

## OAKLAND CITY COUNCIL

### RESOLUTION NO. 79249 C.M.S.

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#### RESOLUTION APPROVING FIVE SEPARATE VESTING TENTATIVE PARCEL MAPS WITHIN THE WOOD STREET ZONING DISTRICT (MAPS 8551, 8552, 8553, 8554, 8555)

**WHEREAS**, in accordance with the California Environmental Quality Act ("CEQA"), the City issued a Notice of Preparation ("NOP"), indicating an intent to prepare an Environmental Impact Report ("EIR") on the Wood Street Project, including a General Plan Amendment, a Zoning Code Amendment and rezoning, a Redevelopment Plan Amendment, and five Vesting Tentative Parcel Maps; and

**WHEREAS**, a Draft Environmental Impact Report ("DEIR") on the Wood Street Project, SCH #2004012110, was released by the City and circulated for public review and comment from September 21, 2004 to November 15, 2004; and

**WHEREAS**, the Landmarks Preservation Advisory Board and the Planning Commission held public hearings on the DEIR on October 18, 2004 and October 20, 2004, respectively; and

**WHEREAS**, on January 26, 2005, the Planning Commission conducted another public hearing to discuss the major environmental and policy issues pertaining to the Project; and

**WHEREAS**, the Final Environmental Impact Report ("FEIR") was published on February 7, 2005; and

**WHEREAS**, the Planning Commission conducted a public hearing on March 16, 2005 to provide the public with the opportunity to comment on the Wood Street Project FEIR and the Project approvals, including the proposed General Plan Amendment; and

**WHEREAS**, on March 16, 2005, the Planning Commission certified the EIR, adopted CEQA Findings and a Statement of Overriding Considerations, adopted a Mitigation Monitoring and Reporting Program, adopted General Findings, recommended adoption of the General Plan Amendment, approved five Vesting Tentative Parcel Maps, subject to any changes adopted by the City Council, and adopted accompanying Conditions of Approval; and

**WHEREAS**, two separate appeals of the Planning Commission's March 16, 2005 actions were filed, one on March 25, 2005 by Arthur D. Levy and one on March 28, 2005 by Margaretta Lin on behalf of the Just Cause Oakland and the Coalition for West Oakland Revitalization (collectively, the "Appeals"); and

**WHEREAS**, the Community and Economic Development Committee of the City Council considered the Wood Street Project on April 12, 2005; and

**WHEREAS**, the City Council held a public hearing on May 3, which was noticed in accordance with the legal requirements; and

**WHEREAS**, the appellants and all other interested parties were given the opportunity to participate in the public hearing by submittal of oral and written comments; and

**WHEREAS**, the public hearing on the Appeals were closed by the City Council on May 3, 2005; and

**WHEREAS**, on May 17, 2005, the City Council, at its duly noticed regular meeting, fully reviewed, considered and evaluated the EIR, staff reports, public testimony and all documents and other evidence submitted on this matter; and

**WHEREAS**, based upon its review of the record the City Council denied the Appeals and upheld the March 16, 2005 decision of the Planning Commission, as modified;

**NOW, THEREFORE, BE IT RESOLVED:** That the City Council approves each of the Vesting Tentative Parcel Maps identified as Vesting Parcel Maps 8551, 8552, 8553, 8554, 8555, affirms and adopts the CEQA Findings attached to this Resolution as Exhibit A; the Mitigation, Monitoring and Reporting Program attached as Exhibit B; the VTPM Conditions of Approval attached as Exhibit C; and the General Findings attached as Exhibit D all incorporated by this reference; and be it

**FURTHER RESOLVED:** That because each of the Vesting Tentative Parcel Maps approved by this Resolution shall be separate and independent (consistent with the Wood Street Zoning District and all conditions of approval and other requirements), that the City Council directs staff, as a clerical matter, to produce five separate Resolutions, one for each of Vesting Parcel Map 8551, 8552, 8553, 8554 and 8555 documenting this approval of each map, and with the same Exhibits A, B, C and D attached to each such Resolution, and be it

**FURTHER RESOLVED:** That City staff is directed to undertake the clerical task of amending Exhibits A, B, C and/or D, if necessary, to conform to this Resolution.


IN COUNCIL, OAKLAND, CALIFORNIA, MAY 17, 2005

**PASSED BY THE FOLLOWING VOTE:**

AYES- 7 { **BROOKS, BRUNNEH. CHANG,  
NADEL, REID. QUAN. ~~MAN~~**  
NOES- 0 { **AND PRESIDENT DE LA FUENTE**

ABSENT- 0

ABSTENTION- 0

ATTEST.   
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

# EXHIBIT A TO ALL APPROVAL DOCUMENTS

## CEQA FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS RELATED TO APPROVAL OF THE WOOD STREET PROJECT

CITY COUNCIL HEARING  
MAY 17, 2005

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### I. INTRODUCTION

1. These CEQA findings are adopted by the City Council of the City of Oakland as lead agency for the Wood Street Project, and by the Oakland Redevelopment Agency as a responsible agency. For ease of reference, the agency adopting these findings is referred to as the “City.” These findings pertain to the Environmental Impact Report prepared for that project, SCH #2004012110 (“EIR”).

2. These CEQA findings are attached as Exhibit A and incorporated by reference into each ordinance or resolution approving the Wood Street Project. That ordinance or resolution also includes an Exhibit B, which contains the Mitigation Monitoring and Reporting Program (MMRP), and which references impacts, mitigation measures, levels of significance before mitigation, and resulting levels of significance after mitigation. Also attached is an Exhibit C, which contains the conditions of approval, and an Exhibit D that contains findings

regarding other matters, including compliance with the Municipal Code and General Plan consistency. In addition, the Zoning Ordinance has an Exhibit E, which sets forth the Wood Street Zoning District Regulations. All Exhibits are incorporated by reference into each other, and into the ordinance or resolution to which each is attached. Capitalized terms in any of these documents that are not defined in these documents have the same meaning as they have in the EIR.

3. Exhibit C to the VTPM Resolutions contains definitions relating to Train Station facilities that are used in all findings as well. Specifically, references to the 16<sup>th</sup> Street Train Station and its various components are as follows. “16<sup>th</sup> Street Train Station” refers to all facilities associated with the station, which are as follows:

- the “Main Hall” (including its north and south wings, and the canopy at the Wood Street entrance to the Main Hall)
- the “Elevated Platform” (which housed the Elevated Tracks before they were removed in the 1940s)
- the “Baggage Wing”
- the “Signal Tower”
- the “Elevated Platform Feasibility Study Area,” which is the area of the Elevated Platform immediately adjacent to the Main Hall and the Baggage Wing

Each of these capitalized, quoted terms refers to facilities that comprise the 16<sup>th</sup> Street Train Station, as depicted in Figure 1 attached to the VTPM Conditions of Approval (Exhibit C to the VTPM Resolution). References to portions of the 16<sup>th</sup> Street Train Station to be preserved or rehabilitated, and references to portions of the 16<sup>th</sup> Street Train Station to be demolished, refer to the portions to be preserved, rehabilitated and demolished after implementation of VTPM Conditions 52A, 56A, 56B and 57A.

4. These findings are based upon the entire record, described below, and some findings are based on specific references, as noted below. References to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

## **II. THE PROJECT**

5. The Wood Street Project is a collection of nine separate development proposals being pursued by various developers in West Oakland. All nine development proposals combined occupy approximately 29.2 acres. The site is approximately two miles from downtown Oakland, and is surrounded by the I-880 freeway to the west; the elevated portion of Grand Avenue to the north; a mixture of single family homes, warehouses and Raimondi Park across Wood Street to the east; and the California Waste Solutions directly to the south. While the development proposals are being pursued by different applicants and along different timelines, the applicants have jointly proposed a General Plan amendment for the Project Area and a new zoning district to accommodate the proposed uses. The zoning district is entitled the “Wood Street Zoning District.” It allows a range of mixed uses, with flexibility in the combinations of uses allowed. The range of development allowed under the Wood Street Zoning

District, as it is enacted by the Council, is the “Project” referenced in these findings. The Project, the General Plan Amendment, the Redevelopment Plan Amendment, the Rezoning and the Vesting Tentative Parcel Maps are within the range of uses studied in the EIR.

### **III. ENVIRONMENTAL REVIEW OF THE PROJECT**

6. Pursuant to CEQA, the CEQA Guidelines, and the Oakland Environmental Review Guidelines in Oakland Municipal Code Chapter 17.158 (collectively, “CEQA”), the City determined that an EIR would be prepared. The City issued a Notice of Preparation, which was circulated to responsible agencies and interested groups and individuals for review and comment. A copy of the Notice of Preparation and comments thereon are included in Appendix A of the Draft EIR.

7. A Draft EIR was prepared for the Wood Street Project to analyze its environmental effects. The DEIR included the water supply assessment referenced in Water Code sections 10910 and following, and especially section 10911(b). The DEIR was circulated for public review and comment from September 21, 2004 to November 15, 2004. The Landmarks Preservation Advisory Board and the Planning Commission held public hearings on the DEIR and received oral comments on October 18, 2004 and October 20, 2004, respectively.

8. The City received numerous written and oral comments on the DEIR. The City prepared responses that describe the disposition of significant environmental issues raised by the comments, and made changes to the DEIR. The comments, responses to comments, changes to the DEIR and additional information were published in a Final EIR on February 7, 2005. In addition, EIP, the City’s environmental consultants, prepared and presented additional materials responding to environmental issues raised in communications that were received by the City after publication of the FEIR, which were presented to the Council for its May 3, 2005 hearing (attachments F and J to the staff report prepared for the May 3, 2005 Council meeting). The City deems this information to be part of the FEIR. The DEIR, the FEIR, and all the appendices comprise the “EIR” referenced in these findings.

9. The Planning Commission held two additional hearings on the Project and on the EIR on January 26, 2005 and March 16, 2005. The Landmarks Preservation Advisory Board held public hearings on February 28, 2005 and April 11, 2005. The Community and Economic Development Council Committee held a public hearing on April 12, 2005. The Council and Oakland Redevelopment Agency held a joint hearing on May 3, 2005. At all public hearings, the City staff and its engineering and environmental consultants provided information about the Project. At each hearing, members of the public had the opportunity to ask questions and express their concerns and interest about the Project.

10. The City prepared an EIR on the range of development that would be permitted under the Wood Street Zoning District. The EIR evaluates the basic framework proposed for future development of the Project Area. The Project, by its nature, is flexible enough to allow the Project Sponsors to respond to market conditions as development occurs, in an area of the City that faces substantial market challenges. The uses permitted as of right and with a use permit cover a broad spectrum, including such uses as residential units, live/work units, childcare, health care, food sales, personal and financial services, laundromats, retail

business supply, fast-food restaurants, community assembly, construction sales and services, and custom manufacturing activities. The EIR thus faced an unusual challenge in evaluating the impacts of such a broad and flexible range of uses. It met this challenge by describing three development scenarios – one emphasizing residential uses, one emphasizing commercial uses, and one emphasizing trip-generating uses – to provide a comprehensive study of the range of development possibilities. The Maximum Residential Scenario involves approximately 1,557 residential units, 27,847 square feet of commercial space, and 122,925 square feet of proposed open space. As explained in note d on page 2-12 of the DEIR, this Maximum Residential Scenario studies more residential units than are actually permitted in Development Area 8, resulting in a study of more development impacts than are reasonably projected to occur. The Maximum Commercial Scenario involves approximately 1,084 residential units, 539,626 square feet of commercial uses and 88,350 square feet of open space. The Maximum Trip Scenario involves approximately 1,273 residential units, 318,847 square feet of commercial space, and 107,250 square feet of open space. The City finds that the EIR used a reasonable range and variety of development scenarios and provided comprehensive information regarding reasonably foreseeable development possibilities in the Project Area. The EIR thus discloses the environmental impacts the Project would cause if it were approved and developed. The EIR provides a project-level analysis of such environmental impacts of the Project, and supports all levels of approval necessary to implement the Project.

11. On March 16, 2005, the Planning Commission certified the EIR and approved five Vesting Tentative Parcel Maps (VTPMs) for the Project, subject to numerous conditions. Margaretta Lin, on behalf of Just Cause Oakland and the Coalition for West Oakland Revitalization, appealed the Commission's certification of the EIR. Arthur D. Levy appealed the Commission's approval of the VTPMs, certification of the EIR, and CEQA findings. These are collectively referenced as the Appeals. The City's environmental consultant, EIP, prepared a report responding to the issues raised in the Appeals, and another report addressing issues raised in correspondence received after publication of the FEIR. Both reports were presented to the City for the Council's May 3, 2005 meeting. These reports and their attachments are deemed part of the EIR.

#### **IV. THE RECORD**

12. The record upon which all findings and determinations related to the Project are based includes the following:

- a. The EIR, and all documents referenced in or relied upon by the EIR.
- b. All information (including written evidence and testimony) provided by City or Redevelopment Agency staff to the Landmarks Preservation Advisory Board, the Planning Commission, the Community and Economic Development Committee, the City Council, or the Oakland Redevelopment Agency relating to the EIR, the proposed approvals for the Project, the Project or its alternatives.

- c. All information (including written evidence and testimony) presented to the Landmarks Preservation Advisory Board, the Planning Commission, the Community and Economic Development Committee, the City Council, or the Oakland Redevelopment Agency by the environmental consultant and sub consultants who prepared the EIR, and all information incorporated into reports presented to any of those bodies.
- d. All information (including written evidence and testimony) presented to the City or Redevelopment Agency from other public agencies relating to the Project or the EIR.
- e. All applications, letters, testimony and hearing presentations given by any of the project sponsors or their consultants to the City or Redevelopment Agency in connection with the Project.
- f. All information (including written evidence and testimony) presented at any public hearing related to the Project and the EIR.
- g. For documentary and information purposes, all locally-adopted land use plans and ordinances, including, without limitation, general plans, specific plans, redevelopment plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.
- h. The Mitigation Monitoring and Reporting Program for the Project.
- i. All other documents comprising the record pursuant to Public Resources Code section 21167.6(e).

13. The City concludes that all the evidence supporting these findings was presented in a timely fashion, and early enough to allow adequate consideration by the City. The custodian of the documents and other materials that constitute the record of proceedings on which the City's decision is based is Claudia Cappio, Development Director, Community and Economic Development Agency, or designee. Such documents and other materials are located at 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California 94612.

14. These findings are based upon substantial evidence in the entire record before the City. The reference to certain pages or sections of the EIR set forth in these findings are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

#### **IV. CERTIFICATION OF THE EIR**

15. In accordance with CEQA, the City denies the Appeals and certifies that the EIR has been completed in compliance with CEQA, that the EIR was presented to the decision making body and that the decision making body reviewed and considered the information contained in the EIR prior to approving any aspect of the Project. Preparation of the EIR has been overseen by the Environmental Review Officer or his/her representative, and the



conclusions and recommendations in the document represent the independent conclusions and recommendations of the City. The EIR and these findings represent the independent judgment and analysis of the City. By these findings, the City confirms, ratifies and adopts the findings and conclusions of the EIR, as supplemented and modified by these findings.

16. The City recognizes that the EIR contains clerical errors. The City has reviewed the entirety of the EIR and bases its determinations on the substance of the information it contains.

17. The City certifies that the EIR is adequate to support the approval of the Project, each alternative in the EIR, and variations within the range of alternatives in the EIR. The EIR is adequate for each entitlement or approval required for construction or operation of the Project.

