to the surficial soils. We recommend that if these sample results exceed the thresholds stated above then soils proposed for excavation in this area be removed when school is not in session and with perimeter monitoring or be removed in an erected containment with perimeter monitoring.

Metals - Barium, Arsenic and Lead

Metals (barium, arsenic and lead) were detected in soils above the ELSs. Thorough and diligent dust suppression activities during the excavation work can be effective in minimizing the off-site release of metals and particulates, however, even the best implemented dust suppression plan cannot guarantee that metals will not be released from the site and deposited in the school area. Therefore, it is recommended that the soil excavation work be performed when school is not in session. Additionally, because metals can be transported and deposited off-site and the school is located directly downwind of the site it is recommended that representative surface wipe samples be collected from frequently touched surface areas of the school, particularly any picnic tables or other outdoor eating surfaces, playground equipment and other frequently touched exterior surfaces after the remediation work and before the children return to school. Baseline samples should be collected prior to the start of work to determine baseline conditions. The testing results should be received and reviewed by NUSD before the children return to school. The samples for barium and arsenic should show that these metals are below baseline in areas collected from the school.

Pertaining to lead (Pb), the Housing and Urban Development guidelines for the Evaluation of Control of Lead-Based Paint Hazards (HUD, 2012) for lead testing recommends that for play areas and high-contact areas for children, the lead in soil concentration be less than 400 µg/g (ppm) using EPA Method 3010 or 3051. For lead on surfaces such as picnic areas or playground equipment, collected via wipe sampling, NIOSH Method 9100 could be used and the EPA and HUD clearance levels for floors should not exceed 40 ug/ft^2. If any of the results should exceed the baseline or HUD levels AWS recommends that a thorough decontamination of affected surfaces with post-remediation clearance sampling performed after the decontamination work is complete.

VOCs and SVOCs

Many VOCs and SVOCs exceed the ESLs in the soil proposed for excavation at the site. The only method currently proposed to minimize the release of these chemicals from the site is to cover the stockpiles that are not being used after 60 minutes of inactivity. This leaves the contaminated soils in the excavations, the stockpiles that are in-use, the trucks being loaded into, and the buckets excavating the soil exposed to the atmosphere. Because the very nature of a VOC/SVOC is that they are volatile there is no adequate way to prevent or even reduce these chemicals from being released to the atmosphere during the work. The excavations will be monitored for VOCs using a photoionization detector (PID) and PPE (e.g. respirators, gloves, protective clothing, and goggles) will be available for the workers, but this does not protect the children from the release of contaminants from the site.

Based on the above and because the school is so close (less than 100 feet) to the site and directly downwind and there is no adequate way of preventing the release of VOCs/SVOCs from leaving the site it is recommended that the soil excavation work, and any exploratory excavation work, be

performed when school is not in session. It appears that Thompson Development already acknowledges that the work would be best performed while the children are not present; a letter from Thompson Development dated May 5, 2015 states "Our current schedule shows the work commencing in late June and wrapping up in mid-July. That would really be the best case scenario as your school would be out of session on summer break."
Due to the fact that VOCs and SVOCs are volatile in nature there is no need to collect surfaces samples after the work. Potential atmospheric concentrations of VOCs and SVOCs from the contaminated soil are considered a respiratory risk, dissimilar to the metals, which are also an ingestion risk.

Summary of Recommendations

In summary, AWS recommends that in order to ensure maximum protection of the NUSD school children that the following measures be taken:

1. Test the areas that may have been impacted with asbestos and lead prior to the start of remediation and based on the results take the above-mentioned precautions.
2. Conduct wipe sampling for lead, barium and arsenic on exterior eating, playground and other frequently touched surfaces at NCS before, to establish baseline conditions, and after remediation work is done and before the children return to school. If sample concentrations are above regulatory levels perform a thorough decontamination of all affected surfaces and collect clearance samples to confirm decontamination
3. Perform the excavation of contaminated soils, including the pre-excavation soil assessment, when NCS is not in session.

AWS recommends that the results of the testing be made available to NUSD prior to allowing work to commence and that NUSD staff be immediately notified if any sample results indicate an exceedance of regulatory or baseline levels. AWS also recommends that NUSD staff be immediately notified if any potentially hazardous subsurface features are encountered during the earth work.

Conclusion

The excavation of contaminated soil is proposed to take place directly upwind within 50 to 400 feet of the NCS School in the coming months. There is no adequate way to fully prevent the school children from being exposed to the contaminants being excavated. The 970 C Street project is overall beneficial to the community in that it removes contaminants from the subsurface but it must be done in the way that is most protective of the school children. Environmental remediation activities should not be performed directly upwind of sensitive receptors without serious protections in place to reduce their

exposure. The most effective way to protect the children is for the contaminated soil to be excavated when the children are not at school.

Thank you for the opportunity to work with you on this project. Please let us know if you have any further questions or concerns.

Air & Water SCIENCES

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President

Heidi Bauer, PG
Senior Project Manager

References

California Code of Regulations (CCR), April 2008, Title 17, Division 1, Chapter 8, §35036. Lead-Contaminated Soil.

