



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Albert Balagso

**SUBJECT: LAKE CUNNINGHAM PARK  
2006 MASTER PLAN  
AMENDMENT PROJECT**

**DATE:** 11-13-06

Approved

Date

11/20/06

**COUNCIL DISTRICT:** City-Wide  
**SNI AREA:** N/A

## RECOMMENDATION

Adoption of a resolution approving the 2006 Amendment to the Lake Cunningham Park Master Plan and incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project.

## OUTCOME

Approval of the 2006 Amendment to the Lake Cunningham Park Master Plan will allow the Department of Public Works to bid and award the construction contract for the regional skate park project.

## BACKGROUND

Lake Cunningham Park is an extremely popular regional park bounded by Tully Road, White Road, Capitol Expressway and Cunningham Avenue in Council District 8 in east San José. The park, which opened to the public in the early 1980's, was developed in cooperation with the Santa Clara Valley Water District and the U.S. Soil Conservation Service. The park is intended to serve both as a recreational venue as well as a flood-control facility.

The 202-acre water-oriented park is home to Raging Waters, a 24-acre theme park leased to a private operator. Other facilities within the park include a marina, a 50-acre lake, group picnic areas, restrooms, play areas, walking paths, a maintenance yard, parking and associated amenities. The *2006 Master Plan Amendment* (2006 Amendment) deletes a swimming lagoon and adds a regional skate park facility to the *1990 Lake Cunningham Master Plan* (1990 Master Plan). The 1990 Master Plan is based on previous master plan reports dated 1983 and 1973.

The concept of building a regional skate park arose from the community needs assessment that is the foundation of the *Greenprint*, a 20-year strategic plan for parks and community facilities in the City of San José, adopted by the City Council in September 2000. Lake Cunningham Regional Park serves the recreational needs of over 500,000 people annually and was identified as a potential site for the regional skate park facility.

In February 2003 Beals Alliance, Inc. completed the *Lake Cunningham Regional Skate Park Feasibility Study* (Feasibility Study). It recommended program elements to be included in a regional skate park project and validated the feasibility of the proposed location within Lake Cunningham Park.

A master plan process to implement the program recommended in the Feasibility Study began in June 2005 with the assistance of a team of consultants with expertise in the design of regional skate parks led by Beals Alliance, Inc. The City Council approved the consultant agreement with Beals Alliance, Inc. to design the regional skate park facility in June 2005. Subsequently, the first amendment to the consultant agreement was approved on October 17, 2006.

The regional skate park project is partially funded by a State of California grant under the *Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000*. The grant, in the amount of \$1,037,000, expires in June 2008. The Parks City-Wide Construction and Conveyance Tax Fund (\$3,838,000), and the Park Trust Fund (\$327,000) are providing the remaining funds to construct the skate park.

## **ANALYSIS**

The 2006 Amendment makes the following changes to the 1990 Master Plan:

1. Remove the swim lagoon.
2. Add a regional skate park facility.
3. Add a pedestrian entrance to Lake Cunningham Park near the intersection of Tully Road and White Road to facilitate access to the regional skate park.

The 2006 Amendment includes graphic maps prepared to illustrate the final Master Plan Amendment and regional skate park facility (attached) with supporting text. The Regional Skate Park is located in place of the swim lagoon shown in the 1990 Master Plan, but never constructed. The swim lagoon feature is being eliminated because the Raging Waters facility serves as a premier water play facility for the park.

It is anticipated that there is adequate funding allocated to this project for the construction of a 40,000 square foot regional skate park, an office/restroom building, pedestrian drop-off loop, fencing, landscaping and site work associated with the regional skate park project. The construction bid will include additive alternates such as 75 parking spaces, lighting for night use

an observation platform and additional landscaping. The skate park facility is designed to accommodate a range of ability levels and skating styles.

During community outreach meetings, other minor improvements to Lake Cunningham Park were considered for inclusion in the 2006 Amendment. They include a comprehensive pedestrian circulation system that would connect all facilities in Lake Cunningham Park and a new pedestrian entrance at the intersection of Cunningham Avenue and Capitol Expressway to respond to a future light rail station along Capitol Expressway. These items are not included in the 2006 Amendment, as explained below, but are recommended for further study.

