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AGENDA REPORT
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**TO: DEANNA J. SANTANA
CITY ADMINISTRATOR**

FROM: Fred Blackwell

**SUBJECT: Environmental Community Benefits at
Oakland Army Base**

DATE: March 28, 2012

City Administrator
Approval

Date

4/16/12

COUNCIL DISTRICT: #3

RECOMMENDATION

Staff recommends that the City Council:

- A. **Direct Staff To Include The Environmental And Green Development Recommendations From The Army Base Community Benefits Workshops Convened By Vice Mayor Nadel In 2011, Through The City's Standard Conditions Of Approval Imposed On All Development Projects And/Or The California Environmental Quality Act (CEQA) Mitigation Measures; And/Or Other Measures; And**
- B. **Make A Commitment To Ongoing Air Quality Monitoring At The Oakland Army Base.**

EXECUTIVE SUMMARY

The Exclusive Negotiating Agreement (ENA) with Prologis/CCIG for the development of the City's portion of the Oakland Army Base (OAB) includes the Community Benefits Exhibit (*Attachment A*) which outlined the topics for further discussion and consideration for inclusion as a term in the final Lease Development and Disposition Agreement (LDDA). The Community Benefits spanned a broad range of topics centered on jobs, contracting, funding, environmental, and green development. The Council has already adopted recommendations with respect to jobs, and the Office of Contract Compliance is presenting its recommendations regarding contracting in a separate report for the April 24, 2012 CED Committee meeting.

This report addresses the Environmental and Green Development benefits, and recommends that the City Council direct staff to include the recommendations that are the outcome of a series of Army Base Community Benefits Workshops (ABCBW) convened by Vice Mayor Nadel through Standard Conditions of Approval, mitigation measures and/or other measures.

Item: _____
CED Committee
April 24, 2012

OUTCOME

The adoption of the ABCBW's recommendations with respect to Environmental, Green Building, and Green Development will guide the negotiations with the Oakland Army Base and ensure that the Community's concerns are a part of those negotiations. *Attachment B* is a Matrix of those recommendations. The portions of the Matrix that deal with Environmental and Green Development have been made bold to differentiate them from the other community benefits recommendations in the Matrix. There are 12 specific Environmental recommendations and 9 specific Green Development recommendations. These recommendations reflect the consensus of the participants in the ABCBW and are very helpful in indicating specific areas of concern. As a result of this input and following the City Council's approval of the recommendations, staff will ensure that these concerns are addressed in the planning and development of the City's portion of the GAB. The following list summarizes those recommendations:

Environmental Benefits

Mitigating Construction Impacts, with respect to:

1. Noise
2. Dust
3. Hazardous material removal
4. Traffic routes for construction vehicles
5. Transit connections for construction workers
6. Stormwater plan for construction site
7. Public communication
8. Deconstruction/demolition
9. Light pollution during construction and operations

Environmental protections for operations, with respect to:

10. Fumigation practices
11. Sea level rise implications
12. Odors

Green Development Benefits

1. Use of green energy
2. Water conservation
3. Waterway protection and enhancement
4. Clean Air enhancements
5. Align with climate action and zero waste
6. Air quality monitoring during construction and operations
7. Fuel stations and truck repair facilities
8. Goals as outlined in developer selection RFP re: emissions, noise, and light
9. Noise monitoring

BACKGROUND

The ENA with the master developer Prologis/CCIO contains a Community Benefits Exhibit, included as *Attachment A*, which among several types of Community Benefits included Environmental, Green Building, and Green Development. The specific Environmental Benefits addressed in the ABCBW's recommendations expand on the number of Environmental Community Benefits and concerns. These concerns will be addressed through the City's Standard Conditions of Approval imposed on all development projects,¹ California Environmental Quality Act (CEQA) Mitigation Measures, and/or other measures, and will be passed on as performance requirements of all the developers on the City's OAB lands. Therefore, the Green Development recommendations will be incorporated as part of what will later be brought before the City Council when it considers amendments to the OAB Reuse Plan and the LDDA.

Another report that stemmed from discussions at the ABCBW is titled "*OAB: Draft Air Quality Standards and Environmental Health Standards including Notation of Alignment with Standard Conditions of Approval and Recommendations of Approval and Recommendations for Strengthening the Standard conditions to Protect Health*", dated January 18, 2012, and is included with this report as *Attachment C*. It was drafted by the Alameda County Public Health Department (ACPHD) in collaboration with the West Oakland Environmental Indicators Project (WOEIP). Unlike the consensus recommendations of the ABCBW Matrix, the recommendations in the ACPHD recommendations are very technical and far-reaching. Their premise is that the development of the OAB should meet and exceed existing and future air quality and environmental health standards and that the monitoring and enforcement of those unique standards should be overseen by a Stakeholders Committee that is representative of the Community, the City, and the many regulatory agencies involved in the implementation and enforcement of environmental laws and regulations. City staff has engaged in dialog with ACPHD and will continue to work with them and the WOEIP on the critical issues of environmental health, West Oakland residents, and the OAB. However, for technical, regulatory, and fiscal reasons, staff does not recommend adoption of the ACPHD recommendations, as currently drafted.