18. The City recognizes that additional modifications have been made to the text of the Wood Street Zoning District regulations and to the Project since the EIR was published; all resulting in the Project in the form it is approved by the City. The zoning regulations have been modified from the draft version contained in the EIR to incorporate minor refinements, including clarifications of the relation of the zoning district to the Oakland Municipal Code, revised regulations for live/work units to conform to current and proposed Oakland Municipal Code regulations, minor adjustment to maximum area of limited uses to achieve consistency with parking regulations, more precise standards for the 16<sup>th</sup> Street Plaza, more precise phasing requirements and shorter period of PDP approval, limitations on signage, additional flexibility in planted areas in group-usable open space, making alcoholic beverage sales and convenience market uses conditional uses rather than permitted uses, , and additional parking requirements. The new standards for the Plaza are consistent with the original intent and concept of the Plaza as described in the DEIR, and merely provide additional detail to ensure that the Plaza is developed as a publicly accessible outdoor space that provides an appropriate foreground setting for the Main Hall. Parking requirements have been increased slightly for all residential activities, providing a small amount of additional parking for Project residents. However, there has been no change in the standards related to screening or buffering of parking from the surrounding streets and open space areas. The City has adopted the measures to promote affordable housing, and measures to buffer Wood Street Zoning District uses from the nearby California Waste Systems facility, as reflected in Conditions 68A and 100, and in response to suggestions made by commentors. The economic measures regarding the affordability of homes do not affect the physical environment, and the buffer conditions ensure an even higher level of neighborhood compatibility. In addition, various documents in the record reflect various applications of 40 foot, 50 foot, and 65 foot height limitations for Development Area 3, and some of those references embody clerical errors. The EIR studied the 40-foot, 50-foot and 65-foot height limitations depicted in Figure 5.23-1 of the 8-4-04 version of zoning district included in Appendix H of the DEIR, and those are the height limitations imposed by the zoning district enacted by the City.

19. The above-described refinements to the Wood Street Zoning District regulations have little to no effect on physical impacts of the Project and do not raise additional environmental concerns. Other changes were made to incorporate mitigation measures, or to make the Project more environmentally beneficial. Other changes were made to address

planning, practical, financial or logistical concerns and these changes have little to no effect on physical impacts of the Project. The changes include the expanded protection of the historic 16<sup>th</sup> Street Train Station reflected in VTPM Conditions 52A, 56A, 56B and 57A, which are environmentally beneficial. The changes include additional buffering referenced in VTPM Condition 68A, which is also environmentally beneficial, as it provides greater compatibility of land uses. The local hire and affordable housing provisions of VTPM Conditions 7A and 100 address economic matters, and are not expected to result in physical impacts on the environment.

20. The City is apprised of all these modifications, and determines that the EIR is adequate to support approval of the Project. The impacts of the Project as it is approved are within the range of impacts studied in the EIR. The City certifies that the EIR is also adequate to support approval of each component of the Project, any project within the range of alternatives described and evaluated in the EIR, each component of any of these alternatives, and any minor modifications to the Project or the alternatives. The City also certified that the EIR is adequate to support any future discretionary approvals needed to implement the Project.

## **V. ABSENCE OF SIGNIFICANT NEW INFORMATION**

21. The City recognizes that the EIR incorporates information obtained and produced after the DEIR was completed, and that it contains additions, clarification, and modifications. The City further recognizes that the additional modifications have been made as noted above. The City has reviewed and considered the FEIR and all of this information. Neither the FEIR, nor any of these modifications, adds significant new information to the DEIR that would require recirculation of the EIR under CEQA. The new information does not involve a new significant environmental impact, a substantial increase in the severity of an environmental impact, or a feasible project alternative or mitigation measure considerably different from others previously analyzed that the project sponsor declines to adopt and that would clearly lessen the significant environmental impacts of the Project. The EIR adequately addresses the Project as it is approved by the City. No information indicates that the DEIR was inadequate or conclusory.

22. The City also recognizes that additional information has been produced since the EIR was completed. For example, EIP responded to issues raised in the Appeals and in correspondence received since the Final EIR was prepared, which confirmed the accuracy of the conclusions of the prior environmental analyses. This information merely clarifies the analysis already contained in the DEIR, and does not affect either the environmental conclusions or the type of evidence and study upon which those conclusions are based.

23. Accordingly, no information has revealed the existence of (1) a significant new environmental impact that would result from the Project or an adopted mitigation measure; (2) a substantial increase in the severity of an environmental impact; (3) a feasible project alternative or mitigation measure not adopted that is considerably different from others analyzed in the DEIR that would clearly lessen the significant environmental impacts of the Project; or (4) information that indicates that the public was deprived of a meaningful opportunity to review and comment on the DEIR. The City finds that the changes and modifications made to the Project and to the EIR after the DEIR was circulated for public review and comment do not

collectively or individually constitute significant new information within the meaning of Public Resources code section 21092.1, CEQA Guidelines section 15088.5, or the Municipal Code.

## **VI. MITIGATION MEASURES, CONDITIONS OF APPROVAL AND MMRP**

24. Public Resources Code section 21081.6, CEQA Guidelines section 15097 and provisions with Chapter 17.158 of the Oakland Municipal Code, require the City to adopt a monitoring or reporting program to ensure that the mitigation measures and revisions to the Project identified in the EIR are implemented. The Mitigation and Monitoring Program (“MMRP”) is included in Exhibit B, and is adopted by the City. The MMRP satisfies the requirements of CEQA and of the Oakland Municipal Code.

25. The mitigation measures recommended by the EIR as reflected in the conditions of approval are specific and enforceable. The condition of approval of the legislative actions ensures that these mitigation measures are fully enforceable, and that they will be included as conditions of adjudicatory approvals. As appropriate, some mitigation measures define performance standards to ensure no significant environmental impacts. The MMRP adequately describes conditions, implementation, verification, a compliance schedule and reporting requirements to ensure the Project complies with the adopted mitigation measures. The MMRP ensures that the mitigation measures are in place, as appropriate, throughout the life of the Project.

26. The mitigation measures set forth in Exhibit B and corresponding conditions of approval of the VTPMs are derived from the mitigation measures set forth in the DEIR. The City has modified the language of some of the mitigation measures in the FEIR and the corresponding conditions for purposes of clarification and consistency, to enhance enforceability, to defer more to the expertise of other agencies with jurisdiction over the affected resources, to summarize or strengthen their provisions, and/or to make the mitigation measure more precise and effective, and to reflect the use of defined terms used throughout the conditions and findings, all without making any substantive changes to the mitigation measures.

27. The City adopts and imposes the mitigation measures recommended in the EIR, as modified, as enforceable conditions of the Project. The recommended General Plan Amendment, Zoning Ordinance, Rezoning Ordinance and Redevelopment Plan Amendment, include an enforceable condition requiring that these mitigation measures be made enforceable conditions of approval of any Vesting Tentative Parcel Map or Preliminary Development Plan for any aspect of the Project, with the measures to be accomplished within the deadlines set forth in the MMRP and as geographically appropriate to the Map or Development Plan at issue. It is the City’s intent to incorporate all mitigation measures referenced in the EIR into the Project or into the Conditions of Approval, as reflected in the MMRP attached as Exhibit B. It is also the City’s intent to incorporate all applicable conditions of the Oakland Army Base Redevelopment Plan, which were part of the project studied in the EIR, as separate conditions of approval of each Vesting Parcel Map or Preliminary Development Plan, as appropriate in light of the time for compliance indicated in Exhibit B (the MMRP).

28. The mitigation measures comprise the measures necessary to reduce significant impacts to a level less than significant wherever it is feasible to do so. The City has

substantially lessened or eliminated all significant environmental effects where feasible. The mitigation measures incorporated into and imposed upon the Project will not have new significant environmental impacts that were not analyzed in the DEIR. In the event a mitigation measure recommended in the EIR has been inadvertently omitted from the conditions of approval or the MMRP, that mitigation measure is adopted and incorporated from the EIR into the MMRP by reference and adopted as a condition of approval of the VTPMs, as geographically appropriate to each map.

## **VII. FINDINGS REGARDING ENVIRONMENTAL CONCLUSIONS**

29. In accordance with Public Resources Code section 21081, CEQA Guidelines sections 15091 and 15092, and Oakland Municipal Code Chapter 17.158, the City adopts the findings and conclusions regarding impacts and mitigation measures that are set forth in the EIR, and summarized in Exhibit B (the MMRP), both before and after mitigation. These findings do not repeat the full discussions of environmental impacts contained in the EIR. The City ratifies, adopts and incorporates the analysis, explanation, findings, responses to comments, and conclusions of the EIR. The City adopts the reasoning of the EIR, of the staff reports presented to the Landmarks Preservation Advisory Board, the Planning Commission, the Community and Economic Development Committee, the City Council, or the Oakland Redevelopment Agency, and of materials presented by City staff or any of the project sponsors, as they support the City's conclusions.

30. The City adopts the conclusion of the EIR that impacts to the historic 16<sup>th</sup> Street Train Station are significant and unavoidable. However, the impacts are not as severe as identified in the DEIR, since additional mitigation measures, as reflected in VTPM Conditions 52A, 56A, 56B and 57A, have been imposed. The only demolition of any portion of the 16<sup>th</sup> Street Train Station that is approved is demolition of the north and south ends of the Elevated Platform that extend beyond the Elevated Platform Feasibility Study Area, and demolition of the portion of the Elevated Platform Feasibility Study Area, if any, that is not retained after implementation of VTPM Conditions 57A.

31. The City recognizes that the environmental analysis of the Project raises several controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The City acknowledges that there are differing and conflicting expert and other opinions regarding the Project. Some of the differences of opinion and expert opinion pertain to the methodologies the EIR employed, the historical significance of buildings and other facilities within the Project area, the feasibility of mitigating impacts to historic resources, the best means of encouraging use of public transit, trip generation rates, trip distribution modeling, vulnerability of the West Oakland neighborhood to gentrification, the causes of any projected or existing gentrification, whether housing prices or hiring practices would affect physical impacts, population projections, and the ability to make reliable forecasts regarding physical impacts that might result from socio-economic impacts. The City has, by its review of the evidence and analysis presented in the EIR and in the record, acquired a better understanding of the breadth of this technical and scientific opinion and of the full scope of the environmental issues presented by the Project. In turn, this understanding has enabled the City to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues. These findings are based on full appraisal of all

viewpoints expressed in the EIR and in the record as well as other relevant information in the record of proceedings for the Project. The City adopts the analysis, methodology and opinions that support these findings for the reasons stated in the EIR, in staff reports presented to the Landmarks Preservation Advisory Board, the Planning Commission, the Community and Economic Development Committee, the City Council, or the Oakland Redevelopment Agency, and in presentations made by the applicants.

32. Under Public Resources Code section 21081(a)(2), CEQA Guidelines section 15091(a)(2) and 15092(b)(2)(A), and Chapter 17.158 of the Municipal Code, the City recognizes that some mitigation measures require action by, or cooperation from, other agencies. Similarly, mitigation measures requiring a project sponsor to contribute towards improvements planned by other agencies will require the relevant agencies to receive the funds and spend them appropriately. The City also recognizes that some cumulative impacts will be feasibly mitigated when other agencies build the relevant improvements, which also requires action by these other agencies. For each mitigation measure that requires the cooperation or action of another agency, identified as such in the MMRP, the City finds that adoption and/or implementation of each of those mitigation measures is within the responsibility and jurisdiction of another public agency, and that the measures can and should be adopted and/or implemented by that other agency. If such other agency did not implement these mitigation measures, the level of significance would remain as stated in the MMRP before mitigation.

33. Under Public Resources Code section 21081(a)(3) and (b), CEQA Guidelines sections 156091(a)(3), 15092(b)(2)(B) and 15093, and Chapter 17.158 of the Municipal Code, the City determines that the remaining significant effects on the environment, as reflected in the EIR and in Exhibit B, are unavoidable and are acceptable due to the overriding considerations described below.

## **VIII. FINDINGS REGARDING SOCIAL AND ECONOMIC FACTORS**

34. The City acknowledges that there is substantial controversy, differences of expert opinion, and conflicting evidence regarding whether the Project will cause socioeconomic impacts that will lead to physical impacts. The City has reviewed extensive information presented by commentors, some of whom are experts, and some of whom, in turn, cite other expert reports and studies, regarding these issues. The City adopts the conclusions of the several experts whose opinions support the conclusions stated in the EIR, for the reasons stated in the EIR, in staff reports presented to the Landmarks Preservation Advisory Board, the Planning Commission, the Community and Economic Development Committee, the City Council, or the Oakland Redevelopment Agency, and in presentations made by any project sponsor.

35. Other experts support the City's conclusions regarding whether social, cultural and economic issues (including but not limited to gentrification, housing, jobs and displacement) will in turn cause any significant effects on the environment. The experts whose opinions support the City's conclusions regarding these subjects include Hausrath Economics Group, Bay Area Economics, Conley Consulting Group, Mundie and Associates, Rodney Jeung of EIP Associates, and members of the City Staff with expertise. To the extent the social, cultural and economic issues were claimed to affect circulation impacts, the experts also include Dowling Associates. The City acknowledges the voluminous evidence and numerous citations to studies

and reports presented in support of conclusions opposite to those reached by the City. However, that evidence and the studies cited were reviewed by other experts, who explained how the evidence and analysis submitted by the commentors did not establish a reasonable probability that the Project's social, cultural or economic impacts would cause physical impacts. (See, for example, Appendix B of the Final EIR, the discussion of Gentrification in Chapter 4 of Appendix C of the Final EIR, and the discussion in the materials presented by EIP in response to the Appeals for the 5/3/05 Council meeting.) The City finds these explanations reasonable.

36. In particular, there will be no Project-caused displacement within the OARB Redevelopment Plan Area under Health and Safety Code sections 33410 and following. However, the City agrees with commentors that it is reasonable to project that the Project may likely contribute toward some rise in property values in the surrounding West Oakland area, that gentrification can in some circumstances be quantified, and that the West Oakland neighborhood's vulnerability to gentrification can be assessed. It is not reasonable to quantify or project what contribution the Project would make toward gentrification in the West Oakland area, or assess the Project's possible contribution to it in any meaningful way. It is especially difficult to ascertain what contribution the Project may make to rising property values in light of other planned redevelopment in the area, which is itself intended to raise property values. Other redevelopment is planned for the entirety of the OARB Redevelopment Area (which includes the Project Area), and the West Oakland Redevelopment Plan Area (which does not include the Project Area).

37. The West Oakland Redevelopment Plan Area contains many of the residences where commentors suggest gentrification may occur, and property values in the area are planned and intended to be raised by the redevelopment proposed in the West Oakland Redevelopment Plan. It cannot be reasonably projected what residents would remain unaided by efforts undertaken by the Redevelopment Agency to address direct displacement within the West Oakland Redevelopment Plan Area under Health and Safety Code section 33411, and therefore left vulnerable to economic pressures from the Wood Street Project. It is not reasonably possible to ascertain the amount of any Project contribution to gentrification also in light of expert opinion that gentrification appears to have begun before the Project was proposed, that the process is likely to continue with implementation of the West Oakland Redevelopment Plan (which does not include the Project), and that these factors, independent of the Project, virtually assure that housing prices in the area will continue to rise. The City also finds it speculative to conclude that any Project-caused displacement would cause the physical impacts the commentors claim.

38. The City also adopts the reasoning and conclusions of the reports prepared by EIP in response to the Appeals and in response to correspondence received after publication of the FEIR, and in the reports and materials presented by the Project Sponsors, all of which was presented to the City for the Council's May 3, 2005 meeting.