The existing lake-side pedestrian pathway around the perimeter of the lake is currently incomplete because of the presence of the Raging Waters facility, which borders the west shoreline of the lake. Raging Waters holds a 30-year lease for that portion of the park. Due to these restrictions, an internal circulation feasibility study is recommended for future consideration.

A new pedestrian entrance at the intersection of Cunningham Avenue and Capitol Expressway would require study of the existing levee maintained by the Santa Clara Valley Water District (SCVWD) for flood control at that location. A future flood control project by the Corps of Engineers and the SCVWD is anticipated, which provides an opportunity to incorporate pedestrian circulation into that project.

Staff will conduct additional community outreach in Spring 2007 to confirm overall priorities for Lake Cunningham Park and develop a 2007-08 budget proposal to further update the Lake Cunningham Master Plan as appropriate based on the results of this community outreach.

Project completion is anticipated in 2008 in accordance with a State of California grant funding deadline.

## **POLICY ALTERNATIVES**

***Alternative #1:*** Locate the regional skate park on a different site.

**Pros:** The area designated for skate park development at Lake Cunningham Park would remain as undeveloped open space.

**Cons:** This alternative would result in a schedule delay, causing grant funding from the State of California in the amount of \$1,037,000 to be at risk.

**Reason for not recommending:** Approving the regional skate park at this site will allow the project to leverage the state grant funding as originally approved. Lake Cunningham Park offers a prime location, has parking already available on site, will be connected to light rail in the future and has no development constraints.

***Alternative #2:*** Do not build a regional skate park.

**Pros:** Construction and grant money programmed for the regional skate park could be used for other capital projects.

**Cons:** The additional recreational resource targeted to serve youth would not be constructed.

**Reason for not recommending:** The regional skate park offers a healthy alternative to youth that may reduce obesity and participation in gang activity.

**Alternative #3:** Prepare a comprehensive master plan for Lake Cunningham that includes pedestrian circulation enhancements requested by the community.

**Pros:** The amendment to the *1990 Lake Cunningham Park Master Plan* would include all recreational program elements requested by the community.

**Cons:** This alternative would result in a schedule delay, causing grant funding from the State of California in the amount of \$1,037,000 to be at risk.

**Reason for not recommending:** The circulation enhancements recommended by the community would not likely be implemented within the near future because of lease and environmental restrictions, so these enhancements can be studied further while the regional skate park is being implemented.

### PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The item meets criterion 3: Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. A series of community meetings were held throughout the master plan amendment process, including two community-wide meetings, three skate park design workshops and two hearings by the Parks and Recreation Commission from September 2005 to August 2006. The community supported the addition of a regional skate facility to Lake Cunningham Park.

Public outreach was primarily through mailed flyers, a public notice in the San José Mercury News and by notices posted in local skate shop businesses. The Parks and Recreation Commission recommended approval of the 2006 Amendment at its August 2, 2006 meeting.

HONORABLE MAYOR AND CITY COUNCIL

11-13-06

**Subject: Lake Cunningham 2006 Master Plan Amendment Project**

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**COORDINATION**

This memorandum has been coordinated with the Departments of Public Works, Planning, Building and Code Enforcement, the City Manager's Budget Office and the City Attorney's Office.

**CEQA**

CEQA: Mitigated Negative Declaration, PP06-043.

  
ALBERT BALAGSO  
Acting Director of Parks, Recreation  
and Neighborhood Services

For questions please contact Marybeth Carter, Associate Landscape Architect, at (408) 793-4183.

Attachment



*Department of Planning, Building and Code Enforcement*

JOSEPH HORWEDEL, ACTING DIRECTOR

**DRAFT  
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** Lake Cunningham Master Plan-2006 Amendment

**PROJECT FILE NUMBER:** File No. PP06-043

**PROJECT DESCRIPTION:** The City of San José proposes to amend the existing Lake Cunningham Park Master Plan (dated 1990) by removing the swim lagoon, designating an area for the skate park, and designating a new pedestrian access point to the park from White Road. The new regional skate park, which would encompass a 10.62-acre area, would include up to 50,000 square-foot skate bowl/ramp complex, restrooms, shade structures, viewing and seating areas, parking areas, drop-off areas and associated landscaping.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Northwest corner While Road and Tully Road (Lake Cunningham Regional Park); APN 491-01-031

**COUNCIL DISTRICT:** 8

**APPLICANT CONTACT INFORMATION:** Marybeth Carter, City of San Jose, Department of Parks Recreation and Neighborhood Services. (408) 794-4183

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

**6. GEOLOGY AND SOILS** – The project shall be designed and built in conformance with the requirements of the Uniform Building Code for Seismic Zone 4.

