

RESOLUTION NO. 2023-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLEARLAKE, CALIFORNIA DENYING APPEAL APCC 2023-01 AND UPHOLDING THE PLANNING COMMISSION APPROVAL OF APRIL 25TH, 2023 ADOPTING MITIGATED NEGATIVE DECLARATION (BASED ON ENVIRONMENTAL ANALYSIS - INITIAL STUDY, IS 2022-05) AND CONDITIONAL USE PERMIT, CUP 2022-16 FOR THE DEVELOPMENT AND OPERATION OF THE BURNS VALLEY DEVELOPMENT PROJECT LOCATED AT 14885 BURNS VALLEY ROAD, CLEARLAKE, CALIFORNIA, APN: 010-026-40-000.

WHEREAS, City of Clearlake, California (*Owner/Developer/Operator*), applied for approval of a Mitigated Negative Declaration (Based on Environmental Analysis, IS 2022-05) and Conditional Use Permit (CUP 2022-16) for the development of the Burns Valley Development located at 14885 Burns Valley Road, further described as Assessor Parcel Number 010-048-40-000: and

WHEREAS, Appeal Application APCC 2023-01, KOI Nation of Northern California contesting the determination of the Planning Commission approval on April 25th, 2023 of a Mitigated Negative Declaration (Based on Environmental Analysis, IS 2022-05) and Conditional Use Permit (CUP 2022-16) has been processed in accordance with the City Municipal Codes/Regulations, and

WHEREAS, the land use zoning designation is “MUX” Mixed Use. As conditioned, the proposed use would be consistent with the allowable uses in the MUX Zoning Designation; and

WHEREAS, the General Plan Designates the project site as “MDR” Medium Density. As conditioned, the proposed use would be consistent with the General Plan; and

WHEREAS, the incorporated Mitigation Measures and Conditions of Approval, the project is found to comply with the Zoning Codes (*Refer to Enclosed Exhibit A*) and

WHEREAS, the Conditional Use Permit, CUP 2022-16 would allow Public Assemblies, Outdoor Recreation, and a Impound Yard, Pursuant to Section 18.18.030 of the City Municipal Code; and

WHEREAS, in accordance with Section 18.14.445 (b) of the Zoning Code the use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to the property, improvements or potential development in the vicinity with respect to aspects including, but not limited to, the following:

- (a) *The nature of the proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures.*
- (b) *The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic and the adequacy of proposed off-street parking and loading.*
- (c) *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;*
- (d) *Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking areas, loading areas, service areas, lighting, and signs; and*

WHEREAS, the City has completed Tribal Consultation in accordance with CEQA and AB 52 and per Section 21080.3.2(b)(2), and formally concluded tribal consultation per Section 21080.3.2(b)(2) of the Government Code as indicated in the letter to tribal representative on March 21st, 2023, and

WHEREAS, the Mitigated Negative Declaration (Initial Study, IS 2022-05) and Conditional Use Permit, CUP 2022-16 has been processed in accordance with the City’s Environmental Review Guidelines; and

WHEREAS, the project underwent environmental review (Initial Study, IS 2022-05) subject to the California State Environmental Quality Act (CEQA) Guidelines, and a Mitigated Negative Declaration has been prepared, and adopted; and as evidenced by the following:

1. The initial study and Mitigated Negative Declaration were properly noticed and circulated in compliance with the California Environmental Quality Act of 1970, and in compliance with Section 15070-15075 of the CEQA State Guidelines, by:
 - *Circulation of the Notice of Intent (NOI) for the environmental analysis/proposed Mitigated Negative Declaration (CEQA Initial Study, IS 2022-05) was published in the Lake County Record Bee and sent to the State Clearinghouse; Various Federal, State, and local agencies/organizations for the minimum of a 30-day commenting period from July 19th, 2022, through August 19th, 2022. The document was also uploaded onto the City’s Website and made available upon request.*
 - *A Notice of Intent (NOI) was mailed (via USPS) to the surrounding parcels owners within 300 feet of the subject property informing them of the City’s decision to adopt a Mitigated Negative Declaration for the proposed use and that there is a 30-day commenting period on the environmental document from July 19th, 2022, through August 19th, 2022.*
 - *Additional mitigation measures have been added in order to reconfirm the protocols for avoidance and capping of the sensitive sites. These mitigation measures do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect. Thus, pursuant to CEQA Guidelines section 15073.5, recirculation of the MND is not required.*

