

ATTACHMENT B

Mitigation, Monitoring and Reporting Plan

This Mitigation, Monitoring and Reporting Plan (MMRP) has been prepared pursuant to CEQA Guidelines, which state the following:

“In order to ensure that the mitigation measures and project revisions identified in the Supplemental Environmental Impact Report (SEIR) are implemented, the Lead Agency [ACE Charter School] shall 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.” (§15097(a)) and;

“The Lead Agency may choose whether its program will monitor mitigation, report on mitigation, or both. “Reporting” generally consists of a written compliance review that is presented to the decision making body or authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. “Monitoring” is generally an ongoing or periodic process of project oversight. There is often no clear distinction between monitoring and reporting and the program best suited to ensuring compliance in any given instance will usually involve elements of both.” (§15097 (c))

The table beginning on the next page lists the Impacts, Mitigation Measures, and Timing of the Mitigation Measure (when the measure will be implemented) related to the ACE Charter School Mayfair Campus Project. All of the mitigation measures listed here will be implemented by ACE or by its appointees.

According to CEQA Guidelines Section 15126.4 (a) (2), “Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.” Therefore, all mitigation measures as listed in this MMRP will be adopted by the ACE Board of Directors when the project is approved.

Impact	Mitigation Measure	Implementation and Timing	Monitoring Responsibility	Verified Implementation
AIR				
<p>Impact AIR-1: BAAQMD screening data indicates that highway I-680 vehicle emissions may present a potentially significant risk and hazard to the proposed ACE Charter School’s students and employees.</p>	<p>Measure AIR-1: ACE Charter School shall install air filters in each individual ventilation unit that achieve a minimum filter efficiency of approximately 50 to 65 percent for particles in the range of 1.0 to 3.0 micrometers, which is equivalent to a National Air Filtration Association's Minimum Efficiency Reporting Value (MERV) of 10 or higher. These filters shall be maintained and replaced according to manufacture directions.</p>	<p>Implementation: ACE Charter School shall ensure filters meet MERV 10 or higher requirements according to the most recent version of ANSI/ASHRAE Standard 52.2 <i>Method of Testing General Ventilation Air-Cleaning Devices for Removal Efficiency by Particle Size.</i></p> <p>Timing: ACE Charter School shall ensure filters are installed prior to building occupancy.</p>	<p>Monitoring: ACE Charter School shall review all project-related bid, contract, and engineering and site plan documents for inclusion of this measure.</p>	<p>Initials: _____</p> <p>Date: _____</p>

BIOLOGICAL RESOURCES				
<p>Impact BIO-1: Construction activities including vegetation removal, noise and vibration have a potential to result in direct (i.e., death or physical harm) and indirect (i.e., nest abandonment) impacts to nesting birds, in violation of state and federal codes.</p>	<p>Mitigation Measure BIO-1: To avoid impacts to nesting birds, construction shall occur from September 1 to January 31 outside of the bird nesting season to the extent feasible. If construction will occur during the bird nesting season (February 1 through August 31), preconstruction surveys for nesting birds shall be conducted by a qualified biologist not more than 72 hours (3 days) prior to the start of construction activities. If active nests are found on site, the biologist shall consult with the California Department of Fish and Game to establish a buffer zone around the nest where construction activities cannot occur until nesting is complete. Construction activities may occur outside the buffer zone if approved by California Department of Fish and Game. A monitoring report will be prepared by the biologist documenting the survey and consultation, if required.</p>	<p>Implementation: Measure shall be a condition of project approval and shall be implemented by the applicant.</p> <p>Timing: Measure to be implemented prior to the start of construction</p>	<p>Monitoring: If a nesting survey is conducted, the results of the survey shall be submitted to the ACE Charter School Executive Director.</p>	<p>Initials: _____</p> <p>Date: _____</p>
<p>Impact BIO-2: Project construction could damage trees adjacent to the construction zone.</p>	<p>Mitigation Measure BIO-2: ACE Charter School shall ensure that the trees in the unleased area are not damaged during construction. ACE shall retain the services of a certified arborist as necessary to ensure that the proposed project adheres to the following tree protection measures, consistent with Section 13.32.130 of the San Jose Municipal Code:</p> <ul style="list-style-type: none"> • No construction equipment, vehicles 	<p>Implementation: The ACE Charter School shall ensure the measures are carried out by the construction contractor.</p> <p>Timing: Prior to the start of</p>	<p>Monitoring: The Applicant shall require the contractor to submit proof that the trees will be protected during construction.</p>	<p>Initials: _____</p> <p>Date: _____</p>