**7. HAZARDS AND HAZARDOUS MATERIALS** – To prevent hazards to the environment during the disposal of soil piles from the site, a qualified professional familiar with potential environmental contaminants shall monitor the excavation of the soil piles. In the event that unusual suspect materials are observed, the material shall be sampled and analyzed prior to continuing excavation and disposal activities. If the soil piles are found to contain hazardous materials, the soil will be disposed of in accordance with applicable regulations

**8. HYDROLOGY AND WATER QUALITY** – In order to protect Lake Cunningham, Ruby Creek, and other receiving waters from potential water quality impacts resulting from the project, the City of San José shall implement the following measures:

- The project shall file a Notice of Intent (NOI) with the State Water Resources Control Board, prior to commencement of construction.
- The project shall develop, implement and maintain a Stormwater Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity in accordance with NPDES regulations.
- The project shall submit an erosion control plan to the City of San José and the RWQCB. All proposed erosion control measures shall be established in conformance with City Grading Ordinance, RWQCB regulations, and the Santa Clara Valley Urban Runoff Pollution Prevention Program.
- The project shall comply with applicable provisions of the following City Policies – 1) Post-Construction Urban Runoff Management Policy (6-29), and 2) Post – Construction Hydromodifications Management Policy (8-14).
- Construction of new drainage facilities shall use grass-lined swales, filters and/or oil and water separators.

**9. LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**10. MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**11. NOISE** – Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. The contractor shall use “new technology” powered construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components

**12. POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**13. PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**14. RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**15. TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**1. AESTHETICS** – The project will have no adverse impact on the aesthetic quality of the project area and would not impact any scenic vista or resources. Fully shielded lights and use of low-pressure sodium lamps, consistent with the City’s Outdoor Lighting Policy, will prevent substantial light or glare from emanating from the skate park site. Therefore, less than significant impacts would occur as a result of the project, therefore no mitigation is required.

**2. AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**3. AIR QUALITY** – The following construction practices shall be implemented during all phases of construction within the project to prevent visible dust emissions from leaving the site:

- Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site.
- Cover all trucks hauling soil, sand, and other loose materials *or* require all trucks to maintain at least two feet of freeboard.
- Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep daily (or more if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality; and
- Sweep streets daily, or more often is necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)
- Limit traffic speeds on unpaved roads to 15 mph.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.

**4. BIOLOGICAL RESOURCES:** To avoid impacting nesting birds, including migratory species, that may occur in the scrub habitat within and adjacent to the project work area, the City shall schedule vegetation removal (stripping) and associated ground clearing of other vegetated areas between August 1 and March 15 of any given year. This period is outside the nesting season for migratory bird species; the nesting season spans March 15 through July.

To avoid impacting raptors, that may nest in the landscape trees within and adjacent to the project area, the City shall schedule tree removal between August 1 and January 31 of any given year. This period is outside the nesting season for raptors; the nesting season spans February through July.

If vegetation removal occurs within the bird-breeding season, pre-construction nesting bird surveys shall be conducted. If nesting raptors are encountered, a 300-foot buffer around the nest site shall be created. A 50-foot buffer area shall be established around other nesting bird sites.

The City of San Jose shall have a qualified biologist conduct a protocol-level pre-construction survey, and prepare a report, not more than one month prior to construction activities to determine the presence or absence of burrowing owls on the site. If owls are present on the site, a mitigation program shall be developed in conformance with the requirements of the California Department of Fish and Game and the U.S. Wildlife Service. If mitigation includes relocation, owls shall not be relocated during the nesting season (March through August). Prior to the issuance of any grading or building permits, the developer shall submit a biologist’s report to the City’s Environmental Principal Planner to the satisfaction of the Director of Planning indicating that no

owls were found on the site or that owls were present and that mitigation has been implemented in conformance with the requirements of the above regulatory agencies

The City shall implement measures to protect trees that are to be retained during construction. To mitigate potential damage to retained trees, trees shall be safeguarded during construction through implementation of the following measures:

Pre-construction treatments

- Barricades shall be constructed around the trunks of trees (tree protection zone) so as to prevent injury to trees making them susceptible to disease causing organisms; barricades shall be in place prior to demolitions, site grubbing or grading.
- Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.