The Housing and Urban Development (HUD), 2012, *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (2012 Edition),* Chapter 15-Clearance

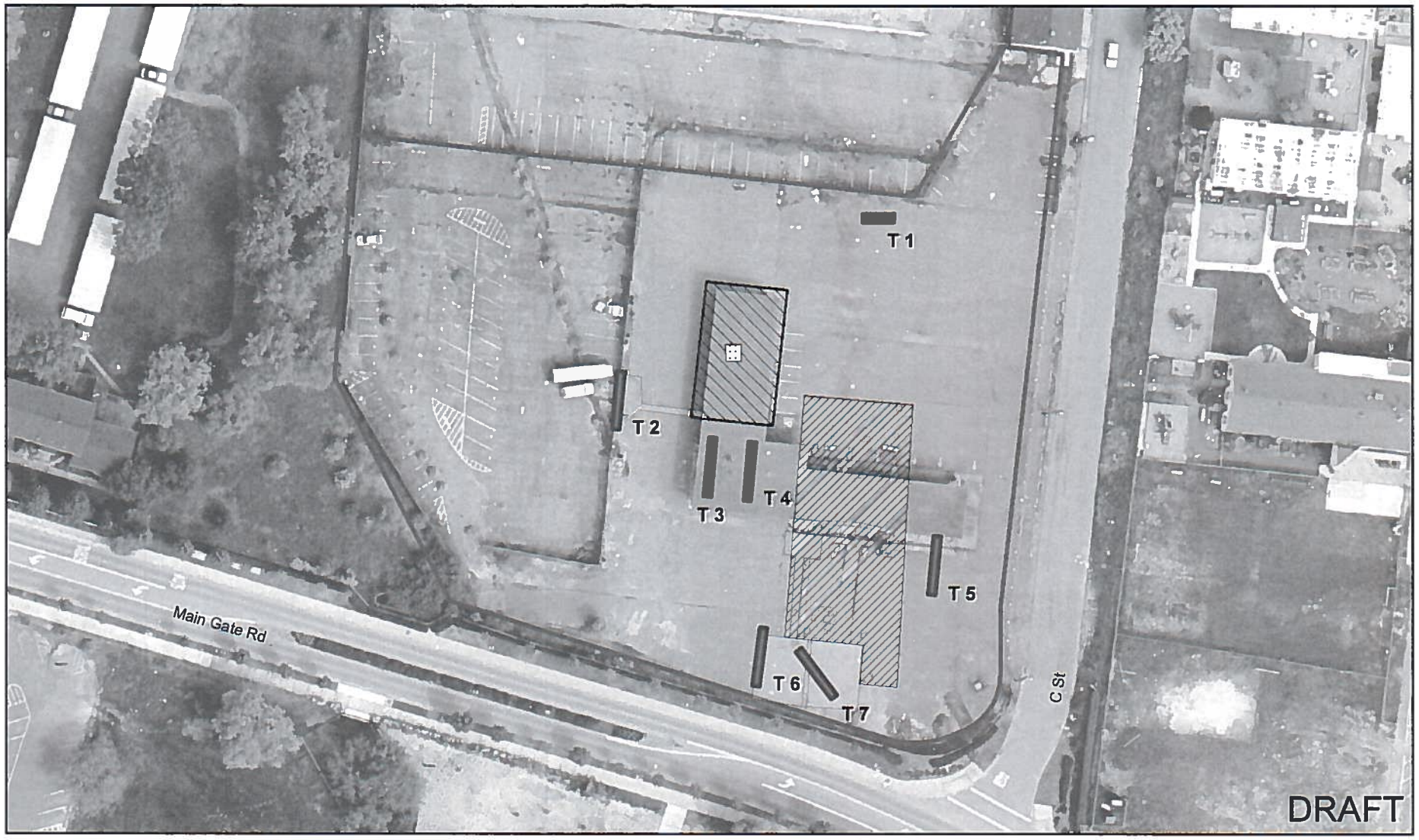
U.S. Army Corps of Engineers (USACE) and the California State Coastal Conservancy (SCC), January 14, 2008, *Restoration Design Report Seasonal and Tidal Wetlands Hamilton Wetland Restoration Project Novato, California Final Draft,* - http://scc.ca.gov/webmaster/ftp/hamilton/hwrp-marsh-restoration-plan.pdf).

ATTACHMENT A

Figure 9 From

West Yost Associates' Draft Remedial Action Plan (RAP)

August 2015



LEGEND

- Estimated Extent of Former Tank Excavation
- Approximate Site Boundary
- Pre-excavation Test Pit

Proposed Excavations

- 6' bgs (TPHd/mo)
- 7' bgs
- 10' bgs

N

0 30 60

Scale in Feet

FIGURE 9

Remedial Action Plan
Hamilton Square
970 C Street, Novato, CA
(T0609592161)

Proposed Excavations

THOMPSON DEVELOPMENT INC.

AN AFFILIATE OF WEST BAY BUILDERS INC.

WEST YOST ASSOCIATES