

ATTACHMENT C

INSTITUTIONAL CONTROL CHECKLIST

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Federal Facility IC ROD Checklist		
Item Number	Checklist Item	Response
1	Map/Figure showing boundaries of the land use controls	Parcel Boundaries are the IC boundaries; Figure 2 shows the Parcel D boundaries
2	Document risk exposure assumptions and reasonably anticipated land uses, as well as any known prohibited uses which might not be obvious based on the reasonably anticipated land uses. (For example, where “unrestricted industrial” use is anticipated, list prohibited uses such as on-site company day-care centers, recreation areas, etc.)	Table 2 lists the risk and the exposure scenarios associated with each redevelopment block. Current and reasonably anticipated future land use assumptions and current and potential future beneficial uses of groundwater are discussed in section 2.4. Prohibited uses for blocks where recreational or industrial use is anticipated are discussed in section 2.9.2.
3	Describe the risks necessitating the ICs.	Risk results are presented in Table 2, and discussed in Section 2.5.1 and 2.5.3
4	State the IC performance objectives.	<p>Section 2.92 sets forth the description of the selected remedy. The Institutional Control discussion, specifically “Activity Restrictions that Apply throughout Parcel G” on pages 40 through 42 of the ROD provide the objectives:</p> <p><i>Activity Restrictions that Apply throughout Parcel G</i></p> <p><i>The following sections describe the institutional control objectives to be achieved through activity restrictions throughout Parcel G in order to ensure that any necessary measures to protect human health and the environment and the integrity of the remedy have been undertaken.</i></p> <p><u>Restricted Activities</u></p> <p><i>The following restricted activities throughout HPS Parcel G must be conducted in accordance with the “Covenant(s) to Restrict Use of Property”, Quitclaim Deed(s), the Parcel G RMP, and if required, any other workplan or document approved in accordance with these referenced documents:</i></p>

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4	State the IC performance objectives.	<p>a. <i>“Land disturbing activity” which includes but is not limited to: (1) excavation of soil, (2) construction of roads, utilities, facilities, structures, and appurtenances of any kind, (3) demolition or removal of “hardscape” (for example, concrete roadways, parking lots, foundations, and sidewalks), (4) any activity that involves movement of soil to the surface from below the surface of the land, and (5) any other activity that causes or facilitates the movement of known contaminated groundwater.</i></p> <p>b. <i>Alteration, disturbance, or removal of any component of a response or cleanup action (including but not limited to pump-and-treat facilities, shoreline protection, and soil cap/containment systems); groundwater extraction, injection, and monitoring wells and associated piping and equipment; or associated utilities.</i></p> <p>c. <i>Extraction of groundwater and installation of new groundwater wells.</i></p> <p>d. <i>Removal of or damage to security features (for example, locks on monitoring wells, survey monuments, fencing, signs, or monitoring equipment and associated pipelines and appurtenances).</i></p> <p><u>Prohibited Activities</u></p> <p><i>The following activities are prohibited throughout HPS Parcel G:</i></p> <p>a. <i>Growing vegetables or fruits in native soil for human consumption.</i></p> <p>b. <i>Use of groundwater.</i></p> <p><u>Proposed Activity Restrictions Relating to VOC Vapors at Specific Locations within Parcel G</u></p> <p><i>Any proposed construction of enclosed structures must be approved in accordance with the “Covenant(s) to Restrict Use of the Property,” Quitclaim Deed(s), and the RMP for each parcel prior to the conduct of such activity within the area requiring institutional controls (ARIC) for VOC vapors to ensure that the risks of potential exposures to VOC vapors are reduced to acceptable levels that are adequately protective of human health. Initially, the ARIC will include all of Parcel G. This can be achieved through engineering controls or other design alternatives that meet the specifications set forth in the ROD, remedial design reports, land use control remedial design (LUC RD) report, and the RMP for each parcel. The ARIC may be modified as the soil contamination areas and groundwater contaminant plumes that are producing unacceptable vapor inhalation risks are reduced over time or in response to further soil, vapor, and groundwater sampling and analysis for VOCs that establishes that areas now included in the ARIC do not pose unacceptable potential exposure risk to VOC vapors.</i></p>

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4	State the IC performance objectives.	<p><u><i>Additional Land Use Restrictions for Areas Designated for Open Space, Educational/Cultural, and Industrial Reuse</i></u></p> <p><i>The following restricted land uses for property areas designated for open space, educational/cultural, and industrial land uses in the San Francisco Redevelopment Agency's reuse plan must be reviewed and approved by the FFA Signatories in accordance with the "Covenants to Restrict Use of the Property," Quitclaim Deed(s), and the RMP for each parcel prior to use of the property for any of the restricted uses:</i></p> <ul style="list-style-type: none"> <i>a. A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation,</i> <i>b. A hospital for humans,</i> <i>c. A school for persons under 21 years of age, or</i> <i>d. A daycare facility for children.</i>
5	Generally describe the IC, the logic for its selection and any related deed restrictions/notifications.	<p>Text describing the ICs is provided in section 2.9.2 on pages 39 and 40, as follows:</p> <p><i>Institutional Controls (ICs) will be implemented to prevent exposure to areas where potential unacceptable risk is posed by COCs in soil and groundwater. ICs are legal and administrative mechanisms used to implement land use restrictions that are used to limit the exposure of future landowner(s) or user(s) of the property to hazardous substances present on the property, and to ensure the integrity of the remedial action. ICs are required on a property where the selected remedial cleanup levels result in contamination remaining at the property above levels that allow for unlimited use and unrestricted exposure. ICs will remain in place unless the remedial action taken will allow for unlimited use of the property and unrestricted exposure. Implementation of institutional controls includes requirements for monitoring and inspections, and reporting to ensure compliance with land use or activity restrictions.</i></p> <p><i>The Navy has determined that it will rely on proprietary controls in the form of environmental restrictive covenants as provided in the "Memorandum of Agreement Between the United States Department of the Navy and the California Department of Toxic Substances Control" and attached covenant models (Navy and DTSC 2000) (hereinafter referred to as the "Navy/DTSC MOA").</i></p>