During construction

- No grading, construction, demolition or other work shall occur within the tree protection zone. Any modifications must be approved and monitored by the consulting arborist.
- Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.
- Supplemental irrigation shall be applied as determined by the consulting arborist.
- If injury should occur to any tree during construction, the consulting arborist shall evaluate it as soon as possible so that appropriate treatments can be applied.
- No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the tree protection zone.
- Any additional tree pruning needed for clearance during construction must be performed or supervised by an arborist and not by construction personnel.
- As trees withdraw water from soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near trees shall be designed to withstand differential displacement.
- A final report shall be submitted to the Environmental Principal Planner stating if tree protection standards achieved the desired result and how many mitigation trees were planted and where.

**5. CULTURAL RESOURCES** –To prevent impacts to prehistoric or historic resources, the City of San José shall incorporate the following measures into the proposed project:

In the event prehistoric traces (human remains, artifacts, concentrations of shell/bone/rock/ash) are encountered, all work within a 50-meter radius of the find should be stopped and the Director of Planning, Building, and Code Enforcement shall be notified. A qualified professional archaeologist shall examine the find and make recommendations for collection, recordation, analysis, and reporting of any significant cultural materials. If the find is determined to be significant, a mitigation program shall be prepared and submitted to the Director of Planning, Building, and Code Enforcement for consideration and approval.

In compliance with state law, in the event human remains are encountered during earthmoving activities, all work within 25 feet of the find will stop and the Santa Clara County Coroner's office will be notified. If the remains are determined to be Native American, the Coroner would notify the Native American Heritage Commission to identify the "Most Likely Descendent" (MLD). The City, in consultation with the MLD, would then prepare a plan for treatment, study and reinternment of the remains. All significant artifacts and samples recovered during construction would be catalogued and curated by a qualified archeologist and placed in an appropriate curation facility

16. **UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

### **PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **October 27, 2006**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, San José CA 95113-1905 and include a \$100 filing fee. The written protest should make a “fair argument” based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Joseph Horwedel, Acting Director  
Planning, Building and Code Enforcement

Circulated on: September 26, 2006

  
Deputy

Adopted on: Oct. 27, 2006

  
Deputy

Revised 8/26/05



Environmental Impacts	Mitigation Measures	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Potential Temporary Impacts to Air Quality	<p>The following construction practices shall be implemented during all phases of construction within the project to prevent to prevent visible dust emissions from leaving the site:</p> <ul style="list-style-type: none"> <li>▪ Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site.</li> <li>▪ Cover all trucks hauling soil, sand, and other loose materials <i>or</i> require all trucks to maintain at least two feet of freeboard.</li> <li>▪ Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.</li> <li>▪ Sweep daily (or more if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality; and</li> <li>▪ Sweep streets daily, or more often is necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.</li> <li>▪ Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).</li> <li>▪ Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)</li> <li>▪ Limit traffic speeds on unpaved roads to 15 mph.</li> <li>▪ Install sandbags or other erosion control measures to prevent silt runoff to public roadways.</li> <li>▪ Replant vegetation in disturbed areas as quickly as possible.</li> </ul>	City of San José,	Include mitigation measures in project bid specifications requiring mandatory compliance by contractor. Ongoing compliance inspections by City inspectors.	Concurrent with project construction.

Environmental Impacts	Mitigation Measures	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Potential Impacts to Nesting Birds and Raptors	<p>Vegetation removal and ground clearing shall be scheduled to occur between August 1 and January 31 of any given year to avoid the nesting season for raptors and migratory bird species; the nesting season spans February through July.</p> <p>If it is not feasible to conduct vegetation removal and ground clearing between August 1 and January 31 of any given year, the City shall have an ornithologist or qualified biologist conduct pre-construction nesting bird survey. If nesting raptors are encountered, a 300-foot buffer around the nest site shall be created. Other nesting bird sites shall be protected by a 50-foot buffer area. The ornithologist or qualified biologist shall document the results of the nesting bird survey for submittal to the Principal Planner on the Environmental team in the Department of Planning, Building and Code Enforcement.</p>	City of San José	<p>Include a vegetation removal and ground clearing schedule in project bid specifications requiring mandatory compliance by contractor,</p> <p>Or conduct and document the nesting bird and raptor survey as described.</p>	Prior to demolition, vegetation removal and ground clearing.
Potential Impacts to Burrowing Owls	<p>An ornithologist or qualified biologist shall conduct and document in writing, a protocol-level pre-construction survey not more than one month prior to construction activities to determine the presence or absence of burrowing owls on the site.</p> <p>If owls are present on the site, a mitigation program shall be developed in conformance with the requirements of the California Department of Fish and Game and the U.S. Wildlife Service. If mitigation includes relocation, owls shall not be relocated during the nesting season (March through August).</p>	City of San José	Submit a biologist's report to the City's Environmental Principal Planner to the satisfaction of the Director of Planning indicating that no owls were found on the site or that owls were present and that mitigation has been implemented in conformance with the requirements of applicable regulatory agencies.	Prior to the start of demolition, vegetation removal and ground clearing.