WHEREAS, environmental review (Initial Study, IS 2022-05) was prepared in accordance with the California Environmental Quality Act (CEQA), which shows substantial evidence, in light of the whole record, that the project will not result in a significant environmental impact with the incorporated Mitigation Measures/Conditions of Approval and, hereby adopts a Mitigated Negative Declaration (MND) and authorizes staff to file a Notice of Determination in compliance with CEQA.

WHEREAS, if any section, division, sentence, clause, phrase, or portion of this resolution is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

WHEREAS, on April 25th, 2023, the Planning Commission of the City of Clearlake held a duly noticed public hearing at which interested persons had the opportunity to testify and at which the Planning Commission considered the proposed development; and

WHEREAS, adequate public noticing was made for the project in accordance with the Municipal Code; and

WHEREAS, the City Council has considered this project, the staff report, public testimony, on this date (June 7th, 2023) at a duly noticed public hearing, and found that the project is compatible with the surrounding area, and will not be detrimental to adjacent property owners or the public at large, and approval of the Mitigated Negative Declaration (Based on Environmental Analysis, IS 2022-05) and Conditional Use Permit (CUP 2022-16) is in the public interest; and;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Clearlake that Appeal Application APCC 2023-01 contesting the Planning Commission’s decision of April 25th, 2023, is hereby **denied** and Mitigated Negative Declaration (Based on Environmental Analysis, IS 2022-05) and Conditional Use Permit (CUP 2022-16) is approved.

PASSED AND ADOPTED on this 7th day of June 2023, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Mayor – City of Clearlake

ATTEST:

City/Deputy Clerk, City Council

EXHIBIT A

CONDITIONS OF APPROVAL CONDITIONAL USE PERMIT, CUP 2022-16 INITIAL STUDY, IS 2022-05

Burns Valley Development Project

Pursuant to the approval of the Planning Commission on **April 25th, 2023 and the City Council on _____, 2023**), is hereby granted to the City of Clearlake, a Mitigated Negative Declaration (based on CEQA Analysis IS 2022-05) and Conditional Use Permit, CUP 2022-16 to allow the development and operation of the Burns Valley Development located at 14885 Burns Valley Road, Clearlake, CA 95422 further described as APN: 010-026-40-000 is subject to the following terms and mitigation measures/conditions of approval.

SECTION A: GENERAL CONDITIONS:

1. The use hereby permitted shall substantially conform to the Site Plan(s), and Project Description and any conditions of approval/mitigation measures imposed by the above project as shown on the approved project plan for this action dated April 25th, 2023 (Planning Commission) and on _____, **2023 by City Council.**
2. All handicap parking areas, routes of travel, building access and bathrooms shall meet American with Disabilities Act (ADA) requirements and be subject to review and approval of a Certified Accessibility Access Specialist (CASP).
3. **Prior to operation**, the permit holder shall meet and operate in full compliance with fire safety rules and regulations of the Lake County Fire District.
4. The operation shall not exceed the maximum occupancy as prescribed by the California Building Code.
5. Any modifications and/or additions to a use requiring use permit approval shall itself be subject to use permit approval. The addition of an allowed use to a premise occupied by a conditionally allowed use shall require use permit approval of the type required for the existing use. The Community Development Director shall determine when such an addition and/or change is of such a minor or incidental nature that the intent of these regulations can be met without further use permit control
6. The California Department of Fish & Wildlife filing fee shall be submitted as required by California Environmental Quality Act (CEQA) statute, Section 21089(b) and Fish and Game Code Section 711.4. **The fee should be paid within five (5) days of approval of the mitigated negative declaration at the Lake County Clerk's Office.** Once fees have been paid, the applicant shall submit a copy of all documentation to the City of Clearlake, verifying the fees have been paid. **Said permit shall not become valid, vested or operative until the fee has been paid, including the issuance of any permits.**