## **IX. FINDINGS REGARDING HISTORIC RESOURCE ISSUES**

39. The City acknowledges that there is substantial controversy, differences of expert opinion, and conflicting evidence regarding the impacts of the Project to historic resources. With respect to historic resources, the experts whose analyses and opinions support

the City's conclusions include Alan Dreyfus, Neil Brower, Rodney Jeung, other personnel at EIP, and employees of the City with substantial experience in Oakland's extensive history of evaluating historic resources. In addition, the City has considered the determinations and conclusions it adopted previously regarding the importance of resources claimed to be significant historic resources, which were made in consultation with community members and experts participating in the Oakland Cultural Heritage Survey. The City has also considered the conclusions of the Historic Preservation Element of the City's General Plan, likewise already adopted by the City prior to consideration of this Project. The EIR results from an extensive and comprehensive examination of anecdotal and documented evidence regarding the times and circumstances surrounding the Project Area, including those involving the 16th Street Train Station, Bea's Hotel, the four buildings comprising the Pacific Coast Canning Company (and the Cannery Building in particular), and the historic districts in and near the Project Area. This evidence and these analyses are reflected in the EIR, especially in section 3.7 of the Draft EIR and Master Response 4 of the Final EIR. The City has also considered the evidence regarding the 16<sup>th</sup> Street Train Station referenced below. The City bases its determination regarding impacts of the Project to historic resources on the totality of evidence, including these expert analyses and opinions.

**A. Project Emphasizing Retention.**

40. The Project includes retention of the Main Hall, retention of the Baggage Wing, retention of the Elevated Platform Feasibility Study Area as described in VTPM Conditions 52A and 57A, and retention of the Signal Tower. Restoration of the Main Hall, retained portions of the Elevated Platform Feasibility Study Area, and the Baggage Wing is proposed using tax increment financing, if approved by the Redevelopment Agency. Restoration of the Signal Tower is required using private funding. In addition, the Project Sponsor must provide an opportunity to the Redevelopment Agency to fund retention of the Baggage Wing (VTPM Condition 56A), and to seek Redevelopment Agency or other funding for restoration and reuse of the Baggage Wing if the Agency decides to fund retention of the Baggage Wing (VTPM Conditions 56A, 58 and 59). Also, the Project Sponsor must explore additional means of retaining the Elevated Platform Feasibility Study Area as set forth in VTPM Conditions 52A and 57A, and may demolish only the portion of the Elevated Platform Feasibility Study Area that is approved for demolition pursuant to additional evidence of infeasibility presented with the Preliminary and/or Final Development Plans for the site. Therefore, the only demolition of any portion of the 16<sup>th</sup> Street Train Station that is approved is demolition of the north and south ends of the Elevated Platform that extend beyond the Elevated Platform Feasibility Study Area, and demolition of the portion of the Elevated Platform Feasibility Study Area, if any, that is not retained after implementation of VTPM Condition 57A.

41. The City adopts the conclusions of the evidence submitted by the Project Sponsors, showing that it is feasible to rehabilitate and reuse the Main Hall, even if lot lines were drawn immediately around the Main Hall as initially proposed by the Project Sponsor, since a variety of reuse proposals could feasibly be implemented within the space of the Main Hall itself. The City is not approving any lot line that would sever the Main Hall from the Baggage Wing. However, the City is approving a Project under which the Redevelopment Agency has discretion to fund rehabilitation and reuse of the Main Hall without funding rehabilitation and reuse of the

Baggage Wing. This evidence establishes that it would be feasible to reuse the Main Hall without reusing the Baggage Wing.

42. The City further finds that it is feasible for the Redevelopment Agency to fund retention and rehabilitation of the portions of the 16<sup>th</sup> Street Train Station to be retained and rehabilitated, using tax increment funding to be generated within the Project Area. The evidence supporting these conclusions is contained within the EIR, in materials attached to the staff report for the Planning Commission meeting of March 16, 2005, and in materials subsequently presented by the Project Sponsor and by Mundie & Associates. As noted in paragraph 32 above, the City finds that these actions are within the jurisdiction of the Redevelopment Agency, and that the Redevelopment Agency can and should implement these measures. The City further finds that if the Redevelopment Agency does not provide funding, the impacts will be more significant than they would be without action by the Redevelopment Agency. The impacts are overridden as noted below.

43. The Main Hall is considered more important to preserve and reuse than the Baggage Wing or Elevated Platform because the resulting combination of preserved structures and new plaza would emphasize the most prominent and significant aspects of the historic buildings and improve their access and visibility from Wood Street. The 62-foot tall Main Hall structure proposed for preservation figured most prominently in the experience of passengers and railroad workers alike, while the Baggage Wing was built as a private, utilitarian space to support the publicly accessible Main Hall. As noted in Ordinance 10435, the elevated tracks themselves were removed from the Elevated Platform in the 1940s, severing a strong link between the Elevated Platform and the use of the 16<sup>th</sup> Street Train Station for regional trains. The City considers the Main Hall better suited for retention and possible restoration also for the reasons stated in Master Response 4 of the FEIR, and in materials presented by staff, EIP and Project Sponsors for the May 3, 2005 Council hearing.

#### **B. Other Proposals For The 16<sup>th</sup> Street Train Station Are Not Feasible.**

44. Several other proposals for retention, rehabilitation, and/or reuse of various portions or all of the 16<sup>th</sup> Street Train Station were explored in the EIR, suggested by staff, suggested by members of the Landmarks Preservation Advisory Board, suggested by commentators, suggested in the Appeals, and considered by the City. The proposals include the following: the Preservation Alternative, the Reduced Project Alternative; proposals to retain and/or restore a greater portion of, or all of, the 16<sup>th</sup> Street Train Station; proposals to provide greater opportunities for restoring a greater portion of, or all of, the 16<sup>th</sup> Street Train Station; proposals to require a greater degree of funding by the Project Sponsor of Development Area 6 in implementing the mitigation measures adopted; proposals to require a larger lot for the Main Hall to allow for more varied uses; proposals to limit the height of new construction adjacent to the 16<sup>th</sup> Street Train Station to 25 feet instead of 65 feet; and proposals to provide greater or different restrictions on the reuse of the retained portions of the 16<sup>th</sup> Street Train Station. The City concludes that each of these other proposals is not feasible or will not feasibly reduce significant impacts to a greater degree than the measures imposed, regardless whether these proposals are considered mitigation measures or alternatives.



45. The evidence supporting these conclusions is contained within the EIR. In particular, the City adopts the conclusions of feasibility contained in Master Response 4 of the Final EIR. In addition, evidence of infeasibility is contained in materials attached to the staff report for the March 16, 2005 Planning Commission meeting, materials presented by staff and by the Project Sponsor for the April 12, 2005 CEDA meeting, and materials presented to the Council for its May 3, 2005 meeting. This evidence includes: a report dated March 2005 submitted by BUILD, entitled "Information and Analysis Pertaining to the Reuse of the 16<sup>th</sup> and Wood Train Station," a letter dated February 28, 2005 from BUILD conveying evidence regarding the estimated cost of renovating the Main Hall, along with the estimated bonding capacity from tax increment revenues generated by the Wood Street Project; another letter dated February 28 from BUILD regarding Economic Infeasibility of Retaining Baggage Wing and Entirety of Elevated Tracks; a letter dated February 7, 2005 submitting a preliminary construction improvement budget; an appraisal contained in a letter dated February 17, 2005 prepared by Carneghi-Blum & Partners, Inc.; a report prepared by Conley Consulting Group dated February 2005, entitled "Tax Increment and Bonding Capacity Support by Wood Street Projects"; a report prepared by Mundie & Associates dated March 2005, entitled "The Proposed Wood Street Project: Fiscal Impact Analysis"; the response of EIP to issues raised in the appeals, including attached materials, and materials presented with the staff report and by the Project Sponsors for the May 3, 2005 Council meeting, especially attachment A-2 to the response prepared by EIP to the Appeals, and the Financial and Appraisal Information Associated with Development Costs of Wood Street Zoning District Development Area 6, presented as Attachment I to the 5/3/2005 staff report.

46. The City finds these proposals infeasible on two independent and alternative grounds. First, the City finds that the Project, as mitigated and conditioned, presents the best combination of attributes for the City of Oakland, weighing and balancing probable success of the mitigation measures or alternatives, within a reasonable time, which in turn requires a weighing and balancing economic, environmental, legal, social and technological factors, and evaluating the likelihood of achieving project objectives. Second, the City finds the proposals economically infeasible.

47. The City concludes that all the evidence supporting its findings of infeasibility was presented in a timely fashion, and early enough to allow adequate consideration by the City. The City is satisfied, in light of the fact that the first finding of feasibility concerns the weighing and balance of evidence, which is peculiarly within the City's ultimate prerogative, and in light of the fact that law does not require public input on the issue of economic feasibility, that it received adequate public input and review of this evidence before adopting these findings.

**1. The Other Proposals For The 16<sup>th</sup> Street Train Station Are Not Feasible Based On Project Objectives and City Goals.**

48. Regarding the first finding of infeasibility, the City notes that the determination whether a proposal is feasible involves consideration of whether it is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. These factors involve a weighing and balancing of social, economic, technical, General Plan and project goals and objectives, which in turn involves a balancing of policy-related issues. The City finds that the

combination of benefits and impacts presented by the Project, as conditioned and mitigated, comprises a feasible, economic and rational method of achieving goals promoting private investment and revitalization in redevelopment areas, while offering benefits to the public that would not otherwise occur. The combination presented provides a realistic opportunity to preserve the Main Hall and Baggage Wing, restore them to Secretary of Interior Standards, in a manner that can realistically be accomplished using tax increment funding to be generated by this very Project. The Project proposes a reuse that provides greater historic benefit to the citizens of Oakland than would a typical restoration into modern, private uses. The proposed reuse honors the history the Station represents, also unlike a more typical restoration into modern, private uses. The Project enables the creation of a Public Plaza, which will greatly enhance the visibility and accessibility of the Main Hall, while providing additional benefits to the citizens of Oakland by comprising a publicly-accessible plaza where community and city-wide events can occur. The retention of the Main Hall and Baggage Wing, and the opportunities for preserving the entire width of the Elevated Platform Feasibility Study Area, will not reduce significant impacts to a level less than significant, but will preserve and enhance the association of the site with the historic uses of the 16<sup>th</sup> Street Train Station. Private reuse of the Baggage Wing to achieve project objectives is not feasible in its present configuration because of the modifications that would be required for ingress and egress to render the building acceptable for residential use. The other proposals would elevate one concern above all the other issues addressed by the Project, and there would present a combination of attributes that lessen implementation of the goals achieved by the Project. The City therefore finds it not reasonable to conclude that these other proposals would successfully be implemented within a reasonable time.

49. For example, implementation of some of the proposals would likely result in the need to achieve greater development densities in other areas of Development Area 6, which would require high rise buildings employing more difficult construction techniques. This, in turn, would result in greater visual impacts, and longer construction times, delaying receipt of revenues that would otherwise accrue earlier. Other proposals could be feasibly implemented only if a Project Sponsor developed in the areas presently proposed for the plaza, which would remove a major amenity from the Project, and lessen implementation of goals to enhance the 16<sup>th</sup> Street Train Station setting, provide better view corridors from Wood Street, and provide publicly accessible open space. Proposals to require all or portions of the 16<sup>th</sup> Street Train Station to be rehabilitated and reused using private funding, even if economically feasible, would likely result in a private reuse of portion of the 16<sup>th</sup> Street Train Station, and lessen achievement of goals of allowing public access, reusing the Station in a manner that honors the Station's history, and inviting community input on the determination of the type of reuse. Not developing the Project would lessen implementation of the goals described in the findings below regarding the No Project/No Action alternative.

50. The other proposals would also lessen achievement of goals of the Historic Preservation Element to a greater extent than would the combination of attributes presented by the Project. The other proposals would be more likely to result in private reuse, achieving the following goals to a substantially lesser extent than would the Project: goal 1(1) to stress positive community attributes expressed by well-maintained older properties, goal 1(6) encouraging education and enhancement of the spiritual, social and cultural dimensions of the Main Hall, and goal 1(6) encouraging continued educational, social and cultural exposure to

tangible reminders of the past. Proposals that might result in elimination or restriction of the plaza would achieve the following goals to a substantially lesser extent than would the Project: goal 1(2) to enhance the historic character, distinct charm and special sense of place provided by the Main Hall and goal 1(4) to promote tourist trade. The other proposals would be more likely to lessen achievement of goal 1(4) to stabilize neighborhoods, enhance property values, and increase public and private economic and financial benefits.

51. The Project also proposes a development project that can feasibly be developed within the time frame set forth in the EIR, allowing and promoting generation of tax increment funding and sales tax revenues, and generation of jobs, all of which ultimately benefit the residents of the City of Oakland, within a reasonable time. The other proposals, in contrast, would infeasibly delay generation of these revenues and jobs because of the need for revised plans, additional processing and additional information regarding rehabilitation of the structures, reconfiguration of the development proposed, and in some instances, lack of a ready market for the use or development proposed.

52. The Project thus achieves the fundamental project objectives of developing market-rate residential units at urban densities, expanding West Oakland's market-rate housing stock, developing urban infill housing, and redeveloping and revitalizing underused and vacant land within the OARB redevelopment area, while also achieving project and City objectives of protecting and enhancing the 16<sup>th</sup> Street Train Station in an economically viable manner, creating publicly accessible open space directly in front of the Main Hall, and providing additional open space throughout the Project Area. The combination of attributes offered by the Project, when considered in light of the social, technical, goal and policy factors referenced above, achieves these project objectives to a much greater extent than would the other proposals.

53. The combination of attributes presented by the Project thus comprises a rational accommodation of the social, economic and environmental interests with which this City must concern itself. The City therefore finds that other proposals are not feasible because they provide less assurance that project objectives will be achieved, and because they are not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

## **2. The Other Proposals For The 16<sup>th</sup> Street Train Station Are Not Economically Feasible.**

54. Regarding the second finding of infeasibility – that the proposals referenced above are not economically feasible – the City finds that economic infeasibility would thwart goal 1(4) of the Historic Preservation Element, to enhance property values and increase public and private economic and financial benefits. As explained in the appraisal presented by the Project Sponsor of Area 6, in the cover letter submitted by BUILD, in the staff report for the March 16, 2005 meeting, and in the additional materials presented by BUILD for the May 3, 2005 Council meeting, development of the land occupied by the portions of the 16<sup>th</sup> Street Train Station proposed for demolition, at the density proposed, is necessary to enable a reasonable rate of return on the investment represented by reasonable acquisition costs. The City considered shifting the development proposed for that portion of the property over to the other portions of Area 6, which would result in dramatic increases in density on those other portions. The

increased density would not result in increased value, since construction costs would increase, and the market desirability of each unit would decrease, decreasing market values. Requiring development of fewer, larger units in that other portion would likewise not appreciably increase values. The development would remain high-density and located in an area where housing prices are not high. The end result would be lower revenues, which in turn would drive entitled land values down further.

55. The City also considered restoration of the entire 16<sup>th</sup> Street Train Station, and its commercial use. However, commercial activities would not generate sufficient revenue to support rehabilitation, leaving the tax increment financing and perhaps other public or private funds or grants proposed for the Main Hall and Baggage Wing as the only feasible means of funding rehabilitation of those facilities. The City does not think it likely that additional funds or opportunities are available for preserving or rehabilitating the entire 16<sup>th</sup> Street Train Station, or any portion of it, that would provide greater mitigation than arises from Mitigation Measures CR-2.1 through CR-2.8, and VTPM Conditions 53 through 61. The City concludes that it is unlikely another party could purchase the site and preserve and restore the entire 16<sup>th</sup> Street Train Station complex in reasonable time.

56. In addition, the City adopts the conclusions of feasibility contained in Master Response 4 of the Final EIR. The economic conclusions reached by BUILD, as referenced in that master response, have been explained, substantiated and confirmed as indicated in the preceding paragraphs. The City further adopts the conclusions of the materials presented at the May 3, 2005 Council hearing regarding feasibility of reusing the 16<sup>th</sup> Street Train Station presented by EIP and by the Project Sponsors.

**C. Finding Regarding Infeasibility of Specific Proposals Relating To the 16<sup>th</sup> Street Train Station.**

57. Additional evidence and reasoning regarding both the first and second findings of feasibility are presented in the following paragraphs, with respect to particular proposals for the 16<sup>th</sup> Street Train Station. In addition, additional findings of infeasibility are included in the discussion of alternatives below.