Environmental Impacts	Mitigation Measures	Responsibility for Compliance	Method of Compliance	Timing of Compliance																							
Potential Impacts to Biological Resources (Landscape trees).	<p>Trees removed as part of the project will be replaced at the following ratios:</p> <table border="1" data-bbox="300 362 1193 781"> <thead> <tr> <th rowspan="2">Diameter of Tree to be Removed</th> <th colspan="3">Type of Tree to be Removed</th> <th rowspan="2">Minimum Size of Each Replacement Tree</th> </tr> <tr> <th>Native</th> <th>Non-Native</th> <th>Orchard</th> </tr> </thead> <tbody> <tr> <td>18 inches or greater</td> <td>5:1</td> <td>4:1</td> <td>3:1</td> <td>24-inch box</td> </tr> <tr> <td>12 - 18 inches</td> <td>3:1</td> <td>2:1</td> <td>none</td> <td>24-inch box</td> </tr> <tr> <td>less than 12 inches</td> <td>1:1</td> <td>1:1</td> <td>none</td> <td>15-gallon container</td> </tr> </tbody> </table> <p>x:x = tree replacement to tree loss ratio <b>Note:</b> Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.</p>	Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree	Native	Non-Native	Orchard	18 inches or greater	5:1	4:1	3:1	24-inch box	12 - 18 inches	3:1	2:1	none	24-inch box	less than 12 inches	1:1	1:1	none	15-gallon container	City of San José	Replacement tree shall be included in the approved landscape plan. A copy of the final landscape plan showing the location and type of trees planted as mitigation shall be submitted to the Environmental Principal Planner.	Prior to project bid and award.
Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree																							
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Environmental Impacts	Mitigation Measures	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Potential Impacts to Biological Resources (Landscape trees).	<p>To avoid potential damage to retained trees, trees shall be safeguarded during construction through implementation of the following measures:</p> <p>Pre-construction treatments:</p> <ul style="list-style-type: none"> <li>▪ Barricades shall be constructed around the trunks of trees so as to establish a tree protection zone.</li> <li>▪ Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.</li> </ul> <p>During Construction:</p> <ul style="list-style-type: none"> <li>▪ Damage to any tree during construction shall be reported by the person causing the damage and the contractor shall treat the tree for damage in the manner specified by the city arborist; and</li> <li>▪ No construction equipment, vehicles or materials shall be stored, parked or standing within the tree dripline; and</li> <li>▪ Drains shall be installed according to city specifications so as to avoid harm to trees due to excess watering; and</li> <li>▪ Wires, signs and other similar items shall not be attached to trees; and</li> <li>▪ Cutting and filling around the base of trees shall be done only after consultation with the city arborist and then only to the extent authorized by the city arborist; and</li> <li>▪ No paint thinner, paint, plaster or other liquid or solid waste construction materials or wastewater shall be dumped within or uphill of the tree protection zone.</li> </ul>	City of San José	Implementation of tree protection measures during construction. A final report shall be submitted to the Environmental Principal Planner stating if tree protection standards achieved the desired result.	Concurrent with project construction. Final report shall be submitted within 30 days of project acceptance by the City of San José.
Lake Cunningham Park Master Plan– 2006 Amendment Mitigation Monitoring and Reporting Program				4 of 8