SECTION B. AESTHETICS:

1. (*Mitigation Measure AES-1*) All outdoor lighting shall be directed downwards and shielded onto the project site and not onto adjacent properties. All lighting shall comply and adhere to all federal, state and local agency requirements, including all requirements in darksky.org. (Refer to the City's Design Standards).

2. *(Mitigation Measure AES-2)* A final lighting design plan shall be submitted for review and approval by the Community Development Department. Lighting levels shall not exceed lighting levels beyond those referenced in Attachment A, Lighting Analysis for this project. Lighting shall be installed in accordance with the final approved lighting plan.
3. *(Mitigation Measure AES-2)* All nighttime ball field lighting shall be operated no later than 10 pm.
4. **Prior to operation**, the applicant shall install a Trash enclosure in accordance with City of Clearlake Municipal Codes and Trash Enclosure Design Standards. The plans shall show that the enclosure will be constructed of block with an attractive cap and the gates should incorporate solid metal materials painted to match the building colors. The gates should be mounted on separate posts mounted inside the enclosure. A hose bib should be located next to the enclosure for maintenance.

SECTION C. AIR QUALITY:

1. *(Mitigation Measure AIR 1)* Construction activities shall be conducted with adequate dust suppression methods, including watering during grading and construction activities to limit the generation of fugitive dust or other methods approved by the Lake County Air Quality Management District. Prior to initiating soil removing activities for construction purposes, the applicant shall pre-wet affected areas with at least 0.5 gallons of water per square yard of ground area to control dust.
2. *(Mitigation Measure AIR 2)* Driveways, access roads and parking areas shall be surfaced in a manner so as to minimize dust. The applicant shall obtain all necessary encroachment permits for any work within the right-of-way. All improvement shall adhere to all applicable federal, State and local agency requirements.
3. *(Mitigation Measure AIR 3)* Any disposal of vegetation removed as a result of lot clearing shall be lawfully disposed of, preferably by chipping and composting, or as authorized by the Lake County Air Quality Management District and the Lake County Fire Protection District.
4. *(Mitigation Measure AIR-4)* During construction activities, the applicant shall remove daily accumulation of mud and dirt from any roads adjacent to the site.
5. *(Mitigation Measure AIR-5)* Grading permits shall be secured for any applicable activity from the Community Development Department, Building Division. Applicable activities shall adhere to all grading permit conditions, including Best Management Practices. All areas disturbed by grading shall be either surfaced in manner to minimize dust, landscaped or hydro seeded. All BMPs shall be routinely inspected and maintained for life of the project.
6. *(Mitigation Measure AIR-6)* All refuse generated by the facility shall be stored in approved disposal/storage containers, and appropriately covered. Removal of waste shall be on a weekly basis so as to avoid excess waste. All trash receptacles/containers shall remain covered at all times to prevent fugitive odors and rodent infestation. An odor control plan shall be submitted for review and approval by the City in accordance with the Zoning Code. Odor control shall be maintained to an acceptable level at all times.
7. *(Mitigation Measure AIR-7)* Construction activities that involve pavement, masonry, sand, gravel, grading, and other activities that could produce airborne particulate should be conducted with adequate dust controls to minimize airborne emissions. A dust mitigation plan may be required should the applicant fail to maintain adequate dust controls.