ANALYSIS

The recommendations put forward by the ABCBW should be adopted because they are the expression of a community consensus building process, sponsored by Vice Mayor Nadel. Many issues were considered, discussed, and in the final analysis these recommendations represent the priorities of those workshops. Most, if not all, of the recommendations will be incorporated

¹ Standard Conditions of Approval were adopted by the City Council in November 2008 and found by the Council to substantially mitigate environmental impacts. In July 2011, City Planning Staff updated the Standard Conditions of Approval, as authorized by the City Council.

through the City's Standard Conditions of Approval imposed on all development projects, CEQA Mitigation Measures, and/or as other measures, that will be passed on as performance requirements of all of the developer's on the City's OAB lands. Therefore, the Oreen Development recommendations will be incorporated as part of what is brought before the City Council when it considers amendments to the Army Base Reuse Plan and the LDDA. Those recommendations which cannot be incorporated into the project as Standard Conditions of Approval and/or CEQA mitigations will be incorporated, to the maximum feasible extent, into the development agreements with the developers, builders, and operators of the OAB. These Environmental and Oreen Development recommendations will be the framework for negotiations with all of the City's development partners. The Port of Oakland may or may not adopt similar goals for its portion of the OAB, but at least with respect to the environmental and green development goals for the project, there should be similar goals.

The recommendations of the ACPHD and the WOEIP are not something that staff recommends adopting for the OAB. Almost all of its environmental recommendations will be addressed in the City's Standard Conditions of Approval imposed on all development projects and/or CEQA Mitigation Measures, and through the laws which the City and several other regulatory agencies, most notably the Bay Area Air Quality Management District (BAAQMD), will bring to bear on the project. Many of the ACPHD/WOEIP concerns would be addressed if the City were to adopt some of the provisions of the pending but not yet formally adopted Energy Climate Action Plan (ECAP),² as a framework for planning the OAB. City staff will work to incorporate, as appropriate, parts of the pending ECAP into the Agreements with the OAB developers to the maximum feasible extent.

In addition staff will be recommending, in the larger context of all the OAB Community Benefits, that the city continue to work with ACPHD and WOEIP as a part of a larger Community Stakeholders group, albeit one without the enforcement powers they propose. There is a need for ongoing Air Quality monitoring at the OAB and in West Oakland, in general, and the City will look to ACPHD, WOEIP, BAAQMD, the Port, the developers and others to collaborate in that process. However the City needs to structure such collaboration so as to satisfy the community's interest in continued participation, recognizing the fact that it is eventually with the City Council, and/or other regulatory agencies, that the enforcement powers and responsibilities must remain.

PUBLIC OUTREACH/INTEREST

The workshops sponsored by Vice Mayor Nadel were well publicized and were largely well-attended and generated significant public participation. Those meetings and the meetings held by Councilmember Brunner, together, constitute an unprecedented effort to engage all elements of the community in defining the priority community benefit goals of a development.

² The Draft ECAP was adopted in 2011 for purposes of performing CEQA review, which is currently underway.

Councilmember Brunner, together, constitute an unprecedented effort to engage all elements of the community in defining the priority community benefit goals of a development.

COORDINATION

The Community Benefits issues naturally divided into three categories: jobs, contracting, and environmental. Significant time and energy has gone into formulating the community benefits in a manner that is satisfactory to all or most stakeholders. It is incumbent on the City to bring these stakeholders together, perhaps in a forum similar to the Port's Social Justice Committee, to which the City and its developers report to on a regular basis. Such a stakeholders committee would then be informed of both successes and failures and would be a part of the ongoing dialogue that will be necessary to ensure that the OAB's agreed-upon Community Benefits are achieved.

COST SUMMARY/IMPLICATIONS

The Environmental and Green Development recommendations per the ABCBW Matrix (*Attachment B*) are consistent with the goals of the ENA and the current regulatory requirements and should not have a significant impact on the development of the OAB. The adoption of the applicable portions of the City's pending ECAP (to the maximum feasible extent), and a commitment to ongoing Air Quality monitoring may have an impact on both the costs of developing the OAB and on the City's resources to the extent it takes on some financial responsibility for an as-yet undefined program. The City will also have an ongoing cost associated with staffing whatever stakeholders committee(s) is maintained to monitor the build out and operation of the OAB. The exact costs cannot be determined at this time.

SUSTAINABLE OPPORTUNITIES

Economic: The redevelopment of the OAB as a revitalized Port-oriented/rail-oriented logistics district is the best land use for its location. The relocation of recycling operations out of the adjacent neighborhood is a model of sustainable development.

Environmental: The inclusion of the recommended environmental and green development community benefits ensures that the project is good for the environment in general, and for the neighboring West Oakland in particular. The adoption of the pending ECAP for the OAB (to the maximum feasible extent) and a commitment to ongoing Air Quality monitoring will further assure that the project is as green as such a project can be.

Social Equity: These recommendations are the result of intensive community input by a community that has suffered decades of serious environmental impacts as a result of being

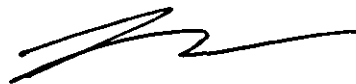
surrounded by and amidst polluting industries. The continued participation of the community is an appropriate way to help ensure that development results in improvements to the environment.

CEQA

This report is not a project under CEQA.

For questions regarding this report, please contact Pat Cashman, Oakland Army Base PM, 238 6281

Respectfully submitted,



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NIO Area Manager

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OAB Project Manager

Attachment A Prologis/CCIG ENA Community Benefits Exhibit

Attachment B Army Base Community Benefits Workshops Matrix

Attachment C ACPHD/WGEIP Draft Air Quality and Environmental Health Standards

THE FOLLOWING EXHIBIT INCLUDES NONEXCLUSIVE AND NONBINDING TOPICS FOR FURTHER DISCUSSION AND CONSIDERATION BETWEEN THE PARTIES DURING THE TERM OF THE ENA.