58. This paragraph pertains to the feasibility of retaining the entire width of the Elevated Platform Feasibility Study Area. The evidence presented to date indicates that retention of entire width of this section is likely not to be feasible. The evidence of economic feasibility referenced above indicates that, when considered in light of the whole parcel, it does not appear likely to be economically feasible to retain the entire width. In addition, the letter from Dowling and Associates that is included with the materials EIP presented in response to issues raised in the Appeals indicates that the access road behind the Main Hall needs to be a substantial distance away from the frontage road, which indicates that the access road, which is necessary for adequate circulation, will likely render retention of the entire width of this portion of the platform infeasible. Also, retention of at least the 20-foot section of the Elevated Platform Feasibility Study Area, as proposed by the Project Sponsor, highlights the most useable portion of the structure – the waiting platform and decorative canopy immediately adjacent to the Main Hall and Baggage Wing – while removing the unusable sunken beds that used to hold the elevated tracks that were removed in the 1940s, and the inaccessible far platform. Removal of portions of

the width of the Elevated Platform Feasibility Study Area would also help open up the back and sides of the Main Hall and Baggage Wing to view. The evidence therefore indicates that retention of the entire width is not feasible. However, the width of this portion of the platform is a matter of fine detail, and therefore can be finally judged only when the precise details of the development plan for the area immediately west of the Main Hall and Baggage Wing are known. Therefore, the City is not presently finding that retaining the entire width of the Elevated Platform Feasibility Study Area is infeasible, and is creating the process reflected in Condition 57A to require the Project Sponsor to present additional evidence of infeasibility with the precise contours of development are presented in an application for a preliminary development plan.

59. The City finds that avoiding demolition of portions of the Elevated Platform that extend north and south of the Elevated Platform Feasibility Study Area is infeasible. This demolition will open up the Main Hall and Baggage Wing to views that would not otherwise exist. Demolition is also necessary to: a) allow continuation of 16th Street in keeping with the existing neighborhood street pattern, b) provide emergency access to the Project Area from Wood Street and the frontage road, c) facilitate public access to the future rear entrance of the Main Hall, and d) provide access directly to the frontage road from future projects in Development Areas 6, 7 and 8 in order to minimize traffic impacts on the surrounding neighborhood. The City disagrees with a suggestion in an Appeal that other streets could provide the necessary circulation or emergency access. The extensions proposed by the Project Sponsors to 14<sup>th</sup>, 16<sup>th</sup>, 18<sup>th</sup> and 20<sup>th</sup> Streets provide for logical, orderly patterns of development among the separate development areas controlled by separate developers. Seventeenth Street could not be extended through the Project without cutting through the Baggage Wing, and Eighteenth Street is already proposed to be extended through the Project but does not provide adequate circulation or emergency access for the areas accessible from the Sixteenth Street extension. The north extension of the Elevated Platform that extends beyond the Feasibility Study Area would impose further, unreasonable, restrictions on the developability of Development Area 6 in light of the unusual layout of the area, and the fact that project design is already constrained by the need to avoid the Main Hall and Baggage Wing, the narrowness of the strip of land behind the Elevated Platform Feasibility Study Area, and the presence of the Signal Tower. The north and south ends of the Elevated Platform do not merit public funding of their retention or rehabilitation. This is especially so in light of the comparative importance of the Main Hall and Baggage Wing proposed for retention, the additional efforts the City is requiring with respect to retention of as much of the Elevated Platform Feasibility Study Area as possible, and the fact that a substantial portion of the Elevated Platform Feasibility Study Area will be retained in any event. In addition, as established in the letter from Dowling Associates to EIP that is contained in the materials EIP presented in response to issues raised in the Appeals, the extension of 16<sup>th</sup> Street could not be rerouted around the Elevated Platform without causing circulation problems, which Dowling recommends be addressed by relocating the access road so that it cuts through the area planned for the Plaza. The City does not find it feasible to have a road cut through the Plaza. Doing so would eliminate or drastically reduce the area of the Plaza, and/or require it to be reconfigured in a manner where it is bisected into two or more pieces. Doing so would inhibit public access to the Main Hall, reduce the amount and availability of publicly-accessible open space within the Project, would interfere with the mitigation of enhancing the 16<sup>th</sup> Street Train Station setting and providing a visual focus and view corridor to the Main Hall, render the Plaza less useable, and interfere with plans to make the Plaza suitable for gatherings and outdoor events.

60. With respect to the Baggage Wing, the City finds retention and reuse of the Baggage Wing infeasible absent funding from the Redevelopment Agency, for the reasons set forth in section B above. However, the City is imposing a condition to requiring the Project Sponsor to allow the Redevelopment Agency to fund retention of the Baggage Wing to the extent necessary to make development feasible. That process is embodied in VTPM Condition 56A. In addition, VTPM Condition 56B provides further assurances that the Baggage Wing may not be demolished as part of this approval, and sets forth a process to ensure even more consideration of feasibility should the Project Sponsor seek permission to demolish the Baggage Wing at some future date. These processes provide additional opportunities for mitigation. As noted in paragraph 32 above, the City finds that funding is within the jurisdiction of the Redevelopment Agency, and that the Redevelopment Agency can and should implement these measures. The City finds that payment by the Redevelopment Agency of only the Project Sponsor's purchase price plus interest plus taxes (as proposed in the staff proposal to the Planning Commission) would not make up the economic shortfall caused by lack of developability of the Baggage Wing site, and therefore would not be feasible for the reasons stated in Section B above.

61. Some of the proposals also would not offer a greater degree of mitigation than does the Project. The City acknowledges that there is controversy regarding the mitigation measures imposed to reduce the impacts arising from loss of a portion of the historic 16<sup>th</sup> Street Train Station. In particular, the City acknowledges controversy regarding the best use to be made of the Main Hall and/or Baggage Wing upon their potential rehabilitation. Suggestions have been made regarding uses the commentators consider the most beneficial to the West Oakland neighborhood, or the most reflective of the Station's history. The suggestions are in many instances mutually exclusive or contradictory. The City finds that the restrictions and processes imposed by Mitigation Measures CR-2.1 through CR-2.8 represent a reasonable means of ensuring that the proposed restored Main Hall and/or Baggage Wing will be used in a manner that emphasizes their historical significance in a way that will reduce the Project's impact to the fullest extent feasible. Other processes or uses of the proposed restored Main Hall and/or Baggage Wing would not achieve a greater degree of mitigation. Disagreements about the best reuse are disagreements about the merits of any given reuse proposal.

62. The City adopts the EIR's discussion and conclusions regarding the applicability of mitigation measures suggested in the Historic Preservation Element. These are addressed in Master Response 4 of the FEIR. The City finds that the Project incorporates and adopts these mitigation measures to the extent feasible.

#### **D. Bea's Hotel And The Pacific Coast Canning Company.**

63. Bea's Hotel is located on Development Area 4. The existing design of Bea's Hotel lacks sufficient individual architectural distinction and historical association to be considered an historic structure. The building has been significantly altered with the addition of false stone at the pilasters, aluminum siding replacing or covering the original wood siding, and metal sash replacing the original wood sash. This has left its current design undistinguished, and it does not warrant retention. The Building has not been designated an Historic Property, and the district in which the building lies has not been designated a Preservation District by the City. The Building has also not been designated as a Heritage Property. The conclusions of the

Oakland survey regarding the lack of historical significance of Bea's Hotel were recently confirmed by Alan Dreyfuss, in a letter included with the materials presented by EIP in response to the Appeals. Because the building is not historically significant, there are no significant impacts to historic resources associated with its demolition.

64. The Pacific Coast Canning Company buildings consist of four separate buildings, one of which is referred to as the Cannery Building. These buildings are located at 1111 through 1119 Pine Street, between 11<sup>th</sup> and 13<sup>th</sup> Streets, in Development Area 2. One building (the Cannery Building) is proposed for reuse. The two smaller buildings are currently proposed for demolition. The fourth building (referred to as the Icehouse) will continue to be used for warehouse storage and is zoned to accommodate future residential development, and may be demolished. These buildings are described in Master Response 4 of the FEIR. The City adopts the EIR's analysis of the historic significance of these buildings, and finds that the buildings do not constitute significant historic resources under CEQA. Lew Hing's granddaughter expressed support for the development proposal for Development Area 2.

## **X. FINDINGS REGARDING ALTERNATIVES**

65. The City finds that specific economic, social, environmental, technological, legal or other considerations make infeasible the alternatives to the Project as discussed in the EIR, and justify approval of the Project despite remaining impacts, as more fully discussed in the Statement of Overriding Considerations.

66. The City adopts the EIR's analysis and conclusions regarding alternatives eliminated from further consideration, both during the scoping process and in response to comments.

67. The EIR evaluated a reasonable range of alternatives to the Project, which are described below. This range included the range identified in the EIR. In addition, the City has considered numerous proposals made by commentors, each of which might be called an alternative. The City has adopted the affordable housing and buffer measures reflected in VTPM Conditions 68A and 100 in response to suggestions made by commentors, and these may be considered alternatives. In addition, the City has considered the proposals referenced in the Findings Regarding 16<sup>th</sup> Street Train Station section above, each of which might be considered an alternative. Some of these proposals have been incorporated into the Project, in the expanded mitigation measures for impacts to the 16<sup>th</sup> Street Train Station that are stated in the FEIR, and in VTPM Conditions 52A, 56A, 56B and 57A. The City has rejected the other proposals/alternatives for the reasons stated in that section of these findings. The City certifies that it has independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the City's independent judgment as to alternatives. The City finds that the Project provides the best balance between satisfaction of the project objectives, mitigation of environmental impacts, implementation of General Plan goals, policies and programs, and feasibility. The alternatives are rejected as infeasible, for the reasons stated in the EIR and for the following reasons.

68. *No Project/No Action Alternative.* Under this alternative, all existing structures would remain on site in the current use and location. None of the Project components

would be constructed. This is the environmentally superior alternative. It is rejected as infeasible for the following reasons. This alternative would not attain most of the Project objectives. In addition, this alternative would facilitate further deterioration of the historic 16<sup>th</sup> Street Train Station. This alternative would hinder implementation of General Plan policies to use historic preservation to foster the economic vitality and quality of life in Oakland (Historic Preservation Element, Goal 1), and especially to do so by stabilizing neighborhoods, enhancing property values, and increasing public and private economic and financial benefits (Historic Preservation Element, Goal 1(4)). It would hinder implementation of the directive in the Historic Preservation Element that “any physical environmental feature related to human activity that enhance Oakland’s quality of life through historical, aesthetic, or education value should at least be considered for preservation. (Historic Preservation Element, page 2-2). It would fail to realize the benefits identified in the Historic Preservation Element, which include enhanced quality of life and urban revitalization (Historic Preservation Element, page 2-3), employment opportunities (Historic Preservation Element, page 2-6), economic development opportunities, community identity, public relations and “image” (Historic Preservation Element, page 2-6), and educational, cultural and artistic values. (Historic Preservation Element, page 2-6). The entirety of the 16<sup>th</sup> Street Train Station would remain private property, off limits to the public, without facilitation of opportunities to restore and enhance portions of the Station. This alternative would continue the current conflict between nearby residential uses and the trucking and other industrial uses presently operating on the site. It would also fail to implement the Redevelopment Plan, or any of the Redevelopment Plan goals. With no change in the visual setting, the Project Area would remain blighted in appearance, which would not advance the OARB Area Redevelopment Plan goal to eliminate physical blighting influences in the Project Area. It would not advance the City’s General Plan policy of promoting economic investment in economically distressed areas of the City. It would hinder implementation of the Key West Oakland Implementation Strategies found on pages 187 and following in the Land Use and Transportation Element (LUTE) of the City’s General Plan. This section of the LUTE references improvement of Wood and Pine Street infrastructure and landscaping. (LUTE, page 186). It references community desire for economic development assistance, better transportation linkages and overall improvements to the appearance of the community, investment and maintenance of infrastructure. (LUTE, page 187). It references establishment and enforcement of development guidelines and City codes, development of new codes specific to the various types of conditions found on each block, and “a comprehensive overhaul of the City’s Zoning Ordinance, including development of new zoning districts, criteria and standards for development, and a set of clear and concise design guidelines.” (LUTE, pp. 187-188) In addition, this alternative would not implement economic and environmental sustainability provisions on page 27 of the LUTE. The Project, in contrast, would promote these goals, policies and benefits.

69. *No Project/OARB Alternative.* Under this Alternative, the Project Area would be developed as evaluated in the *OARB Area Redevelopment Plan EIR*. The development envisioned would be a mix of commercial, research and development, and retail space along with live/work units and light industrial space. This Alternative would not substantially reduce significant impacts while achieving most of the Project objectives. This Alternative is not environmentally superior to the Project. Compared to the Project, this Alternative would cause greater impacts relating to freeway segments, air quality, noise and hazardous materials, while causing lesser impacts relating to BART capacity. This alternative could create internal land use conflicts due to the proximity of industrial or container storage uses to live/work units or park



uses. In addition, the OARB Alternative could introduce high-intensity industrial or high-traffic container storage uses into areas adjacent to existing residential uses, which could worsen land use compatibility to a greater degree than the Project. Construction and operational noise impacts could be more severe under this alternative than under the Project due to a larger proportion of the Project Area allocated to industrial and commercial uses which typically have larger heating, ventilation and air conditioning demands. The larger number of trucks under this alternative would result in greater vehicular noise than the Project which could impact nearby residences. Impacts to air quality could be more severe than the Project due to increases in truck traffic, and the fact that light industrial facilities have higher emissions than residential and commercial uses. This Alternative also does not meet most of the Project objectives, as noted on page 5-25 of the Draft EIR.

70. *No Project/General Plan Alternative.* Under this Alternative, the Project Area would be built out entirely with Business Mix uses, as specified by the *City of Oakland General Plan*. This Alternative would not substantially reduce significant impacts while achieving most of the Project objectives. This Alternative is not environmentally superior to the Project. Under this alternative, the introduction of industrial development could lead to greater land use conflicts with adjacent residential uses. Noise impacts under this alternative would be more severe than under the Project, due to the addition of heavy industrial uses and the associated noise of mechanical equipment, loading activities and truck traffic. Impacts to air quality could be more significant than under the Project due to truck traffic and the construction of heavy industrial facilities which have high emissions compared to the residential emphasis of the Project. The potential for neighborhood exposure to odors and toxic air contaminants would increase under this alternative and could create a potentially significant impact. The impacts to the 16<sup>th</sup> Street Train Station would remain significant. This Alternative also does not meet most of the Project objectives, as noted on page 5-25 of the Draft EIR.

71. *Preservation Alternative.* This alternative would involve a mix of commercial and residential uses. It proposes 1,570 dwelling units and 36,700 square feet of commercial space. Impacts to the 16<sup>th</sup> Street Train Station would be avoided by preserving the Station and its components, its setting, and the relationship among existing elements. This Alternative is considered potentially environmentally superior to the Project. However, while this alternative avoids Project impacts to the Station complex, it assumes a significant capital investment beyond that contemplated by the Project and does not meet the Project objective of constructing financially feasible developments with reasonable returns on investment. See the findings in section IX above. This alternative would also provide less open space than would the Project. The requirement of greater setbacks and lower building heights near the Station would necessitate the placement of residential buildings in areas that would be Private Open Space under the Project in order to maintain the same development potential.

72. *Reduced Project Alternative.* Under this Alternative, the Project's development program would be reduced in order to preserve historic resources, mitigate traffic impacts and reduce construction noise impacts by shortening the construction time. Under this alternative, there would be more commercial development, and less residential development, than proposed by the Project, with preservation of the entire 16<sup>th</sup> Street Train Station. This Alternative is considered potentially environmentally superior to the Project. However, because

it requires preservation of the entire 16<sup>th</sup> Street Train Station, it is not feasible. See the findings in section IX above.

