

# County of Santa Clara

Department of Environmental Health



Hazardous Materials Compliance Division

Site Mitigation Program

1555 Berger Drive, Suite 300

San José, CA 95112-2716

(408) 918-3400

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*SENT VIA ELECTRONIC MAIL ONLY*

[RP Name]

c/o [RP Contact Name]

[RP Mailing Address]

[email address]

**SUBJECT: REMEDIAL ACTION AGREEMENT**

[CASE NAME]

[SITE ADDRESS]

APN: [APN]

GEOTRACKER ID NO.: [GLOBAL ID (hyperlinked)]

Dear [RP Contact]:

The Department of Environmental Health (DEH) has received your application requesting regulatory oversight. At your request, DEH is assuming the role as the lead regulatory oversight agency for the remedial action as allowed by California Health and Safety Code sections 101480 through 101490. As indicated on your application for oversight, [RP NAME] has requested to be the Responsible Party<sup>1</sup> for the remedial action.

## TERMS OF AGREEMENT

By entering into this Remedial Action Agreement (“Agreement”) with the DEH, you agree to the following terms and conditions:

- All subsequent written directives from DEH regarding testing, monitoring, and analysis to determine the nature, extent, and risk of contamination, potential remedial action or mitigation measures to be taken, and cleanup goals (including deadlines for required submittals), collectively referred to as Remedial Action, will be considered a part of this Agreement.
- DEH will utilize the State of California GeoTracker database to store all documents related to this case. This case is subject to California regulations for electronic submittal of information for all cleanup cases in California (Title 23, Division 3, Chapter 30, Articles 1 and 2; Title 27, Division 3, Subdivisions 1 and 2). To be considered complete, all required submittals must be

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<sup>1</sup> Responsible Party as defined in Health and Safety Code Section 101480.

uploaded to the GeoTracker database by specified submittal due dates. Please note, DEH will not accept paper or email submittal of documents for review.

- DEH review of and response to all technical documents (work plans, site management plans, remedial action plans, completion reports, etc.) may take between 30 and 45 days after documents have been uploaded to GeoTracker. DEH will not expedite review of documents based on the Responsible Party's schedule.
- Regardless of the level of oversight from DEH, you are responsible for the timely reporting, investigation, and cleanup of soil and groundwater pollution such that the beneficial uses of waters of the State are protected, and in compliance with appropriate laws, regulations, and policies. You are also responsible for compliance with any new laws or regulations that may be applicable during the term of this Agreement.
- If, at any time, the Responsible Party is not in compliance with directives from DEH that constitute a portion of this Agreement, the DEH can, with adequate notice, terminate this Agreement. If the Agreement is terminated prior to adequate completion of the remedial action, the case may be referred to the Department of Toxic Substance Control (DTSC) or Regional Water Quality Control Board (RWQCB) for issuance of a State Corrective Action Order, Cleanup and Abatement Order, or other order or enforceable agreement, as appropriate, for further remedial action directives.
- If, upon further characterization, DEH determines that the release of waste that is the subject of this Agreement is sufficiently complex, may present such a significant potential hazard to human health or the environment, or may not be in the best interest of the DEH to continue as lead agency, the case may be referred to the DTSC or RWQCB for further action. In the event this case is referred to and accepted by the DTSC or RWQCB, this Agreement is terminated.
- Pursuant to Section 25262 of the Health and Safety Code, a Responsible Party may request the designation of an administering or lead agency other than DEH when required to conduct corrective action. Please contact DEH for further information about the State Site Designation Committee process.
- Remedial action must follow acceptable industry standards regarding testing, monitoring, and analyses to determine the type and extent of the contamination caused by the released waste, and the appropriate cleanup, as determined by DEH, of the released waste to eliminate or mitigate the associated risk to human health or safety or the environment.
- After determining that the Responsible Party has completed the remedial action required by DEH to protect human health, safety, and the environment, and that a permanent remedy for the release of waste has been achieved, a case closure letter will be issued to the Responsible Party that certifies that no further action is required.
- As allowed by Health and Safety Code section 101490, DEH will invoice the Responsible Party to recover the reasonable and necessary costs for oversight of the identified release up to and including implementing this Agreement. DEH staff time will be invoiced quarterly at the rate specified in the County Fee Ordinance at the time the DEH work is performed. The current

hourly charge rate is \$237 per hour under the County’s fee schedule adopted by the Board of Supervisors.

- Failure to pay oversight invoices within 30 days may result in a 25% late charge and could result in assignment of the charges to the County’s Department of Revenue for legal collections, and potential termination of this Agreement with subsequent referral to the DTSC or RWQCB. DEH response to technical documents and/or issuance of final closure may also be delayed.

**RESPONSE REQUIRED**

To execute this Agreement, please sign and date below where indicated. By signing this Agreement, you acknowledge that you have read and accept the Terms of Agreement herein and that you are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind the Responsible Party to this Agreement. Upon receipt of the executed Agreement, a new project will be opened in the State of California GeoTracker database.

If you have any questions, please contact the Site Mitigation Program coordinator, Travis Flora at (408) 918-3486 or by email at [travis.flora@deh.sccgov.org](mailto:travis.flora@deh.sccgov.org).

Sincerely,

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 Marilyn C. Underwood, PhD  
 Director, Department of Environmental Health

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Addressee representing Responsible Party

\_\_\_\_\_  
Date Executed

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title