	<p>or materials shall be stored, parked or standing within the tree dripline; and</p> <ul style="list-style-type: none">• Cutting and filling around the base of trees shall be done only after consultation with a certified arborist; and• No paint thinner, paint, plaster or other liquid or solid excess or waste construction materials or wastewater shall be dumped on the ground or into any grate between the dripline and the base of the tree or uphill from any tree where certain substances might reach the roots through a leaching process; and• Barricades shall be constructed around the trunks of trees as directed by the certified arborist so as to prevent injury to trees making them susceptible to disease causing organisms; and• Wherever cuts are made in the ground near the roots of trees, appropriate measures shall be taken to prevent exposed soil from drying out and causing damage to tree roots.	construction		
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CULTURAL RESOURCES				
<p>Impact CUL-1, CUL-2, and CUL-3: Project construction could disturb undiscovered archaeological resources, paleontological resources, or human remains.</p>	<p>Mitigation Measure CUL-1: In the event that any prehistoric and or historic deposits are encountered at any time during construction, it will be the responsibility of the construction/project manager to stop work within 50 feet of any discovery and contact a qualified archaeologist. Work in the area shall be suspended until the archaeologist prepares a plan for the evaluation of the resource and the plan is submitted to ACE for approval. Evaluation can take the form of limited hand excavation in order to demonstrate that the endangered resource is eligible for inclusion on the California Register of Historic Resources (CRHR). If the deposits are not eligible, avoidance is not necessary.</p>	<p>Implementation: The ACE Charter School shall ensure the measures are carried out by the construction contractor.</p> <p>Timing: During project construction</p>	<p>Monitoring: Any reports prepared as a result of a discovery of an unknown cultural resource shall be submitted to the ACE Charter School Executive Director and the City of San Jose Planning Director.</p>	<p>Initials: _____</p> <p>Date: _____</p>
	<p>Mitigation Measures CUL-2: If a historic or prehistoric resource is determined eligible for the Register, a plan for its mitigation should be submitted to ACE for approval before work is allowed to recommence in areas of archaeological sensitivity as defined by the project archaeologist. Mitigation can take the form of data retrieval through additional hand excavation inside areas of impact, coupled with recording and or removal of significant cultural materials and information for future analysis and reporting purposes.</p>	<p>Implementation: The ACE Charter School shall ensure the measures are carried out by the construction contractor.</p> <p>Timing: During project construction</p>	<p>Monitoring: Any reports prepared as a result of a discovery of an unknown cultural resource shall be submitted to the ACE Charter School Executive Director and the City of San Jose</p>	<p>Initials: _____</p> <p>Date: _____</p>

			Planning Director.	
	<p>Mitigation Measure CUL-3: Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, in the event of the discovery of human remains during construction, the construction manager shall stop work and there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission (NAHC) who shall attempt to identify descendents of the deceased Native American to advise ACE in the preferred manner of exhumation, exposure, removal, and reburial of all human remains and associated grave goods. If no agreement can be made as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.</p>	<p>Implementation: The ACE Charter School shall ensure the measures are carried out by the construction contractor.</p> <p>Timing: During project construction</p>	<p>Monitoring: Any reports prepared as a result of a discovery of an unknown cultural resource shall be submitted to the ACE Charter School Executive Director and the City of San Jose Planning Director.</p>	<p>Initials: _____</p> <p>Date: _____</p>

GEOLOGY				
<p>Impact GEO-1: The project site could be subject to strong seismic ground shaking.</p>	<p>Mitigation Measure GEO-1: The proposed project shall follow the recommendations contained in the geotechnical report prepared for the project (Cornerstone Earth Group 2011) for the design and construction of the school. The project shall conform to the Uniform Building Code Seismic Standards. In addition, the specifications for the building foundations will be reviewed and approved by the Division of the State Architect for seismic performance.</p>	<p>Implementation: The ACE Charter School shall ensure the measures contained in the Cornerstone Earth Group report are carried out by the construction contractor. Timing: During project construction</p>	<p>Monitoring: ACE Charter School shall ensure the measure is implemented.</p>	<p>Initials: _____</p> <p>Date: _____</p>
HYDROLOGY				
<p>Impact HYD-1: Project construction could cause erosion and siltation of storm water.</p>	<p>Mitigation Measure HYD-1: ACE Charter School shall prepare a comprehensive erosion control plan and SWPPP to ensure water quality is preserved during construction and that the project does not violate the water quality standards. Potential construction-phase and post-construction pollutant impacts from development can be controlled through preparation and implementation of an erosion control plan and a SWPPP. The erosion control plan forms a significant portion of the construction-phase controls required in a SWPPP, which also details the construction-phase housekeeping measures for control of contaminants other than sediment, as well</p>	<p>Implementation: The ACE Charter School shall require the preparation and implementation of a Storm Water Pollution Prevention Plan. Timing: The Storm Water Pollution Prevention Plan shall be prepared before project</p>	<p>Monitoring: ACE Charter School shall ensure the measure is implemented.</p>	<p>Initials: _____</p> <p>Date: _____</p>