73. *No Redevelopment of Bea's Hotel Alternative.* Under this Alternative, the development would be essentially the same as the Project, but without redevelopment of the Bea's Hotel property. This alternative would create greater impacts than the Project in the areas of conflicts with land use plans, policies or regulations; and conformance to General Plan policies concerning design and visual resources. Unlike the Project, it would not create a significant impact regarding cumulative impacts on MTS roadway segments. The alternative would be inconsistent with the OARB Area Redevelopment Plan goals of integrated development and elimination of blight, as Bea's Hotel would be inconsistent in scale and design with adjacent structures, and the retention of the hotel would contribute to the perception of blight in the area. Based on these factors, this alternative creates significant unavoidable land use impacts that are more severe than those under the Project. This alternative also impedes the goal of visual integrated development as Bea's Hotel is situated at the key location of 16<sup>th</sup> and Wood Streets. The inability to integrate this key site would be noticeable and would create a significant and unavoidable visual impact.

## **XI. STATEMENT OF OVERRIDING CONSIDERATIONS**

74. The City finds that each of the following specific economic, legal, social, technological, environmental and other considerations and benefits of the Project independently outweighs these remaining significant, adverse impacts and is an overriding consideration independently warranting approval. The City finds the significant impacts of the Project overridden by each of these considerations, standing alone. The remaining significant adverse impacts of the Project are acceptable in light of each of these overriding considerations.

75. The Project will bring private investment to an economically distressed area of the City, eliminate blight, and help promote revitalization of the area, in keeping with the goals of the OARB Redevelopment Plan. Promoting viable economic investment is consistent with LUTE Policy I/C1.4.

76. The Project is proposed by a known group of Project Sponsors who have indicated an interest, backed up by a substantial investment in processing, in pursuing development of the Project Area within a reasonable time frame. This makes the realization of tax increment funding, which ultimately benefits residents of the City of Oakland, more certain and more likely to occur sooner. In contrast, there are no developers indicating an interest in developing under the baseline, No Project, or any other scenarios.

77. The Project will provide much-needed urban infill housing near the center of the Bay Area with convenient access to public transit and an existing major freeway, promoting smart growth principles and helping Oakland to meet its fair share of regional housing. The Project will therefore implement Policies 1.7, 7.3 and 7.4 of the Housing Element of the General Plan as well as with Policies T2.3 and N3.1 of the Land Use and Transportation Element of the General Plan (LUTE).

78. The Project will redevelop and revitalize underutilized and vacant land within the Oakland Army Base Redevelopment Project Area to create pedestrian-friendly, mixed-use, residential and commercial developments including live/work units. The Project would be more consistent with surrounding uses than are the existing uses, thus promoting LUTE Policies N5.3 and N6.1 which support and encourage live/work units and projects which provide a variety of housing types and sizes. The Project is also consistent with City of Oakland Housing Policy 2 which encourages the development of a variety of types of housing opportunities including live/work units. Through revitalization of the area, the Project furthers the goals of Housing Element Policy 4.3. Finally, the Project is consistent with LUTE Pedestrian Master Plan Policy 3.2 which promotes land uses and site designs that make walking convenient and enjoyable.

79. The Project will preserve, and provide opportunities to rehabilitate, the historic 16<sup>th</sup> Street Train Station's Main Hall, Signal Tower, Baggage Wing and a portion of the Elevated Platform Feasibility Study Area to the extent feasible. This action is consistent with LUTE Policy N9.8 and N9.9, and also with Historic Preservation Element Policy 3.1. Without the Project, the historic structures would likely continue to deteriorate. The current uses are restricted because of the dilapidated condition and further because there is no grand setting for the 16<sup>th</sup> Street Train Station as would be provided by the publicly-accessible plaza. The project will benefit the citizens of Oakland by providing opportunities to make the Main Hall and Baggage Wing more accessible, more useable, highlighted in a view corridor to be provided by the plaza, and offer opportunities for reuse that are more respectful of the 16<sup>th</sup> Street Train Station's history than is its current use.

80. The Project will create a publicly accessible plaza directly in front of the 16<sup>th</sup> Street Train Station. This action implements the objective of creating new civic open spaces in neighborhood commercial areas and in high-intensity redevelopment areas contained in Policy OS-11.2 of the Open Space, Conservation and Recreation Element of the General Plan (OSCAR).

81. The Project will provide economic incentives for persons of low or moderate incomes to purchase homes within the Project Area, furthering the City's goals of meeting the needs of all economic segments of the community.

**EXHIBIT B TO ALL APPROVAL DOCUMENTS**  
**WOOD STREET MITIGATION MONITORING AND REPORTING PROGRAM**  
**CITY COUNCIL MEETING**  
**MAY 17, 2005**

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
Land Use					
LU-1. The Project would not physically divide an established community. (NI)	None required.		NI		
LU-2. Proposed higher-density land uses associated with the Project could potentially result in land use compatibility impacts on existing low-density units relating to increased noise, light and glare, and traffic, and to visual encroachment/loss of views. However, provisions of the proposed Wood Street Zoning Regulations would reduce these potential land use conflicts to less than significant. (LTS)	None required.		LTS		

<sup>1</sup> This column describes the Level of Significance resulting from the Project, together with imposition of all reasonably feasible mitigation measures. For purposes of this Mitigation Monitoring and Reporting Program, Mitigated to Less Than Significant (“LTS”) means that, under Public Resources Code section 21081(a)(1) and CEQA Guidelines sections 15091(a)(1) and 15092(b)(2)(A), changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. Mitigated to Less Than Significant Other Agency (“LTS Other Agency”) means that, under Public Resources Code section 21081(a)(2) and CEQA Guidelines section 15091(a)(2) and 15092(b)(2)(A), all or part of the mitigation measures are within the responsibility and jurisdiction of another public agency (including situations which require the cooperation of another public agency), and such changes either have been adopted by the other agency or can and should be adopted by such other agency. Significant and Unavoidable (“SU”) means that, under Public Resources Code section 21081(a)(3) and (b), and CEQA Guidelines sections 15091(a)(3), 15092(b)(2)(B) and 15093, no mitigation measures are available, or specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the EIR or elsewhere; these impacts are acceptable due to the overriding considerations referenced in Exhibit A to the staff report to which this Exhibit B is attached.

<sup>2</sup> Compliance date, and inspection or field survey dates to be noted in this column by the responsible agency.

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
LU-3. The Project would not be consistent with the current General Plan land use classification and zoning districts for the Project Area. (PS)	<p><i>LU-3.1 General Plan Amendment.</i> The Project Sponsors shall apply for a General Plan Amendment (GPA) to apply the Urban Residential (UR) land use classification to the Project Area for approval by the City. According to the General Plan, this classification allows multi-unit, mid-rise, or high-rise residential structures and allows ground-floor commercial uses and public facilities of compatible character. The GPA, if approved, would eliminate any inconsistencies with the existing General Plan land use classification.</p> <p><i>LU-3.2 Zoning Code Amendment.</i> The Project Sponsors shall apply for a Zoning Code Amendment to add the Wood Street Zoning District and to rezone the Project Area to this new zoning district. The Project would be required to adhere to the Wood Street Zoning Regulations, which set forth land use regulations, development standards, design guidelines, and other requirements, including allowable uses, requirements for circulation, open space, streets and public improvements, building heights, massing, maximum densities, setbacks, landscaping, and parking. The change in zoning from the existing industrial and industrial/residential combining districts to the Wood Street Zoning District, if approved, would eliminate any inconsistencies with the existing zoning.</p>	LTS	LTS	Project Sponsors	Concurrent with rezone.
LU-4. The Project would conflict with applicable land use plans, policies, or regulations in certain respects. However, these inconsistencies would not result in a significant physical environmental effect and, therefore, the impact would be less than significant. (LTS)	None required.	LTS	LTS	Project Sponsors	Concurrent with General Plan Amendment

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
<b>Cumulative Land Use Impacts</b>					
LU-5. Implementation of the Project, in combination with other related projects, would not result in a cumulative impact associated with physically dividing an established community. (NI)	None required.		NI		
LU-6. Implementation of the Project, in combination with other related projects, would not result in cumulative land use incompatibility impacts. (LTS)	None required.		LTS		
LU-7. Implementation of the Project, in combination with other related projects, would not result in cumulative inconsistencies with the City's General Plan or zoning districts. (LTS)	None required.		LTS		
LU-8. Implementation of the Project, in combination with other related projects, would not result in conflicts with applicable plans, policies, or regulations in a manner that would result in a significant physical environmental effect. (LTS)	None required.		LTS		
<b>Visual Quality</b>					
VQ-1. Implementation of the Project would not result in a substantial adverse effect on a scenic vista. (LTS)	None required.		LTS		
VQ-2. Implementation of the Project would not substantially damage scenic resources within a state scenic highway. (LTS)	None required.		LTS		
VQ-3. Implementation of the Project would not substantially degrade the existing visual character or quality of the Project Area and its surroundings. (LTS)	None required.		LTS		
VQ-4. Since construction of the Project would be implemented in phases, parts of the Project Area	None required.		LTS		
<b>Legend:</b> (S) Significant Adverse Impact (PS) Potentially Significant Impact (LTS) Less-than-significant Impact (NI) No Impact (SU) Significant and Unavoidable Impact					

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
could be visually fragmented as construction occurs, and as individual development areas serve as staging or storage areas for construction equipment and materials. However, because portions of the Project Area are currently vacant or used for storage, views of construction activities or zones would not constitute a substantial degradation in visual quality. (LTS)	None required.		LTS		
VQ-5. Implementation of the Project would alter the existing nighttime light and glare characteristics of the Project Area with the introduction of building, parking, and landscaping elements. However, the proposed Wood Street Zoning Regulations include guidelines that ensure that potential light and glare impacts would not adversely affect nighttime views or visibility in the area and would be less than significant. (LTS)	None required.		LTS		
VQ-6. Implementation of the Project would alter existing daytime glare characteristics of the Project Area with the introduction of building elements. However, design features incorporated as part of the Project would ensure that these impacts would be less than significant. (LTS)	None required.		LTS		
VQ-7. Implementation of the Project would cast shadows that could result in a long-term change in the shade effects in the area. However, shadows cast by proposed development would not impair the beneficial use of the 16th Street Train Station, Raimondi Park, or solar collectors in the area, and would result in a less-than-significant impact. (LTS)	None required.		LTS		
VQ-8. The Project would be consistent with General Plan policies concerning design and visual resources. (LTS)	None required.		LTS		
VQ-9. The Project would not result in adverse	None required.		LTS		

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
wind effects. (LTS)					
<b>Cumulative Visual Impact</b>					
VQ-10. Implementation of the Project, in combination with related projects, would not result in a substantial adverse cumulative effect on a scenic vista. (LTS)	None required.		LTS		
VQ-11. Implementation of the Project, in combination with related projects, would not result in substantial cumulative scenic resource impacts within a state scenic highway. (LTS)	None required.		LTS		
VQ-12. Implementation of the Project, in combination with related projects, would not substantially contribute to cumulative loss of visual character or quality of the Project Area and its surroundings. (LTS)	None required.		LTS		
VQ-13. Implementation of the Project, in combination with related projects, would not result in cumulative visual impacts during construction. (NI)	None required.		NI		
VQ-14. Implementation of the Project, in combination with related projects, would alter the existing nighttime light and glare characteristics of the area with the introduction of building, parking, and landscaping elements. However, the proposed Wood Street Zoning Regulations include guidelines that ensure that potential cumulative light and glare impacts would be less than significant. (LTS)	None required.		LTS		
VQ-15. Implementation of the Project, in combination with related projects, would alter existing daytime glare characteristics of the Project Area with the introduction of building elements. However, design features would ensure that these	None required.		LTS		



ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
cumulative impacts would be less than significant. (LTS)					
VQ-16. Implementation of the Project, in combination with related projects, would cast shadows that could result in a long-term change in the shade effects in the area. However, shadows cast by proposed development would not impair the beneficial use of the 16 <sup>th</sup> Street Train Station, Raimondi Park, or solar collectors in the area, and would result in a less-than-significant cumulative impact. (LTS)	None required.		LTS		
VQ-17. The Project, in combination with related projects, would be consistent with General Plan policies concerning design and visual resources. (LTS)	None required.		LTS		
VQ-18. The Project, in combination with related projects, would not result in cumulative adverse wind effects. (NI)	None required.		NI		

**Transportation, Circulation, and Parking**

TR-1. Construction would generate a maximum of 3,300 trips daily. Construction-related traffic delays, detours, utility improvements, and activities could adversely affect local circulation. As a result, construction-related transportation impacts would be considered potentially significant. (PS)	<p><i>TR-1.1 Construction Traffic Management Plan.</i> The Project Sponsors shall prepare and implement a construction phasing plan and traffic management plan that defines how traffic operations would be managed and maintained during each phase of construction. The plan shall be developed with the direct participation of the City of Oakland; AC Transit shall be given the opportunity to review and comment on the plan. In addition, the property owners of all businesses adjacent to the construction areas shall be consulted. To the maximum practical extent, the plan shall:</p> <p>a. Detail how access will be maintained to individual businesses where construction activities may interfere</p>	9	LTS	City of Oakland Traffic Engineering Department, Public Works Agency and Planning and Zoning Department	<p>Items a-b: Prior to issuance of the first building permit for the respective Development Area.</p> <p>Items c-e: During construction phase of Project.</p>
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ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
	<p>with ingress and egress. Any driveway closures shall take place during non-business hours.</p> <p>b. Specify predetermined haul routes from staging areas to construction sites and to disposal areas of agreement with the City prior to construction. The routes shall follow streets and highways that provide the safest route and have the least impact on traffic</p> <p>c. During construction, require the contractor to provide information to the public using signs, press releases, and other media tools of traffic closures, detours or temporary displacement of left-turn lanes.</p> <p>d. Identify a single phone number that property owners and businesses can call for construction scheduling, phasing, and duration information, as well as for complaints.</p> <p>e. Identify construction activities that must take place during off-peak traffic hours or result in temporary road closures due to concerns regarding traffic safety or traffic congestion. Any road closures will be done at night under ordinary circumstances. If unforeseen circumstances require road closing during the day, the City of Oakland shall be consulted.</p>				
TR-2. The Project would increase traffic at study area intersections but would not substantially impact access or traffic load and capacity of the street system. (LTS)	None required.		LTS		
TR-3. The Project would add traffic to some	None required.		LTS		

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
roadway segments on the Metropolitan Transportation System (MTS), but would not cause any freeway segments on the MTS to operate at LOS F, or increase the V/C ratio by more than three percent for segments that would operate at LOS F without Project traffic. (LTS)					
TR-4. The Project could substantially increase traffic hazards to motor vehicles, bicycles, or pedestrians due to a design feature. (PS)	<i>TR-4.1 Turn-Arounds at 11<sup>th</sup> Street and the 18<sup>th</sup> and 20<sup>th</sup> Street Extensions.</i> The Project Sponsor for Development Areas Two, Six, Seven, and Eight shall incorporate the design of a cul-de-sac or other appropriate turn-around at the end of 11 <sup>th</sup> Street and at the end of the 18 <sup>th</sup> and 20 <sup>th</sup> Street extensions and construct these extensions in compliance with City of Oakland Design Standards. Appropriate turn-around designs would allow vehicles to return along 11 <sup>th</sup> Street and enter Wood Street in a front-end-first manner.	31	LTS	City of Oakland Traffic Engineering Department, Public Works Agency and Planning and Zoning Department	Prior to approval of Final Development Plan and specifications for the respective Development Area.
TR-5. Development of the Project could fundamentally conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks). (PS)	<i>TR-5.1 Bicycle Parking.</i> The Project Sponsors shall incorporate into the final design plans the number of bicycle parking spaces specified by the parking space requirements in Table 3.4-7 and install the bicycle parking in compliance with City standards.	2	LTS	City of Oakland Planning and Zoning Department	Prior to the issuance of the first building permit for the respective Development Area.
TR-6. The Project would increase the average ridership on AC Transit lines by more than three percent on transit lines serving the Project Area, but the average load factor with the Project would not exceed 125 percent over a peak 30-minute period. (LTS)	None required.		LTS		
TR-7. The Project would increase the passenger volume such that passenger volume could exceed the standing capacity of BART trains, but the increase would not raise peak-hour average	None required.		LTS		

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
ridership by three percent. (LTS)					
TR-8. The Project would increase peak-hour average ridership at the West Oakland BART Station by three percent where average waiting time at fare gates could exceed one minute. (S)	<i>TR-8.1 Fare Gate Capacity.</i> The Project Sponsors for all development areas except Development Areas Five and Nine shall participate in efforts to provide adequate fare gate capacity at the West Oakland BART Station to accommodate the Project. The City and the Project Sponsors shall provide detailed information regarding development to BART to enable BART to conduct a comprehensive fare gate capacity assessment at the West Oakland BART Station. Based on the results of that assessment, the Project Sponsors shall fund their fair share for adding one or more new fare gates at the West Oakland BART Station.	30	SU	BART	Prior to issuance of the first certificate of building occupancy for the respective Development Area.
<b>Cumulative Transportation Impacts</b>					
TR-9. The Project, in combination with other related projects and background growth, would cause some signalized intersections to operate at unacceptable levels of service. (S)	<i>TR-9.1 West Grand Avenue/Frontage Road.</i> The Project Sponsors shall fund, on a fair share basis, the following improvements that would reduce the cumulative operations impact at the intersection of West Grand Avenue/frontage road: <sup>3</sup>  1. Revise the northbound frontage road lanes to provide: - one left-turn lane - one combination left-through lane - one through lane - one right-turn lane with overlap signal phasing (green arrow)  2. Revise the southbound I-80 East Ramp lanes to provide:	25	SU	City Public Works Agency, Caltrans	Prior to issuance of the first building permit for the respective Development Area.