COMMUNITY BENEFITS

1	LANDLORD:	Redevelopment Agency of the City of Oakland (Agency)
2	LESSEE:	To be designated by Developer
3	AGREED USES:	Film Center, Produce Market, logistics facilities, Class A office, research and development facilities, project-serving retail, waterfront open space, JATC job training facility, recycling facilities, or as Negotiated
4	COMMUNITY FUND	Lessee shall pay its fair share of the two million dollar (\$2,000,000) Community Fund based upon acreage leased within a timeframe to be negotiated during the ENA period.
5	CITY / AGENCY CONTRACTING REQUIREMENTS	Lessee to comply with all City/Agency social justice contracting programs in both construction and operations phases, including, without limitation: prevailing wages, living wages, local and small local business, disadvantaged business program, equal benefits, disabled access, and apprenticeship/job training/first source hiring programs. Lessee must agree to comply with compliance monitoring by Agency.
6	LOCAL HIRE, RETENTION, JOB TRAINING & APPRENTICESHIPS FOR CONSTRUCTION JOBS	To ensure that project construction provides the strongest possible training and employment opportunities for targeted residents, a Labor Peace Agreement for project construction shall include requirements for a share of project hours to be worked by targeted residents and by apprentices. The Agency will require all general contractors to develop a plan for satisfying these requirements, and to obtain approval from the Agency of that plan prior to commencement of work. Targeted hiring requirements will be monitored and enforced.
7	LOCAL HIRE AND FIRST SOURCE HIRING FOR PERMANENT JOBS	In order to advance the Agency's goal of providing economic opportunities to residents of communities that have borne the brunt of social, economic and health impacts, the Agency will require Lessee to ensure that all project employers participate in a First Source hiring program for operations-phase jobs (i.e., non-construction jobs). This program will require employers to designate a first source system, prior to hiring; consider targeted applicants referred by the first source system; and hire a percentage of targeted applicants. The Agency will designate one or more nonprofit entities to refer applicants as part of the first source system. Targeted hiring requirements will be monitored and enforced through a process to be established

ATTACHMENT A

		<p>by the Agency and similar to the Port of Oakland's MAPLA program, through which employers and contractors report progress, and challenges are addressed in a collaborative manner by various stakeholders from a particular industry, including community representatives and any relevant labor union(s).</p>
<p>8</p>	<p>LABOR PEACE</p>	<p>Lessee is required to agree to the following language in its lease agreement with the Agency: The parties recognize that in order to protect the Agency's proprietary interests in uninterrupted receipt of the income and public services promised under this contract, labor disputes must be prevented. The parties agree that as a material condition of this agreement, Lessee shall cause each employer of employees rendering Services on the premises to sign a labor peace agreement with any labor organization which has informed the Agency that it represents or seeks to represent such employees, unless the Alameda Labor Council advises that such labor organization is not actively organizing in such industry.</p> <p>A "labor peace agreement" means any written agreement which (a) waives the right of the labor organization and its members to engage in picketing, work stoppages, boycotts, or other economic interference with the Agency's proprietary interests in the premises for the duration of the Agency's lease; and (b) provides that any services to be performed by employees of the employer's tenants, subtenants, contractors, or subcontractors will also be done under agreements containing the same labor peace assurance. "Services" for these purposes means janitorial, security, building and grounds maintenance, warehousing and distribution, industrial, mechanics and truck services, retail, hotel (and any restaurant connected thereto), and grocery sales.</p>
<p>9</p>	<p>PERFORMANCE STANDARDS AND REPORTING</p>	<p>To assist the Agency in assuring that project development is proceeding in a timely manner towards the Agency's goals, Lessee will be required to submit regular progress reports on satisfaction of various project requirements, including construction progress, financial goals, local hire, employment retention, and small/local business utilization, air quality and environmental health. In the Lease Development & Disposition Agreement (LDDA), the Agency will set goals in each of these areas for each phase of construction and operation of the project. The LDDA will stipulate penalties if goals are not met and incentives if goals are exceeded.</p>

ATTACHMENT A

10	WORKFORCE TRAINING	Lessee should be prepared to coordinate with local workforce training programs to provide trained workers for both construction and relevant permanent jobs and ensure that programs have resources to advance the Agency's goal of sustainable economic development of surrounding neighborhoods.
11	COMMUNITY OUTREACH & ENGAGEMENT	Lessee is required to create and maintain a program of ongoing communication and collaboration with relevant community stakeholders to ensure that there is community understanding and support for the project.
12	COMMUNITY SERVICES & AMENITIES	Lessee should describe how project will result in creation of community services and amenities such as grocery stores, banks and other retail, community centers or child care centers, on or off-site, to benefit the surrounding neighborhoods.
13	RELOCATION OF POLLUTING AND OTHER HAZARDOUS USES FROM WEST OAKLAND	Lessee should describe plan to relocate polluting and other hazardous uses from the adjacent West Oakland neighborhoods onto the project area, including recycling facilities and trucking activities. Plan should include analysis of how project will decrease or increase communities' exposure to pollution.
14	URBAN DESIGN PRINCIPLES & COHERENT DEVELOPMENT PLAN	The design of the GDA should be coherent, incorporate distinctive, innovative architecture, ensure a mix of uses, and be flexible enough to evolve over time.
15	GREEN INDUSTRIES	Project should indicate types, numbers and timing of green businesses and industries to be included in project, establish recruitment incentives, and describe potential synergies among industries and how they will interact with whole development.