	as the treatment measures and BMPs to be implemented for control of pollutants once the project has been constructed. The SWPPP also sets forth the BMP monitoring and maintenance schedule and identifies the responsible entities during the construction and post-construction phases.	construction.		
Impact HYD-2: If the storm drain filter is not properly maintained it could result in the discharge of polluted storm water into the City's storm drain system.	Mitigation Measure HYD-2: The ACE Charter School shall include yearly maintenance costs of \$2,000 to \$3,000 for maintaining the up-flow manhole filter in to the school's operating budget.	Implementation: ACE Principal Timing: Prior to project approval	Monitoring: ACE Principal	Initials: _____ Date: _____
NOISE				
Impact NOI-1: The project could expose students to interior noise levels that exceed City of San Jose's 45 dBA Ldn interior noise standard.	Mitigation Measure NOI-1: ACE Charter School shall ensure the modular buildings selected for the project contain sufficient noise insulating features to achieve a 17 dBA reduction in exterior noise levels. This may be achieved through a combination of noise insulation and/or building construction techniques necessary (e.g., forced air ventilation, sound rated windows).	Implementation: ACE Charter School shall review manufacturer's specifications for noise insulating features. Timing: ACE Charter School shall ensure noise insulating features are incorporated into final project design.	Monitoring: ACE Charter School shall review all appropriate bid, contract, and engineering and site (building, grading, improvement plans) documents for inclusion of interior noise reduction measures.	Initials: _____ Date: _____

<p>Impact NOI-2: The project would not generate noise levels that exceed City of San Jose standards but may intrude upon sensitive noise receptors along South Sunset Avenue, Sanders Avenue, Lavonne Avenue, and McCreery Avenue.</p>	<p>Mitigation Measure NOI-2: To reduce the potential for school-related functions to intrude upon sensitive noise receptors along South Sunset Avenue, Sanders Avenue, Lavonne Avenue, and McCreery Avenue, ACE Charter School shall implement the following noise reduction measures:</p> <ol style="list-style-type: none"> 1. HVAC units shall not exceed 70 dBA at 10 feet. This restriction will ensure operation of five HVAC units would not exceed 60 dBA at the nearest residential property boundaries located across South Sunset Avenue. If it is not feasible to avoid use of HVAC units that generate noise levels greater than 70 dBA at a distance of 10 feet, ACE Charter School shall shield the HVAC units to ensure HVAC noise levels do not exceed 60 dBA at adjacent property lines on South Sunset Avenue. 2. Public address system speakers, bells, and other alarms shall be directed away from residential land uses. All speakers, bells, and other alarms located on the exterior of school buildings along South Sunset Avenue shall be shielded. All bells and other alarms shall be programmed to operate only as necessary during school operating hours (weekdays 8AM to 5PM and Saturdays 8 AM to 1 PM) and should 	<p>Implementation: ACE Charter School shall incorporate these features into the final project design.</p> <p>Timing: ACE Charter School shall implement these features prior to building occupancy.</p>	<p>Monitoring: ACE Charter School shall review all appropriate bid, contract, and engineering and site (building, grading, improvement plans) documents for inclusion of noise reduction measures.</p>	
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	<p>not sound during weekends or school holidays. 3.Community events at the school shall be scheduled to conclude by 10 PM.</p>			
<p>Impact NOI-3: Project construction could temporarily increase noise levels at sensitive noise receptors along South Sunset Avenue, Sanders Avenue, Lavonne Avenue, and McCreery Avenue.</p>	<p>Mitigation Measure NOI-3: To reduce project construction-related noise impacts at sensitive noise receptors along South Sunset Avenue, Sanders Avenue, Lavonne Avenue, and McCreery Avenue, ACE Charter School shall implement the following construction noise reduction measures:</p> <ol style="list-style-type: none"> 1. ACE shall provide adjacent residences with at least five days advanced written notice of construction. The notice shall include the anticipated hours of construction and overall construction schedule for the project. For the purposes of this mitigation measure, adjacent residences include residences along South Sunset Avenue (between Kammerer Avenue and Lavonne Avenue) and the northwest side of Lavonne Avenue (between Sunset Avenue and McCreery Avenue). 2. Signs shall be posted at the entrance to the site and at construction equipment staging areas informing all construction contractors and workers of construction noise reduction measures 3 – 9 below. The signs shall also provide a contact 	<p>Implementation: ACE Charter School shall ensure compliance with construction noise reduction measures prior to the start of construction activities.</p> <p>Timing: ACE Charter School shall require construction contractors to implement construction noise reduction measures.</p>	<p>Monitoring: ACE Charter School shall review all appropriate bid, contract, and engineering and site (building, grading, improvement plans) documents for inclusion of noise reduction measures.</p>	

	<p>name and phone number for the job site and ACE Charter School to call in the event of a noise complaint.</p> <ol style="list-style-type: none">3. Construction activities shall occur between the hours of 7 AM to 7 PM Monday through Friday in accordance with City of San Jose Municipal Code requirements.4. Construction equipment shall be stored/staged as far away from sensitive receptors as practical.5. All construction equipment engines shall be covered and all construction equipment shall have mufflers that are in good working order.6. Stationary equipment such as compressors, generators, and welder machines shall be shielded and located as far away from sensitive receptors as possible.7. Impact tools such as jack hammers shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. When use of pneumatic tools is not unavoidable, an exhaust muffler shall be used on the compressed air exhaust8. No radios or other amplified sound devices shall be audible beyond the property line of the construction site.			
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	9. Prior to the start of any construction activity, ACE shall require the construction contractor to prepare a Construction Noise Complaint Plan that details how the contractor will respond to construction noise complaints, keep ACE apprised of the complaints, and document the resolution of those complaints.			
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