<sup>3</sup> The mitigation measure from the *OARB Area Redevelopment Plan EIR* for the intersection of West Grand Avenue/frontage road would not result in less-than-significant impacts under the PM peak-hour conditions.

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
	<ul style="list-style-type: none"> <li>- one left-turn lane</li> <li>- one combination left-through lane</li> <li>- one through lane</li> <li>- one right-turn lane with overlap signal phasing (green arrow)</li> </ul> <p>3. Revise the eastbound West Grand Avenue lanes to provide:</p> <ul style="list-style-type: none"> <li>- one left-turn lane</li> <li>- one through lane</li> <li>- one combination through-right lane</li> </ul> <p>4. Revise the westbound West Grand Avenue lanes to provide:</p> <ul style="list-style-type: none"> <li>- one left-turn lane</li> <li>- two through lanes</li> <li>- one right-turn lane</li> </ul> <p>While these improvements would reduce the cumulative operations impacts at the West Grand Avenue/frontage road intersection to an acceptable level of service, improvements would be outside the City of Oakland's jurisdiction and would require Caltrans approvals. As a result, the improvements may not be feasible, and the impact at this intersection would remain significant and unavoidable.</p>				
	<p><i>TR-9.2 West Grand Avenue/Mandela Parkway Intersection.</i> The Project Sponsors shall contribute their fair share of modifications at the West Grand Avenue/Mandela Parkway intersection. The modifications at the intersection shall include providing protected left-turn signal phasing (left-turn green arrows) for the West Grand Avenue approaches to the intersection.</p>	26	LTS	City Public Works Agency	Prior to issuance of the first certificate of building occupancy for the respective Development Area.
	<p><i>TR-9.3 7<sup>th</sup> Street/Mandela Parkway Intersection.</i> The Project Sponsors shall</p>	27	LTS	City Public Works Agency	Prior to issuance of the first

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
	contribute their fair share of modifications at the 7 <sup>th</sup> Street/Mandela Parkway intersection. The modifications at the intersection shall include adding a northbound lane on the 3 <sup>rd</sup> Street extension to provide one left-turn lane, one combination through-right turn lane, and protected left-turn signal phasing (left-turn green arrows) for all four approaches to the intersection.				certificate of building occupancy for the respective Development Area.
	<i>TR-9.4 West Grand Avenue/Maritime Street and 3<sup>rd</sup> Street/Market Street Intersections.</i> As part of the cumulative growth of the <i>OARB Area Redevelopment Plan</i> , the Project Sponsors shall contribute their fair share, as defined in the <i>OARB Area Redevelopment Plan EIR, 2002</i> , to future improvements at these locations.	28	LTS	City Public Works Agency	Prior to issuance of the first certificate of building occupancy for the respective Development Area.
TR-10. The cumulative impact of the Project in combination with other related projects and background growth would cause some roadway segments on the MTS to operate at LOS F and increase the V/C ratio by more than three percent on segments that would already operate at LOS F under the future baseline conditions. Therefore, the cumulative contribution of the Project under the Maximum Trips Scenario would be significant. (S)	<i>TR-10.1 Transportation Demand Management.</i> The Project Sponsors shall distribute materials concerning the availability of public transit to initial Project residents and prior to certificate of occupancy shall pay the fee adopted by the City on residential units to assist the City in implementing traffic demand management programs.	75	SU	City Public Works Agency	Prior to issuance of the first certificate of building occupancy for the respective Development Area; upon City adoption of traffic demand management programs in West Oakland.
	<i>TR-10.2 Shuttle Service.</i> The Project Sponsors shall provide a shuttle service between the Project Area and the West Oakland BART Station and incorporate shuttle stops into the final design plans. In the event Project Sponsors elect not to use a private shuttle service, Project	76	SU		Prior to approval of Final Development Plans and specifications for the respective

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
	<p>Sponsors will work with AC Transit and BART to design a shuttle service and shall incorporate public transit stops into the final development plans in consultation with AC Transit. The shuttle or transit stops shall be located within the Project Area and would be dispersed such that Project residents would be no more than one-quarter mile from a shuttle or transit stop.</p> <p>Shuttle or transit stops at the existing AC transit bus stop on Wood Street by Development Area Three, in front of the 16<sup>th</sup> Street Plaza (Development Area Nine), and on Wood Street at 20<sup>th</sup> Street by Development Area Seven should be considered. The shuttle service would operate at 15-minute peak-hour headways during commute hours. The shuttle service shall be designed to meet City of Oakland standards, link with pedestrian access, and be reviewed for approval by the City.</p> <p>The shuttle service shall be implemented within three months following the issuance of a Certificate of Occupancy of the 300<sup>th</sup> residential dwelling within the Project Area. At that time, the Project Sponsors, or their successors in interest, will fund operation and maintenance of the shuttle. Thereafter, and every two years until such time as the Planning Director determines that the shuttle service is no longer necessary, the Project Sponsors or their successors shall report to the Planning Director on the amount of shuttle use by Project residents and occupants, and the availability of other means to reduce the use of private vehicles by Project residents and occupants. The Planning Director shall permit discontinuation of the shuttle service upon finding either that (a) the shuttle is not being used sufficiently to result in a substantial reduction in private vehicle use by</p>				<p>Development Area; within three months following the issuance of a Certificate of Occupancy of the 300<sup>th</sup> residential dwelling within the Project Area; every two years thereafter until the Planning Director determines the shuttle service is no longer necessary.</p>

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
TR-11. The cumulative impact of the Project in combination with other related projects and background growth would increase average ridership on AC Transit lines serving the Project Area by more than three percent. However, the average load factor with the Project would not exceed 125 percent over a peak 30-minute period. (LTS)	Project residents and occupants, or (b) another means of reducing the use of private vehicles by Project residents and occupants would be feasible and cost the same or less than the shuttle, would create a greater reduction in private vehicle use than would the shuttle, and would result in a substantial reduction in private vehicle use by Project residents and occupants. If the Planning Director determines item (b), above, is the basis for discontinuing the shuttle service, then the Project Sponsors or their successors shall implement other means of reducing private automobile use by Project residents and occupants.  None required.	LTS			
TR-12. The cumulative impact of the Project, in combination with other related projects and background growth, could increase the overall passenger volume such that the passenger volume could exceed the standing capacity of BART trains and could increase peak-hour average ridership by three percent. (S)	<i>TR-12.1 BART Train Capacity.</i> The Project Sponsors shall participate in efforts to ensure that adequate BART train capacity will be available for riders to and from the Project Area, and fund BART train capacity improvements on a fair share basis.	29	SU	BART	Prior to issuance of the first certificate of building occupancy in the respective Development Area.
TR-13. The cumulative impact of the Project in combination with other related projects and background growth, would increase peak-hour average ridership at the West Oakland BART Station by three percent where average waiting time at fare gates could exceed one minute. (S)	See Mitigation Measure TR-8.1.	SU		BART	



ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
<b>Noise</b>					
NO-1. The Project would result in short-term increases in noise and vibration levels due to construction over the course of multiple years. This would be considered a significant impact. (S)	<p><i>NO-1.1 City Council-Adopted Best Management Practices to Reduce Construction Noise.</i> The Project Sponsors shall incorporate the following practices into the construction documents to be implemented by the Project's contractor, and these practices shall be provided to the Department of Building Inspection for approval prior to the issuance of building permits:</p> <ul style="list-style-type: none"> <li>a. The Project Sponsors shall require construction contractors to limit standard construction activities as required by the City Building Department. Such activities are generally limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, with pile driving and/or other extreme noise generating activities greater than 90 dBA limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday, with no extreme noise generating activity permitted between 12:30 and 1:30 p.m. No construction activities shall be allowed on weekends, without prior authorization of the Building Services Division, and no extreme noise-generating activities shall be allowed on weekends and holidays.</li> <li>b. Equipment and trucks used for construction shall utilize the best available noise control techniques (improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically attenuating shields or shrouds) in order to minimize construction noise impacts.</li> <li>c. The physical separation between noise generators and noise receptors shall be maximized as feasible. Such separation</li> </ul>	17	LTS	City Building Services Department	Prior to issuance of the first building permit for the respective Development Area; inspections during construction phase of Project.

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
	<p>includes, but is not limited to, the following measures:</p> <ul style="list-style-type: none"> <li>- Use shields, impervious fences, or other physical sound barriers to inhibit transmission of noise to sensitive receptors;</li> <li>- Locate stationary equipment to minimize noise impacts on the community; and</li> <li>- Minimize backing movements of equipment.</li> </ul> <p>d. Impact equipment (e.g., jack hammers and pavement breakers) used for Project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Compressed air exhaust silencers shall be used on other equipment. Other quieter procedures, such as drilling rather than impact equipment, shall be used whenever feasible.</p> <p>e. Prohibit unnecessary idling of internal combustion engines</p> <p>f. Schedule construction activity that produces higher noise levels during less noise-sensitive hours (normally 8:00 a.m. to 4:00 p.m. on weekdays). Minimize noise-intrusive impacts during the most noise-sensitive hours by planning noisier operations during times of highest ambient noise levels.</p> <p>g. Select routes for movement of construction-related vehicles and equipment so that noise-sensitive areas, including residences, hotels, and outdoor recreation areas, are</p>				

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	<p>avoided as much as possible. Include these routes in materials submitted to the Department of Building Inspection for approval prior to the issuance of building permits.</p> <p>h. Designate a noise disturbance coordinator who will be responsible for responding to complaints about noise during construction. The telephone number of the noise disturbance coordinator shall be conspicuously posted at the construction site and shall be provided to the Department of Building Inspection. Copies of the construction schedule shall also be posted at nearby noise-sensitive areas.</p>				
	<p><i>NO-1.2 Pile Driving Noise and Vibration Effects on Structures.</i> To mitigate potential pile driving or other extreme noise-generating impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. This plan shall be submitted for review and approval by the Department of Building Inspection to ensure that feasible noise attenuation is achieved to satisfy the City's standards contained in Section 17.120.050 of the Planning Code. These attenuation measures shall include as many of the following control strategies as feasible and shall be implemented prior to any required pile driving activities:</p> <p>a. Implement "quiet" pile driving technology (e.g., vibratory pile driving or pre-drilled pile holes), where feasible, in consideration of geotechnical and structural requirements and conditions;</p> <p>b. Erect temporary plywood noise barriers around the entire construction site;</p>	18	LTS	City Building Services Department	Prior to any pile driving or other extreme noise generating activities on the site.

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	<ul style="list-style-type: none"> <li>c. Adjust the scheduling and duration of pile driving;</li> <li>d. Utilize noise control blankets on the building structures as the building is erected to reduce noise emissions from the site;</li> <li>e. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and</li> <li>f. Monitor the effectiveness of noise attenuation measures by taking noise measurements during pile driving activities.</li> </ul>				
	<p><i>NO-1.3 Proper Noticing Procedures.</i> Prior to the issuance of each building permit, along with the submission of construction documents, the Project Sponsors shall submit to the City Building Department a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:</p> <ul style="list-style-type: none"> <li>a. A procedure for notifying the City Building Division staff and Oakland Police Department;</li> <li>b. A plan for posting signs on site pertaining to permitted construction days and hours, complaint procedures, and who to notify in the event of a problem;</li> <li>c. A listing of telephone numbers (during regular construction hours and off hours);</li> <li>d. The designation of an on-site construction complaint manager for the Project; and</li> <li>e. Notification of neighbors within 300 feet of the Project construction area at least 30 days in advance of pile-driving activities about the estimated duration of the activity.</li> </ul>	19	LTS	City Building Services Department, Police Department	Prior to issuance of the first building permit in the respective Development Area.

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	A preconstruction meeting to be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, neighborhood notification, and posted signs) are completed.				
NO-2. The Project would introduce residential land uses in an area where noise levels would be “Conditionally Acceptable” for such uses. Existing regulations would ensure that these new uses would not substantially contribute to existing ambient noise levels. Consequently, changes in the acceptable noise levels for land use compatibilities would be less than significant. (LTS)	None required.		LTS		
NO-3. Under all of the development scenarios for the Project, increased traffic noise levels due to implementation of the Project would not result in an increase in ambient noise levels of an amount greater than 5 dBA. (LTS)	None required.		LTS		
<b>Cumulative Noise Impacts</b>					
NO-4. The Project, in combination with related projects, could result in short-term cumulative increases in noise and vibration levels due to construction; however, compliance with the controls imposed under the City’s Noise Ordinance would reduce significant cumulative construction noise impacts to less than significant. (LTS)	None required.		LTS		
NO-5. Traffic generated from either the Maximum Residential Scenario or the Maximum Trips Scenario in combination with other related projects and background growth would not significantly contribute to cumulative noise impacts. (LTS)	None required.		LTS		

**Air Quality**

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AQ-1. Construction activities for the Project could result in short-term increases in PM <sub>10</sub> emissions that could violate City and BAAQMD air quality standards. (PS)	<p><i>AQ-1.1 Construction Dust Control Measures.</i> The Project Sponsors shall require that the following practices be implemented by including them in the contractor construction documents:</p> <ul style="list-style-type: none"> <li>a. Water all active construction areas at least twice daily.</li> <li>b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.</li> <li>c. Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas, and</li> <li>d. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at the construction sites.</li> <li>e. Sweep public streets adjacent to construction sites daily (with water sweepers) if visible soil material is carried onto the streets.</li> <li>f. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).</li> <li>g. Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).</li> <li>h. Limit traffic speeds on unpaved roads to 15 miles per hour.</li> <li>i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.</li> <li>j. Replant vegetation in disturbed areas as soon as possible.</li> <li>k. Install wheel washers for all exiting trucks</li> </ul>	15	LTS	City Building Services Department	Prior to issuance of the first demolition, grading or building permit in the respective Development Area.