<p>16</p>	<p>GREEN, CLEAN BUILDING</p>	<p>"Green" development principles should be applied which meet or exceed City of Oakland's Green Building Ordinance and related policies, including design, construction, building materials, use of alternative energy sources, resource efficiency, waste stream diversion, communications technology and transportation. Plans to meet these standards, including energy generation and/or savings and details of carbon-neutral program, should be provided.</p> <p>All major facilities constructed on the Project site should achieve energy efficiency levels at least 20% better than Title 24 requirements, and receive certification under the U.S. Green Building Council's LEED program at a minimum of the LEED Silver level. Project plans should demonstrate higher levels of green building achievement, including potential certification of the Project as a whole under the LEED for Neighborhood Development rating system and/or achievement of additional credits as prescribed under that rating system and other guiding documents such as the Alameda County Waste Management Authority's Bay-Friendly Landscape Guidelines. A significant portion of the Project's ongoing energy requirements should be met with on-site clean, renewable energy technologies.</p> <p>Infrastructure should be installed to enable all facilities to use recycled grey water as an alternative to potable water for uses not requiring potable water (e.g., sewage conveyance). Systems should be designed to treat 100% of storm water on site, and to make use of rainwater and/or recycled water on-site where possible. Potable water should not be used for site irrigation.</p> <p>Project should describe anticipated vehicle use associated with operations and should provide strategies for reducing transportation-related impacts and local air pollution.</p> <p>Studies estimating air pollution from proposed uses of the project site, including associated vehicle travel, and of cumulative impact with adjacent Port uses should be performed and analyzed to increase perspective on the potential air quality impacts of project.</p> <p>All roof and pavement surfaces should have a solar reflectivity index in order to minimize the urban heat island effect.</p> <p>In compliance with the City's Construction and Demolition ordinance, 100% of concrete and asphalt and a minimum of 65% of all other materials generated should be targeted for reuse or recycling.</p>
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ATTACHMENT A

17	PUBLIC, ACCESSIBLE OPEN SPACE AT WATERFRONT	Project should demonstrate plan for publicly-accessible connection – by bicycle, foot, and vehicle – from Central Gateway area to future development of the 16.5-acre shoreline open space mandated by the California State Lands Commission and for coordination with the 15-acre Gateway Park being developed by East Bay Regional Park District to help create a world-class destination and amenity.
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Army Base Community Benefits Workshop

Attachment B

Issues	Option 1	Option 2	Consensus?	Notes
Contracting Benefits				
a. Oakland %	Current city policy of 20%	Proposed city policy 50%	Proposed 50%	
b. West Oakland preference points	Encouragement of West Oakland contractor participation	Requirement of West Oakland contractor participation	Preference points for West Oakland contractor, particularly prime contractor	Based on existence of companies with the capacity to do the work
c. 1. Capacity Building	Joint Venture	Mentorship	Joint venture preferred but some hybrid of the two would be okay	
c. 2. Capacity Building	Contractor College		yes	To assist small and midsize companies in how to do payroll, estimating access capital, respond to Gov't requirements, etc.
d. Contract Monitoring	City staff monitors	City and community monitors	City and community monitors	Stipend for community monitors
e. Contract enforcement	Penalties 1.5 times the shortfall	Option to use local subs on another job	Penalties were preferred	Penalties to be contributed to West Oakland Community Fund
f. Helping contractors find WO and Oakland subs and workers	1. Job Center should also include info for contractors; 2. Contractors and long term employers should ban the box 3. Contractors and long term employers should be encouraged to employ the difficult to employ (% of workforce?) 4. staff capacity at Job/contracting center sufficient to supply workers and		Yes	

	contractors in a timely manner.			
Ask 6 questions of potential contractors: 1. How many of their local apprentices have obtained union cards 2. How many local contractors have grown as a result of contracting with them 3. The general contractor must be "let" by the Request for Proposal (RPF) 4. How many re-entry workers have been hired within the last 3 years 5. How many successful joint ventures 6. What economic benefit to West Oakland is derived from a contract with the proposed contractor, i.e., insurance broker, lawyer, bank, accountant, consultants, engineers.	Require response	Encourage response	Encourage response	
Encourage Contractors to use local suppliers			Yes	
Environmental Benefits	Option 1	Option 2	Consensus?	Notes
a. mitigating construction impacts				
a. 1. Noise	1. Contact person and name posted 2. hours?		Yes	Special rules for very noisy projects like pile-driving, and distance to residents
a. 2. Dust	Non-polluting equipment; Wash off area, dust control, water-down specs tightly in contract.		Yes	
a. 3. hazardous material removal	1. Routes away from residents 2. wash-off area		Yes	

	for trucks on site that might have driven in contaminated soil			
a.4 traffic routes for construction vehicles	Away from residents		Yes	
a.5 transit connection for construction workers			Yes	
a.6 stormwater plan for construction site			Yes	
a.7 public communication	1. public posting of current status of project 2. newsletter or social media updates		Yes	
a.8 deconstruction/demolition	1. Deconstruction wherever possible instead of demolition 2. construction and demolition debris recycling plan		Yes	
a.9 Light pollution mitigation	During construction and operations		Yes	
a.10 Environmental protections for operations			Yes	
a.11 Fumigation practices	Monitor and recommend protections, as needed		Yes	
a.12 Sea Level rise implications	Consider protections		Yes	
a.13 Odors	Encourage protections		Yes	