Environmental Impacts	Mitigation Measures	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Potential Impacts to Cultural Resources	<ol style="list-style-type: none"> <li>1. In the event prehistoric traces (human remains, artifacts, concentrations of shell/bone/rock/ash) are encountered, all work within a 50-meter radius of the find should be stopped and the Director of Planning, Building, and Code Enforcement shall be notified. A qualified professional archaeologist shall examine the find and make recommendations for collection, recordation, analysis, and reporting of any significant cultural materials. If the find is determined to be significant, a mitigation program shall be prepared and submitted to the Director of Planning, Building, and Code Enforcement for consideration and approval.</li> <li>2. In compliance with state law, in the event human remains are encountered during earthmoving activities, all work within 25 feet of the find will stop and the Santa Clara County Coroner's office will be notified. If the remains are determined to be Native American, the Coroner would notify the Native American Heritage Commission to identify the "Most Likely Descendent" (MLD). The City, in consultation with the MLD, would then prepare a plan for treatment, study and reinternment of the remains. All significant artifacts and samples recovered during construction would be catalogued and curated by a qualified archeologist and placed in an appropriate curation facility.</li> </ol>	City of San José	Include mitigation measures in project bid specifications.	Concurrent with project construction.

Environmental Impacts	Mitigation Measures	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Potential Geology and Soils Impacts	<p>The project shall be designed and built in conformance with the requirements of the Uniform Building Code for Seismic Zone 4.</p> <p>A supplemental Geotechnical investigation shall be prepared as part of the construction documents when specific details regarding building type, loads, dimensions and other site development requirements are more clearly defined. The supplemental investigation shall include additional subsurface exploration, laboratory testing and engineering analyses to check the preliminary conclusions made in the interim investigation and to develop project specific design recommendations.</p> <p>When fat clay zones occur, tests shall be performed to evaluate its expansion potential and to determine possible mitigation measures, such as the treatment with lime or the use of non-expansive imported material beneath structural elements. As the potential for liquefaction at the site is classified as high and exploratory borings encountered some areas of loose silty sand, a more detailed analysis of the potential for land settlement during strong earthquake shaking shall be implemented.</p> <p>Facilities shall be designed to adequately address the potential for liquefaction. The project shall incorporate all recommendations set forth in the supplemental geotechnical investigation prepared for the project.</p>	City of San José	Develop project specific design recommendations, which shall be implemented in project construction.	As noted.

Environmental Impacts	Mitigation Measures	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Potential Impacts from Hazards and Hazardous Materials	To prevent hazards to the environment during the disposal of soil piles from the site, the City shall monitor the excavation of the soil piles. In the event that unusual suspect materials are observed, the material shall be sampled and analyzed by personnel familiar with potential environmental contaminants prior to continuing excavation and disposal activities. Appropriate management options shall be developed, if necessary.	City of San José	Include mitigation measures in project bid specifications.	As noted.
Potential Impacts to Hydrology and Water Quality	<p>The following measures shall be implemented:</p> <ul style="list-style-type: none"> <li>▪ The project shall file a Notice of Intent (NOI) with the State Water Resources Control Board, prior to commencement of construction.</li> <li>▪ The project shall develop, implement and maintain a Stormwater Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity in accordance with NPDES regulations.</li> <li>▪ The project shall submit an erosion control plan to the City of San José and the RWQCB. All proposed erosion control measures shall be established in conformance with City Grading Ordinance, RWQCB regulations, and the Santa Clara Valley Urban Runoff Pollution Prevention Program.</li> <li>▪ The project shall comply with applicable provisions of the following City Policies – 1) Post-Construction Urban Runoff Management Policy (6-29), and 2) Post – Construction Hydromodification Management Policy (8-14).</li> <li>▪ Construction of new drainage facilities shall use grass-lined swales, filters and/or oil and water separators.</li> </ul>	City of San José	Prior to commencement of construction.	Provide documentation of compliance to the Environmental Principal Planner in the Department of Planning, Building and Code Enforcement upon completion.

Environmental Impacts	Mitigation Measures	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Potential Noise Impacts	<p>Construction shall be limited to 7 AM-7 PM, Monday through Friday, for any onsite or offsite work within 500 feet of any residential unit. Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9 a.m. to 5 p.m.</p> <ul style="list-style-type: none"> <li>▪ Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.</li> <li>▪ The contractor shall use “new technology” powered construction equipment with state-of-the-art noise shielding and muffling devices.</li> <li>▪ All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components.</li> </ul>	City of San José	Include mitigation measures in project bid specifications.	Concurrent with construction.