8. *(Mitigation Measure AIR-8)* If construction or site activities are conducted within Serpentine soils, a Serpentine Control Plan may be required. Any parcel with Serpentine soils must obtain proper approvals from LCAQMD prior to beginning any construction activities. Contact LCAQMD for more details.
9. *(Mitigation Measure AIR-9)* All engines must notify LCAQMD prior to beginning construction activities and prior to engine Use. Mobile diesel equipment used for construction and/or maintenance must be in compliance with State registration requirements. All equipment units must meet Federal, State and local requirements. All equipment units must meet RICE NESHAP/ NSPS requirements including proper maintenance to minimize airborne emissions and proper record-keeping of all activities, all units must meet the State Air Toxic Control Measures for CI engines and must meet local regulations.
10. *(Mitigation Measure AIR-10)* Site development, vegetation disposal, and site operation shall not create nuisance odors or dust. During the site preparation phase, the District recommends that any removed vegetation be chipped and spread for ground cover and erosion control. Burning of debris/construction material is not allowed on commercial property, materials generated from the commercial operation, and waste material from construction debris, must not be burned as a means of disposal.
11. *(Mitigation Measure AIR-11)* Significant dust may be generated from increase vehicle traffic if driveways and parking areas are not adequately surfaced. Surfacing standards should be included as a requirement in the use permit to minimize dust impacts to the public, visitors, and road traffic. At a minimum, the district recommends chip seal as a temporary measure for primary access roads and parking. Paving with asphaltic concrete is preferred and should be required for long term occupancy. All areas subject to semi-truck / trailer traffic should require asphaltic concrete paving or equivalent to prevent fugitive dust generation. Gravel surfacing may be adequate for low use driveways and overflow parking areas; however, gravel surfaces require more maintenance to achieve dust control, and permit conditions should require regular palliative treatment if gravel is utilized. White rock is not suitable for surfacing (and should be prohibited in the permit) because of its tendency to break down and create excessive dust. Grading and re-graveling roads should utilizing water trucks, if necessary, reduce travel times through efficient time management and consolidating solid waste removal/supply deliveries, and speed limits.
12. Construction activities that involve pavement, masonry, sand, gravel, grading, and other activities that could produce airborne particulate should be conducted with adequate dust controls to minimize airborne emissions. A dust mitigation plan may be required should the applicant fail to maintain adequate dust controls.

SECTION D - BIOLOGICAL RESOURCES:

1. *(Mitigation Measure BIO-1)* The project should implement erosion control measures and BMPs to reduce the potential for sediment or pollutants at the Project site.
2. *(Mitigation Measure BIO-2)* A qualified biologist shall conduct a mandatory Worker Environmental Awareness Program for all contractors, work crews, and any onsite personnel to aid workers in recognizing special status species and sensitive biological resources that may occur on-site. The program shall include identification of the special status species and their habitats, a description of the regulatory status and general ecological characteristics of sensitive resources, and review of the limits of construction and Mitigation Measures required to reduce impacts to biological resources within the work area.