b. Green development				
b.1. use of green energy	Solar, wind, other renewable, biogas		Yes	
b.2. water conservation	Rain barrel; dual system plumbing/gray water use where possible		Yes	
b.3. waterway protection and enhancement	Permeable paving		Yes	
b. 4. clean air enhancements	Access to transit to the site, onsite transit, parking		Yes	
b.5 align with climate action and zero waste policies from City, MAQuip from Port, and WOCAG 2007 report			Yes	
b.6 Air Quality Monitoring	For construction and operations	Measure baseline (fence line data)	Yes	
b.7 Fuel Stations and Truck Repair Facilities	Keep away from residents		Yes	
b.8 Specs in RFP	For low emission, low noise, low light and also for operations, where applicable		Yes	
b.9 Noise Monitoring	Capacity and education within city staff		Yes	
Can improved green energy development expand to benefit W.O. as well? (W.O. infrastructure very old)				
Tree planting priority for landscaping plan				

Miscellaneous Issues				
How to keep local priorities if federal dollars	Special legislation? Barbara Boxer?			
Maximize accommodation logistics-related existing small and W.O. businesses if they have local Oakland employment.			Creative idea on which we did not have the chance to vote	
Small businesses assistance. Possibly a desk in job center (maritime businesses) or better educating staff at downtown Business Assistance Center on special army base issues			Same as above	
Interagency certification for small businesses (same application for Port, City, and other agencies?) Simplification of process.			Same as above	
Preference goals for women-owned businesses and training difficult to employ for work on base.			Same as above	
Preference for returning veteran-owned contracting companies			Same as above	

**Oakland Army Base Redevelopment:
DRAFT Air Quality and Environmental Health Standards
Including Notation of Alignment with Standard Conditions of Approval and
Recommendations for Strengthening the Standard Conditions to Protect Health
(1.18.2012)**

(per #9 under Exhibit C of the Exclusive Negotiating Agreement)

Public Health Context of Oakland Army Base Redevelopment

West Oakland residents living adjacent to the former Oakland Army Base, expect to die, on average, more than a decade before residents of the Oakland Hills. This inequity is largely driven by extremely high rates of environmentally-linked disease. People living in West Oakland breathe in 3 times more diesel particles than other Bay Area residents. According to the West Oakland Health Risk Assessment, West Oakland residents experience 2.5 times greater lifetime risk of cancer than Bay Area residents in general and 80% of this excess cancer risk is attributed to diesel trucks. They have the highest rates of asthma hospitalization in the county – 2.3 times the average – and West Oakland children under five years of age have emergency department visits rates due to asthma nearly three times the county average. The impact of the concentration of environmental hazards in West Oakland is particularly devastating to residents' health because of their social vulnerability. High poverty levels and the prevalence of other psycho-social stressors, as well as a lack of access to healthcare, place West Oakland residents at risk for poor health outcomes.

Basic Scope for the Air Quality and Environmental Health Standards:

Given the public health crisis facing West Oakland, it is imperative that measures be taken to ensure conditions do not further deteriorate during Oakland Army Base redevelopment and operations, including measures above and beyond any mitigation required through CEQA. To this end, Alameda County Public Health proposes the following scope for the environmental health and air quality standards to be included in the lessee contract, per #9 under Exhibit C of the Exclusive Negotiating Agreement.

- **The standards will support and, when possible, aim to exceed current and future federal, state and local requirements for environmental health and air quality, such as CARB's emission reduction requirements, and will support the Oakland Climate Action Plan. The standards will include, but may not be limited to, commitments to the following:**
 - Lessee¹ assures consistent and timely compliance by tenants and sub-contractors with local, regional, state and federal environmental regulatory requirements for:
 - Air Quality
 - Hazardous Materials Storage and Hazardous Waste Storage
 - Stormwater run-off
 - Sanitary sewer discharge

¹ Lessee means developer.

- The standards will also include guidelines for issues not covered by federal or state regulations, including truck routes and green building, renewable energy generation and business practices.
- The standards will apply to both the construction phase and operations phase, and as much as possible will be sector and/or source specific (e.g. construction jobs, warehousing, recycling, trucking, etc. and/or trucks, cargo equipment, etc.). The standards include:
 - Lessee requires that climate change impacts are minimized and that properties are designed to adapt to changes in sea level rise and other known impacts.
 - In order to accomplish this, the standard conditions of approval could be modified or expanded using the following recommendations:
 - Include a mitigation or modify the following to include buffering from sea level and tide rise:
 - Mitigation 4.12-4: Offsetting loss of habitat with "out-of-kind" and "off-site"; Mitigation 4.15-7, 8: Flood protection development controls, hazard mapping for 100- and 500-year flood hazard zones
 - Refer to: Bay Conservation and Development Commission - San Francisco Bay Plan, *Living with a Rising Bay: Vulnerability and Adaptation in San Francisco Bay and on its Shoreline* (2011)
 - Include condition for all tenants to adhere to the Greenhouse Gas inventory, mitigation and reduction goals being set by the City and Port. Oakland has a goal of reducing GHGs by 36% below 2005 levels by 2020; 83% below 2005 levels by 2050. Refer to the Oakland Energy and Climate Action Plan, March 1, 2011, PA-5 and PA-6.
 - Include a condition on water efficiency measures and storm/sewer infrastructure design criteria to enhance climate adaptation and resiliency. Refer to the Oakland ECAP: PA-15, 61; Action TLU-10, AD-11
 - Construction:
 - Overall;
 - Lessee requires that, as part of safety meetings for all prime and subcontractors, all workers are educated on current regulations regarding issues like idling, truck routes, etc.
 - Lessee requires the use of "best available control technology" (and not just "legal compliance") for controlling dust and emissions
 - Dust suppression measures will be used during all phases of construction (including, but not limited to excavation, grading, while driving on the site, and during the physical building construction)
 - Lessee requires contractors to minimize noise and light pollution impacts, including standards for use of high light beams after 7pm
 - in order to accomplish this, the standard conditions of approval could be modified or expanded using the following recommendations:
 - Include condition to educate workers