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5	Generally describe the IC, the logic for its selection and any related deed restrictions/notifications.	<p><i>More specifically, land use and activity restrictions will be incorporated into two separate legal instruments as provided in the Navy/DTSC MOA:</i></p> <ol style="list-style-type: none"> <i>1. Restrictive covenants included in one or more Quitclaim Deeds from the Navy to the property recipient.</i> <i>2. Restrictive covenants included in one or more "Covenant to Restrict Use of Property" entered into by the Navy and DTSC as provided in the Navy/DTSC MOA and consistent with the substantive provisions of California Code of Regulations (Cal. Code Regs.) tit. 22 § 67391.1.</i> <p><i>The "Covenant(s) to Restrict Use of Property" will incorporate the land use restrictions into environmental restrictive covenants that run with the land and that are enforceable by DTSC against future transferees. The Quitclaim Deed(s) will include the identical land use and activity restrictions in environmental restrictive covenants that run with the land and that will be enforceable by the Navy against future transferees.</i></p> <p><i>The activity restrictions in the "Covenant(s) to Restrict Use of Property" and Deed(s) shall be implemented through the Parcel G Risk Management Plan ("Parcel G RMP") to be prepared by the City of San Francisco and approved by the Navy and FFA Signatories. The Parcel G RMP shall be attached to and incorporated by reference into the Covenant(s) to Restrict Use of Property and Deed(s) as an enforceable part thereof. It shall specify soil and groundwater management procedures for compliance with the remedy selected in the Parcel G ROD amendment. The Parcel G RMP shall identify the roles of local, state, and federal government in administering the Parcel G RMP and shall include, but not be limited to, procedures for any necessary sampling and analysis requirements, worker health and safety requirements, and any necessary site-specific construction and/or use approvals that may be required.</i></p> <p><i>Land use restrictions will be applied to specified portions of the property and described in findings of suitability to transfer, findings of suitability for early transfer, "Covenant(s) to Restrict Use of Property" between the Navy and DTSC, and any Quitclaim Deed(s) conveying real property containing Parcel G at HPS.</i></p>

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6	Duration language	Text in section 2.9.2 on Page 40 states: <i>ICs will remain in place unless the remedial action taken will allow for unlimited use of the property and unrestricted exposure.</i>
7	Include language that the Navy is responsible for implementing, maintaining, reporting on, and enforcing the land use controls. This may be modified to include another party should the site-specific circumstances warrant it	The text in section 2.9.2 on Page 40 describes the enforcement approach: <i>More specifically, land use and activity restrictions will be incorporated into two separate legal instruments as provided in the Navy/DTSC MOA:</i> <ol style="list-style-type: none"> 1. <i>Restrictive covenants included in one or more Quitclaim Deeds from the Navy to the property recipient.</i> 2. <i>Restrictive covenants included in one or more "Covenant to Restrict Use of Property" entered into by the Navy and DTSC as provided in the Navy/DTSC MOA and consistent with the substantive provisions of California Code of Regulations (Cal. Code Regs.) tit. 22 § 67391.1.</i> <i>The "Covenant(s) to Restrict Use of Property" will incorporate the land use restrictions into environmental restrictive covenants that run with the land and that are enforceable by DTSC against future transferees. The Quitclaim Deed(s) will include the identical land use and activity restrictions in environmental restrictive covenants that run with the land and that will be enforceable by the Navy against future transferees.</i>
8	Where someone else will or the federal agency plans that someone else will ultimately be implementing, maintaining, reporting on, and enforcing land use controls, the following language should be included: "Although the Navy may later transfer these procedural responsibilities to another party by contract, property transfer agreement, or through other means, the Navy shall retain ultimate responsibility for remedy integrity."	This language is included section 2.9.2 on page 41: Although the Navy may later transfer the procedural responsibilities for enforcement of land use restrictions to another party by contract, property transfer agreement, or through other means, the Navy shall retain ultimate responsibility for the integrity of the remedy.

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9	Refer to the remedial design (RD) or remedial action work plan (RAWP) for the implementation actions.	<p>This language is included in section 2.9.2 on page 41:</p> <p><u>Implementation</u></p> <p>The Navy shall address and describe institutional control implementation and maintenance actions including periodic inspections and reporting requirements in the preliminary and final RD reports to be developed and submitted to the FFA signatories for review pursuant to the FFA (see “Navy Principles and Procedures for Specifying, Monitoring and Enforcement of Land Use Controls and Other Post-ROD Actions” attached to January 16, 2004 Department of Defense memorandum titled “Comprehensive Environmental Response, Compensation and Liability Act [CERCLA] Record of Decision [ROD] and Post-ROD Policy”). The preliminary and final RD reports are primary documents as provided in Section 7.3 of the FFA.</p>