3. (*Mitigation Measure BIO-3*) Conduct a pre-construction northwestern pond turtle survey in Project impact and staging areas within 48 hours prior to construction activities. Any northwestern pond turtle individuals discovered in the Project work area immediately prior to or during Project activities shall be allowed to move out of the work area of their own volition. If this is not feasible, they shall be captured by a qualified biologist and relocated out of harm's way to the nearest suitable habitat at least 100 feet from the Project work area where they were found.
4. (*Mitigation Measure BIO-4*) If construction is to occur during the nesting season (generally February 1 - August 31), conduct a pre-construction nesting bird survey of all suitable nesting habitat on the Project within 14 days of the commencement of construction. The survey shall be conducted within a 500-foot radius of Project work areas for raptors and within a 100-foot radius for other nesting birds. If any active nests are observed, these nests shall be designated a sensitive area and protected by an avoidance buffer established in coordination with CDFW until the breeding season has ended or until a qualified biologist has determined that the young have fledged and are no longer reliant upon the nest or parental care for survival. Pre-construction nesting surveys are not required for construction activity outside the nesting season.
5. (*Mitigation Measure BIO-5*) Within 14 days prior to Project activities that may impact bat roosting habitat (e.g., removal of manmade structures or trees), a qualified biologist will survey for all suitable roosting habitat within the Project impact limits. If suitable roosting habitat is not identified, no further measures are necessary. If suitable roosting habitat is identified, a qualified biologist will conduct an evening bat emergence survey that may include acoustic monitoring to determine whether or not bats are present. If roosting bats are determined to be present within the Project site, consultation with CDFW prior to initiation of construction activities and/or preparation of a Bat Management Plan outlining avoidance and minimization measures specific to the roost(s) potentially affected may be required.
6. (*Mitigation Measure BIO-6*) To minimize potential impacts to the ephemeral drainage on the project site during construction activity, a qualified biologist shall map the extent of the riparian habitat on the project site. Avoidance buffers for riparian habitat shall be applied in compliance with City of Clearlake requirements. The riparian habitat and avoidance buffer shall be demarcated prior to construction and shall be maintained until the completion of construction. A qualified biologist/biological monitor shall be present if work must occur within the avoidance buffer to ensure riparian habitat is not impacted by the construction activity.
7. (*Mitigation Measure BIO-7*) A native tree protection and removal permit, waiver, or similar approval shall be secured prior to impacting trees protected under the City ordinance. Avoidance buffers for protected trees shall be consistent with the City requirements, shall be clearly demarcated prior to construction, and should be maintained until the completion of construction. A qualified biologist/biological monitor should be present if work must occur within the avoidance buffer to ensure avoided protected trees are not impacted by the work.

SECTION E - CULTURAL/TRIBAL RESOURCES:

1. (*Mitigation Measure CUL-1*) During construction activities, if any subsurface archaeological remains are uncovered, all work shall be halted within 100 feet of the find and the owner shall utilize a qualified cultural resources consultant to identify and investigate any subsurface historic remains and define their physical extent and the nature of any built features or artifact-bearing deposits.

2. *(Mitigation Measure CUL-2)* The cultural resource consultant’s investigation shall proceed into formal evaluation to determine their eligibility for the California Register of Historical Resources. This shall include, at a minimum, additional exposure of the feature(s), photo-documentation and recordation, and analysis of the artifact assemblage(s). If the evaluation determines that the features and artifacts do not have sufficient data potential to be eligible for the California Register, additional work shall not be required. However, if data potential exists – e.g., there is an intact feature with a large and varied artifact assemblage – it will be necessary to mitigate any Project impacts. Mitigation of impacts might include avoidance of further disturbance to the resources through Project redesign. If avoidance is determined to be infeasible, pursuant to CEQA Guidelines Section 15126.4(b)(3)(C), a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code. If an artifact must be removed during Project excavation or testing, curation may be an appropriate mitigation. This language of this mitigation measure shall be included on any future grading plans and utility plans approved by the City for the Project.
3. *(Mitigation Measure CUL-3)* If human remains are encountered, no further disturbance shall occur within 100 feet of the vicinity of the find(s) until the Lake County Coroner has made the necessary findings as to origin (California Health and Safety Code Section 7050.5). Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Lake County Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Native American Heritage Commission must then identify the “most likely descendant(s)”. The landowner shall engage in consultations with the most likely descendant (MLD). The MLD will make recommendations concerning the treatment of the remains within 48 hours as provided in Public Resources Code 5097.98.
4. *(Mitigation Measure CUL-4)* The sensitive site section noted on the project site plan shall not be disturbed during construction and/or maintenance of the park. This sensitive site is identified as investigation resulted in the discovery of two intact, buried, archaeological sites, CCL-21-01 and CCL-21-02 (Figure 7, yellow polygons), both of the sites can be considered significant cultural resources. Both of the sites occupy relatively small areas and are buried at depths of 16–32 inches below grade. The project as currently designed, will not impact sites CCL-21-01 or CCL-21-02. If avoidance and/or preservation in place is not possible, the owner will consider re-design or other measures to avoid impacting resources consistent with CEQA. The owner will contract with tribal monitors for ground disturbance within 100 feet of sites CCL-21-01 and CCL-21-02. The owner and contract archeologist will consult with tribal representatives regarding ground disturbing work within these areas including the designation of a “reburial” location, if needed.
5. (Mitigation Measure CUL-5) On or prior to the first day of construction the owner shall organize cultural sensitivity training for contractors involved in ground disturbing activities.
6. (Mitigation Measure CUL-6) The southern two-thirds of site CCL-21-01 is contained within APN010-026-400-000 and the Burns Valley Development Project area. The area occupied by the site has been slated for a paved parking area serving planned playing fields nearby (Figure 2). This portion of the site is situated on the sloping bank of an extinct section of upper Miller Creek, an area marked by an overstory of mixed native oak and introduced conifer and hardwood trees. Because this part of the site is situated on a bank, the land surface is sloped and drops 10–15 feet