- o Modify Mitigation 4.4-1: Implement all Dust Control measures – Basic, Optional and Enhanced – at all sites; they have written to only use Enhanced at sites greater than 4 acres.
 - o 2.9 Aesthetics has lighting and noise standards
 - o Include a standard around odors. Refer to BAAQMD.
 - o Include a vibrations standard if possible.
- Trucks, Trains, Railyards and Equipment
 - Lessee's contracts stipulate:
 - o Use non-diesel fuel when possible
 - o No idling
 - o Use of equipment, trains and trucks with the lowest emissions possible in all bid specs for prime and sub-contractors (either new equipment or retrofitted equipment)
 - o Use only designated truck routes, and all truck routing will prioritize avoidance of residential areas
 - o Minimize noise, vibrations and lights pollution
 - o Ensure container stacking height does not create a safety hazard
 - o Lessee works with stakeholder group (see "Monitoring and Enforcement" for more information on this group) to ensure that areas serviced by heavy trucks are sited so that they minimize truck travel through residential areas
 - In order to accomplish this, the standard conditions of approval could be modified or expanded using the following recommendations:
 - o Include a condition for non-diesel fuel use
 - o Modify Mitigation 4.4-2: Prohibit all excessive truck idling; they wrote prohibit truck idling in excess of 2 minutes. Ensure vehicles meet CARB's In-use Off-road diesel (clean construction) rule; New Off-Road Compression-Ignition (Diesel) Engines and Equipment rule
 - o Include diesel engine BACT and refer to: Union of Concerned Scientists recommendations on Clean Construction Equipment
 - o include in Mitigation 4.3-7: truck management plan, the West Oakland Truck Route Ordinance
 - o Include stakeholder group coordination condition
- Green Building
 - Lessee's contracts stipulate:
 - o Avoid the use of "problem materials" like building materials that contain or produce Persistent Organic Pollutants or Persistent Bioaccumulative Toxics
 - o Meet rigorous clean and green construction standards, incorporating Leadership in Energy and Environmental Design (LEED) building standards into the demolition and construction of all aspects of the project, including landfill diversion, to the extent possible

- o Use renewable energy generation when possible, incorporate renewable energy generation into building designs when feasible.
- In order to accomplish this, the standard conditions of approval could be modified or expanded using the following recommendations:
 - o Regulated Building Materials (Mitigation 4.7-6 to 17) talks about hazardous building materials, interim use of existing structures and PCB transformers. Mitigation 4.9-9: good faith solid waste diversion goal of 50%. Refer to Oakland Green Building Ordinance (No. 12658), Chapter 18.02: Sustainable Green Building Requirements for Private Development
 - o Modify Mitigation 4.6-2 and 4.6-3: Ensure siting of hazards are away from public places such as the Bay Trail and from residential areas. Refer to CARB Land Use Guidelines with Ditching Dirty Diesel Collaborative recommendations for modifications
 - o Refer to Energy and Climate Action Plan, including: PA-7, 8, 15, PA-42, 43, 46, 49, 50; Action BE-1, 6, 7, 13, 14, 16, 28, 31, 33-36, 39 and 40; Action AD 10-13.
- o Operations
 - Overall
 - Lessee includes compliance with state and federal air quality and environmental health standards in the terms of leases with tenants and sub-contractors.
 - Lessee assures certification of at least 10% of tenants and/or sub-contractors in a relevant, third-party environmental performance certification program that includes among its standards assurance of environmental compliance and pollution prevention. Emphasis for certification is toward businesses involved in goods movement, manufacturing, vehicle or ship repair, printing and others whose activities have a greater impact on environmental quality.
 - In order to accomplish this, the standard conditions of approval could be modified or expanded using the following recommendations:
 - o Include a condition about including standards in terms of leases with tenants including aforementioned stipulations
 - o Include a condition to ensure environmental performance standards including aforementioned stipulations
 - Occupational health
 - Lessee includes compliance with OSHA standards, especially as far as air quality and environmental health issues are concerned, in lease agreements
 - Lessee includes compliance with Prop 65 in lease agreements

- Lessee assures tenants and sub-contractors utilize non-toxic alternatives for the fumigation and treatment of consumer products that may be transported when feasible. If toxics are used to fumigate, lessee assures tenants and sub-contractors will give public notification and create a community health protection plan approved by the Environmental and Air Quality Advisory Committee and a worker health plan approved by Cal OSHA
- In order to accomplish this, the standard conditions of approval could be modified or expanded using the following recommendations:
 - o Modify Mitigation 4.7-4: Include OSHA and CalOSHA in the Health and Safety Plan and tenant lease agreements
 - o Include a standard to review and utilize non-toxic alternatives when possible and to post community-accessible warnings to the community when using hazardous materials
- Trucks, Trains, Railyards and Equipment
 - Lessee works with stakeholder group to ensure that areas serviced by heavy trucks are sited to minimize the impacts on residential areas
 - Lessee uses leases to encourage businesses to:
 - o Use non-diesel fuel when possible
 - o Eliminate idling
 - o Use cleanest equipment, trains and trucks (in terms of emissions)
 - o Use designated truck routes only
 - Lessee requires tenants and sub-contractors that own trucks and/or who transport goods via trucks to document that the trucks are not parked on residential streets
 - Minimize noise, vibrations and lights pollution
 - Ensure container stacking height does not create a safety hazard
 - Ensure best available methods for intermodal efficiencies, such as creating a train terminal at the docks, which would reduce truck emissions
 - In order to accomplish this, the standard conditions of approval could be modified or expanded using the following recommendations:
 - o Ensure the inclusion of the West Oakland Truck Route Ordinance in the truck routes
 - o Modify Mitigation 4.4-4: Include air toxics, particularly diesel PM, need to be cumulatively reduced in the community along with criteria pollutants.
 - Grants/incentive programs don't seem to be enough to update trucks engines to meet the 2007-year requirement. Maybe include a developer fee to fund the reduction program.
 - Port should invest in plug-in power and renewable electricity generation.

- Include compliance with CARB's diesel rules
 - o Modify 2.7 Hazardous materials/ Hazardous Wastes: to register the fueling facility with Environmental Health Underground Storage Tank Program.
 - o Developer Fee
 - Can the developer be included in helping to fund certain services on a fair-share basis?
 - Can the developer fee help to fund a diesel pollution reduction program and climate adaptation strategies?
 - Refer to Energy and Climate Action Plan, Action AD-13
 - o Modify Mitigation 4.3-11 on truck parking and 5.3-7 to say:
 - There must be adequate truck parking on-site/ truck parking to meet occupant needs. (How will the parking costs/affordability be equitably determined?)
 - Ensure no and reduced land use conflicts with residential areas
 - Modify Mitigation 4.3-13: to post community accessible information about hazardous materials being transported and the transportation routes
 - o Include a condition around trains and railyards to minimize noise, air pollution, vibrations and container stacking height.
 - o Include a condition to minimize hazards due to stacked shipping containers.
 - o Include a condition to analyze and determine intermodal efficiency plan.
- **Green Businesses**
 - Lessee sets a goal of 10% or higher participation in a relevant environmental certification program for tenant business operations
 - Use renewable energy generation when possible and incorporate renewable energy generation into building designs when feasible.
 - In order to accomplish this, the standard conditions of approval could be modified or expanded using the following recommendations:
 - o Include a standard on green business participation including aforementioned stipulations.
 - o Refer to Energy and Climate Action Plan, including: PA-7, 8, 15, PA-42, 43, 46, 49, 50; Action BE-1, 6, 7, 13, 14, 16, 28, 31, 33-36, 39 and 40; Action AD 10-13.
- The standards will be monitored and enforced.
 - o These environmental health and air quality standards can be monitored and are enforceable and the lessee will work with stakeholder group to ensure a monitoring and enforcement process.
 - **Environmental and Air Quality Stakeholder Group**
 - Lessee will work with government and community partners to establish a stakeholder group with seats designated for the Lessee, community

groups, environmental groups, labor, City Planning Department, Public Health, and business groups.

- Stakeholder Group Role/Authority:
 - Review air quality and environmental health data for compliance with federal, state, and local regulations, including with the standards laid out in the Lessee's contract with the City of Oakland
 - Review plans with air quality and environmental health implications (i.e. changes to truck routes, site for a new business, etc.)
 - Instruct the Lessee on any necessary corrective actions
 - Levy penalties for flagrant or repeated non-compliance
 - The committee will have the authority to make unannounced site inspections on and near the site to insure adherence
- Stakeholder Group will convene to monitor and enforce standards every six months, and will establish a process for taking action between meetings as necessary
- This stakeholder group may be independent or part of a more comprehensive oversight body
- In order to accomplish this, the standard conditions of approval could be modified or expanded using the following recommendations:
 - Include the Environmental and Air Quality Stakeholder Group as an oversight and authoritative body with the aforementioned stipulations.
- **Monitoring**
 - Lessee will ensure compliance with federal, state, and local regulations, including with the standards laid out in the Lessee's contract with the City of Oakland. To this end, the Lessee will ensure that monitoring data is collected, analyzed, and reported to a stakeholder group, tenants, sub-contractors and the community. The Lessee will adhere to the following data collection and reporting schedule:
 - Air Quality: The Lessee will work with the stakeholder group to create a structured monitoring system that includes the installation of air monitors around the edge of the site (taking into account wind patterns) and in the adjacent community (particularly on sensitive land use sites). The Lessee will collect baseline air quality data, monitor changes on agreed upon increments, and provide updates to the stakeholder group as needed, no less frequent than every 6 months and no more frequent than quarterly.
 - Hazardous Materials Storage and Hazardous Waste Storage: The Lessee will maintain up-to-date records on all hazardous materials and waste storage sites and provide updates to the

stakeholder group as needed, no less frequent than annually and no more frequent than quarterly.