in elevation. Current engineering plan calls for vegetation and tree removal as well as application of remote fill materials to bring it to a level grade, with installation of landscaping, drains, and underground utility lines in the area. Project revisions in design, location, and operations should be implemented in the area occupied by the footprint of site CCL-21-01, inclusive to a 15-foot (4.5-meter) buffer around the site perimeter. Limitations to disturbance in this area shall be as follows:

(1) *Fill Cap*. Because CCL-21-01 is a buried archaeological deposit contained in a dense clay loam likely to resist compaction impacts, avoidance can be achieved by placing fill on the site surface;

(2) *Flush Cut Vegetation*. Existing vegetation including shrubs and trees should be flush-cut, i.e., cut flush with the ground at a point not to exceed 10-inches below grade;

(3) *Landscaping Fabric and Fill*. Once the flush cut is complete and surface cleared of debris, landscaping fabric should be laid over the area of the site to create a boundary between intact soils and remote fill. With respect to the fill, drainage, safety, and operational concerns may prevent adding a lot of elevation; however, an additional minimum 6–12-inches (15–30 centimeters) of fill should be added to the site area to provide a construction and compaction buffer to protect the deposit. This would result in an overburden of 21–27 inches (53–71 centimeters) of capping material;

(4) *Avoid Installation of Subsurface Features*. Avoid placement of pier supports, subsurface landscaping features, subsurface drains, and utility lines in the site area.

(5) *Avoid New Overstory Plantings*. Avoid placement of new overstory trees in the site area.

7. (Mitigation Measure CUL-7) Site CCL-21-02 is contained within APN010-026-400-000 and the Burns Valley Development Project area. The area occupied by the site has been slated for open space. Project revisions in design, location, and operations should be implemented in the area occupied by the footprint of site CCL-21-02, inclusive to a 15-foot (4.5-meter) buffer around the site perimeter. Limitations to disturbance in this area shall be as follows:

(1) *Fill Cap*. Because CCL-21-01 is a buried archaeological deposit contained in a dense clay loam likely to resist compaction impacts, avoidance can be achieved by placing fill on the site/buffer surface;

(2) *Landscaping Fabric and Fill*. Prior to site prep and construction in the area, landscaping fabric should be laid over the area of the site to create a boundary between intact soils and remote fill. With respect to the fill, drainage, safety, and operational concerns may prevent adding a lot of elevation; however, an additional minimum 6–12-inches (15–30 centimeters) of fill should be added to the site area to provide a construction and compaction buffer to protect the deposit. This would result in an overburden of 21–27 inches (53–71 centimeters) of capping material;

(3) *Avoid Installation of Subsurface Features*. Avoid placement of pier supports, subsurface landscaping features, subsurface drains, and utility lines in the site area.

(4) *Avoid New Overstory Plantings*. Avoid placement of new overstory trees in the site area.