- o Stormwater run-off: The Lessee will collect updates from appropriate regulatory agencies on violations of stormwater run-off laws and provide updates to the stakeholder group as needed, no less frequent than annually and no more frequent than quarterly.
- o Sanitary sewer discharge: The Lessee will collect updates from appropriate regulatory agencies on violations of sanitary discharge laws and provide updates to the stakeholder group as needed, no less frequent than annually and no more frequent than quarterly.
- o Occupational Health: The Lessee will require contractors and tenants and sub-contractors to keep detailed records of OSHA violations related to air quality or environmental health, report this information on an annual basis, and provide updates to the stakeholder group as needed, no less frequent than annually and no more frequent than quarterly.
- o Diesel Trucks, Trains and Equipment:
 - The Lessee will require contractors and tenants and sub-contractors to keep records on the make, model, and year of all equipment, trains and trucks that use diesel and on any retrofits, report this information on an annual basis, and provide updates to the stakeholder group as needed, no less frequent than annually and no more frequent than quarterly.
 - The Lessee will collect updates from appropriate regulatory agencies on citations for violations of laws regarding idling and driving on streets not designated as truck routes and provide updates to the stakeholder group as needed, no less frequent than annually and no more frequent than quarterly.
 - The Lessee will collect information from tenants and sub-contractors whose main business is transporting goods by trucks or trains and provide updates to the stakeholder group as needed, no less frequent than annually and no more frequent than quarterly.
- o Green Building and Business:
 - The Lessee will document and update the stakeholder group on green building practices, including any use of "problem materials," and provide updates to the stakeholder group as needed, no less frequent than annually and no more frequent than quarterly.

- The Lessee will document and update the stakeholder group on the number of tenants and sub-contractors certified as green businesses and provide updates to the stakeholder group as needed, no less frequent than annually and no more frequent than quarterly.
 - The Lessee will document and update the stakeholder group on renewable energy generation and overall energy use and provide recommendations for energy generation increase and energy use reductions no more than quarterly.
 - o Dust and Contaminated Soil:
 - Lessee will actively monitor compliance with mitigations identified in the Environmental Impact Review when it comes to dust impacts and remediation of contaminated soil and provide updates to the stakeholder group on any citations for non-compliance as needed, no less frequent than annually and no more frequently than quarterly.
 - o Complaints
 - The developer will post at every worksite, as well as on its website and at local information repositories (West Oakland Branch Library), during remediation, demolition and construction phases and during operations, a telephone number, answered by a person with authority to correct problems and answer questions.
 - Any person filing a complaint will be given a case number and an estimated timeline for investigation and, if a violation is found, corrective action.
 - The Lessee will update the stakeholder group on complaints filed and their status no less frequent than every 6 months and no more frequent than quarterly.
- In order to accomplish this, the standard conditions of approval could be modified or expanded using the following recommendations:
 - o Modify Mitigation 4.15-3 to 5: SWPPP BMPs to include quarterly-annual reporting to the stakeholder group.
 - o Include a section on monitoring/monitoring plan for all the conditions mentioned in the column to the left during the construction and operations.
 - o Include coordination and oversight by the Environmental and Air Quality Stakeholder Group
 - o Include the Developer's responsibility for monitoring.
 - o Draft Development Standards, Page 21 – it's written that the BAAQMD APCO needs to require air monitoring and will be

reported to BAAQMD only for construction projects located on naturally occurring asbestos, serpentine soils, etc. Modify to include and require air monitoring during the construction and operations.

- o Utilize the Air District CARE (Phil Martien) mobile air monitor or other technology during construction and for periodic monitoring for operations at the fence line.
 - o Ensure the monitoring reports will be publicly available and electronically downloadable from the City and Port's websites.
 - o Include the creation of the Environmental and Air Quality Stakeholder Group as an authoritative body
- Enforcement
 - Lessee will inform all contractors, tenants and sub-contractors of the standards and hold them accountable for compliance through all contract and lease agreements.
 - Lessee will work with regulatory agencies and with the stakeholder group to identify violations using the monitoring data listed above. Violation of the standards will have repercussions determined by the Lessee in partnership with the stakeholder group, and could possibly go above and beyond those set by state and federal regulatory agencies when state and federal laws are concerned. Consequences for failing to comply with the standards may include financial penalties.
 - Property Manager will create a routine method of regular communications with tenants and sub-contractors to provide information and corrective action regarding ongoing impacts of the new development on neighboring residents, local thoroughfares and Oakland at large. These communications will include, but not be limited to, any and all potential impacts, i.e. traffic, parking, congestion, noise, odors, etc.
 - In order to accomplish this, the standard conditions of approval could be modified or expanded using the following recommendations:
 - o Include an enforcement section including the aforementioned stipulations.
 - Communication with Community and Tenants/ Sub-contractors
 - In addition to the described data collection and reporting schedule for the stakeholder group, the Lessee will produce an annual report on compliance with the environmental health and air quality standards, description of any corrective actions, and plans for compliance for the following year.
 - o The Lessee will post the annual report on a website and will keep a copy on file at local information repositories
 - o The Lessee will be available to provide a briefing and/or answer questions about compliance with the environmental health and air quality standards upon request

- The Lessee will post updates on project activities with environmental health and air quality implications on its website and at a local information repository
- In order to accomplish this, the standard conditions of approval could be modified or expanded using the following recommendations:
 - o Include a section on Communication with Community residents and Tenants including the aforementioned stipulations.
- These environmental health and air quality standards can be updated and renegotiated. Environmental health and air quality standards are constantly evolving as our knowledge of risks and mitigations grows. The environmental health and air quality standards will be created in such a way that allows adaptation as new science, technology, and regulations emerge. They will be revisited every no less frequently than every 10 years and no more frequently than every 5 years.
 - o In order to accomplish this, the standard conditions of approval could be modified or expanded using the following recommendations:
 - include a section on updates and revisions including the aforementioned stipulations.