SECTION F - GEOLOGY AND SOILS:

1. (*Mitigation Measure GEO-1*) Prior to any ground disturbance and/or operation, the applicant shall submit Erosion Control and Sediment Plans to the Community Development Department for review and approval.
 - *The project shall incorporate Best Management Practices (BMPs) consistent with the City Code and the State Storm Water Drainage Regulations to the maximum extent practicable to prevent and/or reduce discharge of all construction or post-construction pollutants into the local storm drainage system.*
2. (*Mitigation Measure GEO-2*) Prior to any ground disturbance, (if applicable), the applicant shall submit and obtain a Grading Permit from the Community Development in accordance with the City of Clearlake Municipal code(s).
3. (*Mitigation Measure GEO-3*) The applicant shall monitor the site during the rainy season including post-installation, application of BMPs, erosion control maintenance, and other improvements as needed. Said measures shall be maintained for life of the project and replace/repared when necessary.

SECTION G- HAZARD/HAZARDOUS MATERIALS:

1. All hazardous waste shall not be disposed of on-site without review or permits from Environmental Health Department, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material.
2. The storage of potentially hazardous materials shall be located at least 100 feet from any existing water well. These materials shall not be allowed to leak into the ground or contaminate surface waters. Collected hazardous or toxic materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such materials.
3. Any spills of oils, fluids, fuel, concrete, or other hazardous construction material shall be immediately cleaned up. All equipment and materials shall be stored in the staging areas away from all known waterways.
4. The storage of hazardous materials equals to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, then a Hazardous Materials Inventory Disclosure Statement/Business Plan shall be submitted and maintained in compliance with requirements of Lake County Environmental Health Division. Industrial waste shall not be disposed of on site without review or permit from Lake County Environmental Health Division or the California Regional Water Quality Control Board. The permit holder shall comply with petroleum fuel storage tank regulations if fuel is to be stored on site.
5. All equipment shall be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. Hazardous materials and contaminated soil shall be stored, transported, and disposed of consistent with applicable local, state, and federal regulations
6. Hazardous Waste must be handled according to all Hazardous Waste Control Laws. Any generation of a hazardous waste must be reported to Lake County Environmental Health within thirty days.
7. All employees and/or staff members shall be properly trained in and utilize Personnel Protective Equipment in accordance with all federal, state and local regulations regarding handling any biological and/or chemical agents.

8. Hazardous waste must be handled according to all Hazardous Waste Control and Generator regulations. Waste shall not be disposed of onsite without review or permits from EHD, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material.

SECTION H -NOISE/VIBRATIONS:

1. (*Mitigation Measure NOI-1*) All construction activities including engine warm-up shall be limited to weekdays and Saturday, between the hours of 7:00am and 7:00pm to minimize noise impacts on nearby residents.
2. (*Mitigation Measure NOI-2*) Permanent potential noise sources such as, generators used for power shall be designed and located to minimize noise impacts to surrounding properties.
3. (*Mitigation Measure NOI-3*) During construction noise levels shall not exceed 65 decibels within fifty (50) feet of any dwellings or transient accommodations between the hours of 7:00 AM and 6:00 PM. This threshold can be increased by the Building Inspector or City Engineer have approved an exception in accordance with Section 5-4.4(b)(1) of the City Code. An exception of up to 80 decibels may be approved within one hundred (100) feet from the source during daylight hours. Project is expected to result in less than significant impacts with regard to noise and vibration.
4. (*Mitigation Measure NOI-4*) Park operations, including baseball at the northeasterly ballpark shall be shall be restricted to not later than 10 pm.

SECTION I - TRANSPORTATION/TRAFFIC:

1. All handicap parking areas, routes of travel, building access and bathrooms shall meet American with Disabilities Act (ADA) requirements and be subject to review and approval of a Certified Accessibility Access Specialist (CASP).

SECTION J – TRIBAL CULTURAL RESOURCES

1. (*Mitigation Measure TCR-1*): Requirement to develop a tribal cultural resources preservation plan that delineates the boundary of CCL-21-01 and CCL-21-02, describes the appropriate combination of materials and culturally sterile fill in capping, provides landscaping specifications that favor culturally important plants, and restricts certain types of post-project activities in or on the cap.
2. (*Mitigation Measure TCR-2*): Requirement to designate a project reburial area in advance of ground disturbing activities in the event that materials are discovered during construction.
3. (*Mitigation Measure TCR-3*): Requirement for contractors to receive meaningful training on cultural sensitivity and tribal cultural resources from a tribal representative.
4. (*Mitigation Measure TCR-4*): Requirement for tribal monitoring during ground disturbing activities in sensitive areas of the project area.
5. (*Mitigation Measure TCR-5*): Procedures for compliance with existing state law in the event of the discovery of human remains during construction.
6. (*Mitigation Measure TCR-6*): A prohibition on the removal of cultural soils from the project area.
7. Requirement for City staff to organize a discussion with the City Council to exercise its independent

discretion on naming part or all of the facility with an appropriate tribal name, if it so chooses.

8. Requirement to develop and install culturally appropriate interpretive signage to educate the public about the cultural significance of the area.
9. Requirement to allow free access to the facilities for tribal cultural events up to four times per year, pursuant to the same application process of other events at City facilities.
10. Commitment by the City to meaningful consultation as a consulting party under Section 106 of the National Historic Preservation Act or National Environmental Policy Act, if applicable.

SECTION K -TIMING AND MONITORING

1. The applicant shall agree to indemnify, defend, and hold harmless the City or its agents, officers and employees from and against any and all claims, actions, demands or proceeding (*including damage, attorney fees, and court cost awards*) against the City or its agents, officers, or employees to attach, set aside, void, or annul an approval of the City, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations. In providing any defense under this Paragraph, the applicant shall use counsel reasonably acceptable to the City. The City shall promptly notify the applicant of any claim, action, demands or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold the City harmless as to that action. The City may require that the applicant post a bond, in an amount determined to be sufficient, to satisfy the above indemnification and defense obligation. Applicant understands and acknowledges that City is under no obligation to defend any claim, action, demand or proceeding challenging the City's actions with respect to the permit or entitlement.
2. Upon written request received prior to expiration, the Community Development Director may grant renewals of use permit approval for successive periods of not more than one (1) year each.
 - *Approvals of such renewals shall be in writing and for a specific period.*
 - *Renewals may be approved with new or modified conditions upon a finding that the circumstances under which the use permit was originally approved have substantially changed.*
 - *Renewal of a use permit shall not require public notice or hearing unless the renewal is subject to new or modified conditions. In order to approve a renewal, the Community Development Director must make the findings required for initial approval.*
3. The Planning Commission may revoke or modify the use permit in the future if the Commission finds that the use to which the permit allows is detrimental to health, safety, comfort, general welfare of the public; constitutes a public nuisance; if the permit was obtained or is being used by fraud; and/or if one or more the conditions upon which a permit was granted are in noncompliance or have been violated. Applicant shall be notified of potential violations of the use permit prior to action taken by the Planning Commission.
4. Said Use Permits shall be subject to revocation or modification by the Planning Commission if the Commission finds that there has been:
 - a) *Noncompliance with any of the foregoing conditions of approval; or*
 - b) *The Planning Commission finds that the use for which this permit is hereby granted is so exercised as to be substantially detrimental to persons or property in the neighborhood of*

the use. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to the City of Clearlake Municipal Code. 15.

ACCEPTANCE

I have read and understand the foregoing approved project and agree to each term and condition of approval and/or mitigation measure(s) thereof.

Date: _____

Applicant or Authorized Agent Signature

Printed Name of Authorized Agent

To be Completed by Authorized Staff Only:	
_____ Staff Name	_____ Staff Signature
Date Project Approved: _____	