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	<p>or wash off the tires or tracks of all trucks and equipment leaving the construction site.</p> <p>l. Install wind breaks at the windward sides of the construction areas.</p> <p>m. Suspend excavation and grading activities when wind (as instantaneous gusts) exceeds 25 miles per hour.</p>				
AQ-2. The regional air emissions due to the Project would not violate any City or BAAQMD air quality standard or contribute substantially to an existing air quality problem. (LTS)	None required.		LTS		
AQ-3. The Project would not contribute to CO concentrations exceeding the State Ambient Air Quality Standard. (LTS)	None required.		LTS		
AQ-4. The Project would not create objectionable odors affecting a substantial number of people. Accordingly, the Project would have less than significant odor impacts. (LTS)	None required.		LTS		
AQ-5. The Project would not be a significant source of Toxic Air Contaminants. (NI)	None required.		NI		
<b>Cumulative Air Quality Impacts</b>					
AQ-6. The Project would not conflict with the applicable air quality plan or result in a fundamental conflict with the General Plan, and, therefore, would not have cumulatively considerable air quality impacts. (LTS)	None required.		LTS		
<b>Cultural Resources</b>					
CR-1. Ground-disturbing activities have the potential to directly impact previously unknown archaeological resources, including human burials, or paleontological resources in the Project Area by disturbing both surface and subsurface soils. Such	<i>CR-1.1 Archaeological Monitoring.</i> The Project Sponsors shall retain a qualified archaeologist, upon any discovery of prehistoric remains or buried historic features. The archaeologist shall prepare a preliminary	50	LTS	City of Oakland Planning and Zoning Department and Building	During all construction activities.
<b>Legend:</b> (S) Significant Adverse Impact (PS) Potentially Significant Impact (LTS) Less-than-significant Impact (NI) No Impact (SU) Significant and Unavoidable Impact					

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disturbance could result in the loss of integrity of cultural deposits. (PS)	<p>evaluation to assess the archaeological sensitivity of the specific site(s) under consideration and shall recommend actions to protect archaeological resources. If the archaeologist's evaluation indicates a more detailed site assessment is warranted, a testing program shall be initiated under the supervision of the qualified archaeologist. If, after testing, the archaeologist determines that the discovery is not significant as defined in CEQA, no further investigations or precautions are necessary to safeguard the find. The archaeologist shall prepare a final report to be sent to the responsible agency, the Oakland Landmarks Advisory Board, and the California Historical Resources Information System Northwest Information Center. If, however, after testing, the archaeologist determines that the discovery is significant as defined in CEQA, ground-disturbing activities in the immediate vicinity of the discovery shall remain suspended until an appropriate mitigation plan can be agreed upon by the archaeologist and the City and implemented by the Project Sponsors as discussed in Mitigation Measure CR-1.2.</p>	51	LTS	Services Department	During all construction activities.
	<p><i>CR-1.2 Cultural Resources Management/Mitigation Plan.</i> If further investigations or precautions are necessary or appropriate, as determined by Mitigation Measure CR 1.1, the City of Oakland and the archaeologist shall jointly determine the additional procedures necessary to protect the resource and/or mitigate any significant impacts. Additional measures to be implemented by the Project Sponsors might include a redesign of the Project, data recovery excavations, or a program to monitor all site excavation, during which the archaeologist shall record observations in a</p>			City of Oakland Planning and Zoning Department and Building Services Department	



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	<p>permanent log. The archaeologist shall prepare a final report to be sent to the responsible agency, the Oakland Landmarks Advisory Board, and the California Historical Resources Information System Northwest Information Center.</p> <p><i>CR-1.3 Discovery of Human Remains.</i> Should any human remains be encountered, work in the vicinity shall halt and the County Coroner notified immediately. If the remains are determined to be Native American, the coroner shall contact the California Native American Heritage Commission (NAHC) pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code. The NAHC in Sacramento would identify a Most Likely Descendant (MLD) pursuant to subdivision (a) of Section 5097.98 of the Public Resources Code. The City of Oakland and the archaeologist shall consult with the MLD. The MLD may, with the permission of the owner of the land, or his or her authorized representative inspect the site of the discovery of the Native American remains and may recommend to the owner or the person responsible for the excavation work means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The descendants shall complete their inspection and make their recommendations within 24 hours of their notification by the NAHC. The recommendation may include scientific removal and nondestructive analysis of human remains and items associated with Native American burials. Work may not commence until the coroner's approval has been received.</p>	52	LTS	City of Oakland with Alameda County Coroner	During all construction activities; immediately upon determination by qualified archaeologist of human remains discovery in the respective Development Area.
CR-2. The Project would involve demolition of	<i>CR-2.1 HABS Recordation of the 16<sup>th</sup> Street</i>	53	SU	National Park	Within 12

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portions of the 16 <sup>th</sup> Street Train Station, a City landmark and a designated historic structure, which would be considered a significant impact. (S)	<i>Train Station.</i> The Project Sponsor of Development Areas Five, Six, and Nine shall, within 12 months of the effective date of the Wood Street Zoning District, record the 16 <sup>th</sup> Street Train Station and the Signal Tower in accordance with the procedures of the Historical American Building Survey (HABS). In accordance with the HABS recordation process, the Project Sponsor shall consult with the National Park Service (NPS) to determine the appropriate level of documentation, and all documentation shall be subject to review and approval by NPS with approval determined by compliance with HABS procedures			Service	months of the effective date of the Wood Street Zoning District.
	<i>CR-2.2 Salvage of Original Building Materials from Structures Proposed for Demolition.</i> The Project Sponsor of Development Areas Five, Six, and Nine shall, within 12 months of the effective date of the Wood Street Zoning District, submit a study to the City of Oakland detailing those portions of the Baggage Wing and Elevated Tracks that can be feasibly salvaged. The study shall include an assessment of the feasibility of salvaging terra-cotta cladding, windows, doors and hardware. The City's Planning Director may approve, disapprove, or modify the study to ensure its adequately identifies those parts that can be feasibly salvaged. Following City approval of the study, the Project Sponsor shall salvage parts as indicated in the approved study and shall make the salvaged materials available for reuse in rehabilitating the Main Hall or Signal Tower	54	SU	City Planning Director	Within 12 months of the effective date of the adoption of the conditions of approval pertaining to the parcels within Development Areas Five, Six and Nine.
	<i>CR-2.3 Stabilization of Main Hall and Signal Tower.</i> The Project Sponsor of Development Areas Five, Six, and Nine shall, within three months of the effective date of the Wood Street	55	SU	City Planning Director	Within three months of the effective date of the adoption of

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	Zoning District, take measures designed to preclude further deterioration of the Main Hall and the Signal Tower from rain and to exclude trespassers. These measures must be approved by the City's Planning Director, who shall find them acceptable if they preclude deterioration or vandalism that would occur in the absence of these measures. These measures shall remain in place until the decision regarding reuse of the Main Hall is made. The facilities preserved and protected by this measure include the canopy at the Wood Street entrance to the Main Hall.				the conditions of approval pertaining to the parcels within Development Areas Five, Six and Nine.
	<i>CR-2.4 Restriction on Alteration of the Main Hall and the Signal Tower.</i> The property owner of property containing the Main Hall and the Signal Tower shall not make any alteration to the Main Hall that is not consistent with the preservation, rehabilitation, or reuse recommendations contained in the <i>OARB Area Redevelopment Plan</i> (as amended); the <i>City of Oakland General Plan</i> (as amended); the Wood Street Zoning District; and Secretary of the Interior's Standards for the Treatment of Historic Buildings. Alterations shall be further restricted in accordance with any additional design standards, guidelines, or recommendations when the development plan, adopted pursuant to Mitigation Measure CR-2.5, becomes effective.	57	SU	City Planning and Zoning Department	Prior to demolition or renovation of any structures.
	<i>CR-2.5 Application for Redevelopment Agency Funding Approval for Train Station Preservation, Rehabilitation, and Stabilization.</i> Consistent with the <i>OARB Area Redevelopment Plan</i> goals as set out in Section 100, the property owner of the property containing the Main Hall shall submit an application to the Agency requesting that the Agency make	58	SU	Redevelopment Agency, City Planning Director	Within 12 months of the effective date of VTPM Condition 58.

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	<p>available tax increment funds provided for in Section 502 of the <i>OARB Area Redevelopment Plan</i> for the preservation, rehabilitation, and stabilization of the Main Hall. In connection with such application, the property owner shall submit the following materials and information to the Agency:</p> <ul style="list-style-type: none"> <li>a. a finance plan demonstrating the prudent use of tax increment funds in restoring, preserving, and reusing the Main Hall, including a commitment by the property owner to maximize the leverage of the tax increment funds by seeking additional public funding, tax credits, private financing, and/or private philanthropic grants;</li> <li>b. a management plan demonstrating exemplary and continued stewardship of the Main Hall, with recognition of its cultural and historical importance to the City of Oakland and which is accountable to the goals and policies of the <i>OARB Area Redevelopment Plan</i> and the <i>City of Oakland General Plan</i>;</li> <li>c. a community participation plan providing for input by Oakland community members in decisions concerning the Main Hall's preservation and reuse; and</li> <li>d. a development plan demonstrating that the proposed renovation and reuse of the Main Hall is consistent with the design standards, policies, and goals of the <i>OARB Area Redevelopment Plan</i> (as amended); the <i>City of Oakland General Plan</i> (as amended); and the Wood Street Zoning District; as well as</li> </ul>				

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	with any other design criteria that the Agency determines is appropriate to meet said goals and policies.				
	CR-2.6 <i>Facilitate Rehabilitation and Reuse of Main Hall, Platform and Signal Tower.</i> Upon determination by the OARB Redevelopment Agency of sufficient funding (through Redevelopment Agency approval of the use of sufficient tax increment funding, realization of that funding, and realization of any additional funding referenced in Mitigation Measure CR-2.5 above, all as determined by the Redevelopment Agency), the Project Sponsor of Development Area Five shall use such funding to rehabilitate the facilities depicted for retention in Figure 2-4 of the Draft EIR, in accordance with the Secretary of the Interior’s Standards for the Treatment of Historic Buildings, and in conformance with the General Standards referenced in the Dreyfuss report, page 5. <sup>4</sup> This rehabilitation shall include using salvaged materials to the extent feasible, and seismically strengthening and rehabilitating the exterior of the Main Hall, including the portions of the platform that are to be preserved. No additions to the structures would be permitted except as specified in the Dreyfuss report, page 5. <sup>5</sup>	59	SU	Redevelopment Agency, City Planning Director	As reflected in VTMP Condition 59.

<sup>4</sup> These are: (1) Any renovation, modification or addition to the 16th Street Station shall conform with the standards set forth in the Planning Code “Special regulations of designated landmarks.” (2) Any reuse of the 16th Street Station shall include stabilization and repair of exterior materials to improve the exterior appearance and to ensure a water tight building envelope. (3) For the purpose of the standards, the primary portion of the station is defined as the General Waiting Room and the symmetrical wings to the north and south. A water tight building envelope refers to measures designed to preclude rain from entering the building. The General Waiting Room and symmetrical wings to the north and south comprise the Main Hall as that term is used in this EIR.

<sup>5</sup> The standards for additions are: 1(a). No addition to the existing train station shall exceed a total building footprint greater than 20 percent of the existing structure to be retained. 1(b). No addition to the existing train station shall exceed the height of the north or south wings that flank the General Waiting Room (approximately 25 feet in height). 1(c). No addition shall be made to either the primary façade facing the 16th Street Plaza or the southern façade, facing the 14th Street non-development area. 2. No additions are permitted to the Signal Tower.

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	Plaques shall be installed on the exterior façade of the station and the Signal Tower that identify their historic uses and include additional historical information. A display shall be created on the interior of the Station using historic photos and documents to give a more complete history of the Station and the Signal Tower.				
	CR-2.7 <i>Reuse of the Main Hall.</i> The reuse of the Main Hall shall incorporate exhibit space commemorating the site's cultural history and its function as the end of the trans-continental railroad and the gateway arrival point in the West. The exhibit space could also serve as a venue for private and public events, facilitating greater exposure of persons to the historical significance of the Station. Oral histories shall be recorded and made available to the extent feasible. The building would not be subjected to extensive night lighting. Reuse shall proceed according to the finance, management, community participation, and development plans submitted pursuant to Mitigation Measure CR-2.5, as approved by the Redevelopment Agency, as well as any other design criteria that the City Planning Director determines is appropriate to meet the City's goals and policies.	60	SU	Redevelopment Agency, City Planning Director	Prior to issuance of the first certificate of building occupancy in the respective Development Area; upon approval of funding by the Redevelopment Agency as specified in CR-2.5.
	CR-2.8 <i>Enhancement of the Train Station Setting.</i> The Project Sponsor of Development Area Nine shall construct and landscape the plaza area to provide an enhanced visual setting for the Main Hall, to provide a visual focus and view corridor, to increase public accessibility to the 16 <sup>th</sup> Street Train Station, and to create a feature that recalls the historic use of the Station. All these improvements shall be	61	SU	Project Sponsor	Prior to issuance of certificate of building occupancy of the restored Main Hall or issuance of a certificate of occupancy for the 600th residential

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
	completed with private financing by the Project Sponsor; no public funds would be requested with respect to the Plaza.				dwelling within the Project Area, whichever occurs first.
	Conditions 52A, 56A, 56B and 57A are incorporated as mitigation measures	52A, 56A, 56B, 57A	SU	Redevelopment Agency, City Planning Director, Project Sponsor	As indicated in Conditions 52A, 56A, 56B and 57A
CR-3. The Project would adversely affect the historical setting and views of the historic 16 <sup>th</sup> Street Train Station and the 16 <sup>th</sup> Street Signal Tower. (S)	No mitigation is available to reduce the impact on the views of the 16 <sup>th</sup> Street Train Station and Signal Tower, the physical relationship between the two, and the loss of Bea's Hotel. Thus, this impact would remain significant and unavoidable.		SU		
CR-4. The Project would not adversely affect the historical setting and views of other historic resources in the vicinity of the Project Area. (LTS)	None required.		LTS		
<b>Cumulative Cultural Impact</b>					
CR-5. The Project, in combination with other related development and background growth, would not result in a significant cumulative loss of the City's historic fabric. (LTS)	None required.		LTS		

#### Hazardous Materials

HM-1. Project-related demolition or renovation could disturb hazardous materials in existing building components and thereby could cause adverse health or safety effects. (PS)	<i>HM-1.1 Pre-Construction Hazardous Materials Surveys and Management of Hazardous Materials Properly if Identified.</i> Prior to demolition or renovation of any structures, the Project Sponsor of Development Areas Two, Four, Five, and Six shall retain a qualified environmental specialist (e.g., a certified consultant or lead inspector/assessor or similarly qualified individual) to inspect existing	45	LTS (other agency)	City Building Services Department	Prior to issuance of the first demolition permit in the respective Development Area and on-going during demolition.
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ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
HM-2. Site grading and landscaping, excavation, and construction of proposed building foundations, utility trenches, and roadwork for the Project could expose construction personnel and the public to existing contaminated soil and/or groundwater if approved remediation cleanup levels have not been achieved. (PS)	buildings subject to demolition or renovation for the presence of as yet unidentified asbestos, PCBs, mercury, lead, or other hazardous materials. If after inspection and analytical testing, hazardous building materials are found at levels that require special handling (e.g., special packaging prior to transport, separation from other non-hazardous solid waste, keeping material damp with water, etc.), the Project Sponsors and their contractors shall manage these materials as required by law and according to federal and state regulations and guidelines, including those of DTSC, RWQCB, BAAQMD, Cal/OSHA, and any other agency with jurisdiction over these hazardous materials. The Project Sponsors shall obtain permits for demolition and show proof that the building materials have been tested and/or removed by a certified environmental professional.	47	LTS	City Building Services Department, Public Works Agency	Prior to issuance of the first grading or building permit in the respective Development Area and during all construction activities affecting soil and groundwater if petroleum hydrocarbons or VOCs are present.
	<i>HM-2.1 Site Health and Safety Plan.</i> Because historic uses at the Project Area have led to soil and groundwater contamination, the Project Sponsor and its contractors shall comply with the <i>Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities</i> regulatory requirements for hazardous materials/waste health and safety plans. The site health and safety plan shall establish policies and procedures to protect workers and the public from potential hazards posed by residual contamination in the development area. The plan shall identify contaminants, potential hazards, material handling procedures, dust suppression measures, personal protection clothing and devices, access controls to the site, health and safety training requirements, monitoring equipment used during construction to verify health and safety of workers and the				



ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
	public, measures to protect public health and safety, and emergency response procedures. If petroleum hydrocarbons or VOCs are present in the soil and/or groundwater proposed for the use of backfill or disposal, the handling and disposal of the contaminated soil and groundwater shall be in accordance with applicable local and federal hazardous materials regulations.	48	LTS (other agency)	RWQCB, City Planning and Zoning Department	Prior to issuance of the first building permit in the respective Development Area.
HM-3. Routine use or accidental release of hazardous materials during operations of the Project could expose people or the environment to these materials. However, management of hazardous materials shall comply with applicable laws so that the impact from accidental releases is considered less than significant. (LTS)	None required.		LTS		
<b>Cumulative Hazardous Materials Impacts</b>					
HM-4. The Project, in combination with other related projects and background growth, would not significantly contribute to cumulative impacts associated with hazardous materials use,	None required.		LTS		

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
generation, disposal, transport, or clean-up. (LTS)					
<b>Soils, Geology, and Seismicity</b>					
GE-1. Buildings and infrastructure associated with implementation of the Project could be subject to <i>potentially damaging, seismically induced</i> groundshaking during the life of the Project, but compliance with seismic standards would reduce impacts to a less-than-significant level. (LTS)	None required.		LTS		
GE-2. The Project would be subject to RWQCB requirements that regulate erosion. Conformance with these standards would ensure that erosion would not be a substantial hazard in the Project Area. (LTS)	None required.		LTS		
GE-3. Buildings and infrastructure associated with implementation of the Project would be subject to hazards from development on weak and potentially expansive soils and undocumented fill, but compliance with existing building codes would reduce these hazards to less than significant. (LTS)	None required.		LTS		
<b>Cumulative Soils, Geology and Seismicity Impact</b>					
GE-4. The Project, in combination with other related projects and background growth, would not significantly contribute to cumulative impacts associated with erosion, seismic groundshaking, or unstable soils. (LTS)	None required.		LTS		
<b>Hydrology and Water Quality</b>					
HY-1. The Project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the groundwater table. (LTS)	None required.		LTS		
HY-2. Implementation of the Project would	None required.		LTS		
<b>Legend:</b> (S) Significant Adverse Impact (PS) Potentially Significant Impact (LTS) Less-than-significant Impact (NI) No Impact (SU) Significant and Unavoidable Impact					

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
involve construction activities that could increase amounts of silt and sediment and degrade receiving water quality, resulting in a significant impact. However, compliance with state and federal regulations would reduce potential construction-period water quality impacts to less than significant. (LTS)	None required.		LTS		
HY-3. Implementation of the Project would involve the development of impervious surfaces and urban uses. Stormwater runoff from these uses would contain silt, sediment, and other pollutants that could degrade receiving water quality. However, existing regulations would require the Project Sponsors to prepare a SWPPP for each development area and implement BMPs to control stormwater runoff. Therefore, water quality impacts from long-term operations of each individual development area would be less than significant. (LTS)	None required.		LTS		
HY-4. The Project would increase impervious surface in the Project Area, which could increase surface runoff. However, the Project would comply with the City's flood protection regulations, which require that the Project Sponsors ensure that stormwater collection and drainage systems could accommodate runoff from the developed site. Therefore, the Project would not create or contribute runoff that would exceed the capacity of existing or planned stormwater drainage systems, and the impact of each development area would be considered less than significant. (LTS)	None required.		NI		
HY-5. Construction of the Project would not place people and structures in an area that is prone to seiche, tsunami, or mudflow. (NI)	None required.		NI		

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
<b>Cumulative Hydrology and Water Quality Impact</b>					
HY-6. The Project, in combination with other related projects and background growth, would not significantly contribute to cumulative impacts associated with groundwater recharge or groundwater quality; surface water quantity (stormwater), flooding, or other water-related hazards; or surface water quality. (LTS)	None required.		LTS		
<b>Biological Resources</b>					
BR-1. Removal of protected trees within the Project Area would be in compliance with the City of Oakland Tree Preservation and Protection Ordinance. Therefore, all potential impacts to trees within the Project Area would be considered less than significant. (LTS)	None required.		LTS		
BR-2. Demolition of structures and removal of vegetation from within the Project Area could result in destruction of bird nests. (PS)	<i>BR-2.1 Preconstruction Surveys and Protection Measures for Nesting Birds.</i> If vegetation is removed outside the nesting season (typically February 1 to August 31), there would be no effect on nesting birds and the following surveys would not be required. Construction activities shall, therefore, be timed to avoid vegetation removal or demolition during the nesting season. If this cannot be accomplished, then a qualified biologist shall conduct preconstruction nesting surveys no more than one week prior to vegetation or building removal to determine if nesting birds are present. If nesting birds are present, an appropriate buffer zone shall be developed by the biologist and construction activities shall be suspended in this zone until future surveys indicate that the chicks have fully fledged (left the nest). Completion of preconstruction surveys and avoidance of bird nests would result	3	LTS	City of Oakland Building Services Department and Planning and Zoning Department	Prior to issuance of the first demolition permit in the respective Development Area; survey prior to construction no more than one week prior to vegetation removal; if present, repeat surveys until birds have fledged and repeat every 21 days from the date of the first survey; resurvey
<b>Legend:</b> (S) Significant Adverse Impact (PS) Potentially Significant Impact (LTS) Less-than-significant Impact (NI) No Impact (SU) Significant and Unavoidable Impact					

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
					if construction schedule changes.
<b>Cumulative Biological Resources Impact</b>					
BR-3. The Project, in combination with other related projects and background growth, would not significantly contribute to cumulative impacts associated with biological resources. (LTS)	None required.		LTS		
<b>Population, Employment, and Housing</b>					
PH-1. The Project would increase population in the population study area, but the projected growth would not result in direct or indirect effects such that additional infrastructure is required. (LTS)	None required.		LTS		
PH-2. The Project and the associated change in land use from commercial/industrial to residential mixed-use would increase the amount of land designated for residential development in Oakland and would not displace any residents or housing units. (NI)	None required.		NI		
<b>Cumulative Population, Employment, and Housing Impact</b>					
PH-3. The Project proposes additional housing that would increase the amount of land designated for residential development in Oakland, but would not displace any residents or housing units or contribute to a cumulatively considerable effect on population and housing in Oakland. (LTS)	None required.		LTS		
<b>Utilities</b>					
UT-1. The Project would not exceed the wastewater treatment requirements of the applicable Regional Water Quality Control Board.	None required.		LTS		
<b>Legend:</b> (S) Significant Adverse Impact (PS) Potentially Significant Impact (LTS) Less-than-significant Impact (NI) No Impact (SU) Significant and Unavoidable Impact					

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
(LTS)					
UT-2. The Project would require the construction of new stormwater drainage facilities within the Project Area. However, the existing drainage pattern would not be altered, extensions of storm drains would connect to existing drains, and construction-related mitigation measures would be imposed. Therefore, impacts would be considered less than significant. (LTS)	None required.		LTS		
UT-3. EBMUD would have sufficient water supplies available to serve the Project from existing entitlements and resources. (LTS)	None required.		LTS		
UT-4. The Project would increase sewer flows to EBMUD facilities, but would not require the construction of new wastewater treatment facilities or expansion of existing facilities. (LTS)	None required.		LTS		
UT-5. The Project would not result in solid waste disposal needs beyond the permitted capacity of the local landfill and would comply with federal, state, and local statutes and regulations related to solid waste. (LTS)	None required.		LTS		
UT-6. The Project would incrementally increase the demand for energy provided by PG&E. (LTS)	None required.		LTS		
<b>Cumulative Utilities Impact</b>					
UT-7. The Project, in combination with other related projects and background growth, would not significantly contribute to cumulative utilities impacts. (LTS)	None required.		LTS		
<b>Public Services</b>					
PS-1. Increases in employees and residents as well as increased building density in the Project Area would increase demand for fire and first	None required.		LTS		
<b>Legend:</b> (S) Significant Adverse Impact (PS) Potentially Significant Impact (LTS) Less-than-significant Impact (NI) No Impact (SU) Significant and Unavoidable Impact					

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
responder emergency medical services; however, this would not trigger the need for new or expanded facilities. (LTS)					
PS-2. Increases in residential population as a result of the Project would increase demand for police services. However, implementation of the Project would not require new or altered police facilities in order to maintain acceptable service ratios. As a result, impacts to police services would be considered less than significant. (LTS)	None required.		LTS		
PS-3. Increase in residential population as a result of the Project would increase student enrollment in the Oakland Unified School District. (LTS)	None required.		LTS		
PS-4. Development of the Project would increase the demand for library services; however, because the Project would not require any expansion or construction of new library facilities beyond those already planned, the Project's impacts would be less than significant. (LTS)	None required.		LTS		
PS-5. The Project would generate new residents in the Project Area, thereby increasing the demand for park and recreational facilities and other open space. However, this increase in demand would be considered less than significant under CEQA. (LTS)	None required.		LTS		
<b>Cumulative Public Services Impact</b>					
PS-6. Increases in employees and residents as well as increased building density in the City would increase the cumulative demand for police protection, fire protection, and emergency response services and could result in the need for new or expanded facilities.	None required.		LTS		

ENVIRONMENTAL IMPACT (LEVEL OF SIGNIFICANCE BEFORE MITIGATION)	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE <sup>1</sup>	MONITORING RESPONSIBILITY <sup>2</sup>	MONITORING TIMEFRAME
PS-7. Increases in the residential population of the City would increase the cumulative student enrollment in the Oakland Unified School District and could result in the need for new or expanded facilities.	None required.		LTS		
PS-8. Increases in employees and residents in the City would increase the cumulative demand for library services; however, the City is preparing a Master Facilities Plan to address long-term community needs. Consequently, cumulative library impacts are considered less than significant.	None required.		LTS		
PS-9. Increases in the residential population of the City would increase the cumulative demand for park and recreational facilities or other open space areas and could result in the need for new or expanded facilities.	None required.		LTS		



**EXHIBIT C  
VTPM RESOLUTION NO. 79249**

**CONDITIONS OF APPROVAL**

**APPROVED BY THE CITY COUNCIL  
MAY 17, 2005**

**PROJECT SPONSORS: BUILD WEST OAKLAND, LLC; PCL ASSOCIATES LLC;  
HFH CENTRAL STATION VILLAGE, LLC; CENTRAL STATION LAND, LLC**

**PROJECT: WOOD STREET ZONING DISTRICT**

**VESTING TENTATIVE PARCEL MAP NUMBERS 8551, 8552, 8553, 8554, and 8555**

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**General Notes and Definitions:**

- Many conditions reference operation and construction details that are not required to be completed before a final map is approved, but are to be completed in accordance with the schedule set forth in the Mitigation Monitoring and Reporting Program (MMRP) for the Wood Street Project.
- This document collects all Conditions of Approval applicable to all Vesting Tentative Parcel Maps (VTPMs) within the Wood Street Zoning District. Each condition applies to each VTPM unless only certain map(s), or parcel(s) within map(s), are referenced within a condition, in which case that condition applies only to the referenced parcel(s) and map(s). Staff is directed to break out the conditions applicable to each VTPM, and attach only the conditions relevant to the VTPM at issue as Exhibit C to the document approving that VTPM. Condition numbers should be kept static. This means that some condition numbers will not be used for some VTPMs, and staff should indicate when a condition number is intentionally left blank.
- “Project Sponsor” is defined as the owner(s) of the parcels represented on the particular final parcel map for the Wood Street Project.
- Unless noted otherwise, the phrase “prior to the issuance of a [or any] building [or demolition or grading] permit” refers to the first permit issued for work on a particular parcel represented on one of the five vesting parcel maps. The requirement that a condition occur prior to the issuance of any permit means that such condition must be satisfied as with regard to all parcels within the applicable final parcel map, not all parcels that constitute the Wood Street Project.

- “Train Station Entity” is defined as any entity, including but not limited to a 501(c)(3) nonprofit organization, established to oversee the rehabilitation or reuse of the 16th Street Train Station.
- Exhibit C to the VTPM Resolutions contains definitions relating to Train Station facilities that are used in all findings as well. Specifically, references to the 16th Street Train Station and its various components are as follows. “16th Street Train Station” refers to all facilities associated with the station, which are as follows:
  - the “Main Hall” (including its north and south wings, and the canopy at the Wood Street entrance to the Main Hall)
  - the “Elevated Platform” (which housed the Elevated Tracks before they were removed in the 1940s)
  - the “Baggage Wing”
  - the “Signal Tower”
  - the “Elevated Platform Feasibility Study Area,” which is the area of the Elevated Platform which is immediately adjacent to the Main Hall and the Baggage Wing

Each of these capitalized, quoted terms refers to facilities that comprise the 16th Street Train Station, as depicted in Figure 1 attached to the VTPM Conditions of Approval (Exhibit C to the VTPM Resolution). References to portions of the 16th Street Train Station to be preserved or rehabilitated, and references to portions of the 16th Street Train Station to be demolished, refer to the portions to be preserved, rehabilitated and demolished after implementation of Conditions 56A and 57A.

1. Applicable Zoning District Regulations.

Development shall comply with each of the provisions of the Wood Street Zoning District Standards, Guidelines and Regulations dated May 17, 2005, and subject to first reading by the City Council on May 17, 2005.

**BICYCLE PARKING**

**2. Bicycle Parking.**

***Prior to the issuance of the first building permit.***

The Project Sponsor shall submit final design plans for review and approval of the Planning and Zoning Division that show bicycle storage and parking facilities to accommodate long-term bicycle parking spaces consistent with the City of Oakland Bicycle Master Plan (July 1999). The plans for each parcel shall show the design and location of bicycle racks within secure bicycle

storage areas. The Project Sponsor shall pay for the cost and installation of any bicycle racks in the public right of way and shall be in compliance with City standards. [WS MM TR-5.1]

## **BIOLOGICAL RESOURCES**

### **3. Preconstruction Surveys and Protection Measures for Nesting Birds.**

*Prior to issuance of first demolition permit; survey prior to construction no more than one week prior to vegetation removal; if present, repeat surveys until birds have fledged and repeat every 21 days from the date of the first survey; resurvey if construction schedule changes.* Construction activities shall be timed to avoid vegetation removal or demolition during the nesting season (typically February 1 to August 31), where possible. If this cannot be accomplished, then a qualified biologist shall conduct preconstruction nesting surveys no more than one week prior to vegetation or building removal to determine if nesting birds are present. If nesting birds are present, an appropriate buffer zone shall be developed by the biologist and construction activities shall be suspended in this zone until future surveys indicate that the chicks have fully fledged (left the nest). Completion of preconstruction surveys and avoidance of bird nests would result in no impacts to nesting birds. Survey results shall be valid for a period of 21 days from the date of the survey. Should vegetation or building removal fail to be conducted within this time frame, a second survey shall be undertaken. [WS MM BR-2.1]

## **BUILDING ADDRESS SIGNS**

### **4. Building Address Signs.**

*Prior to issuance of first certificate of occupancy.*

The Project Sponsor shall submit for review and approval of the Planning and Zoning Division, plans showing the design and location of the building address signs of each residential or commercial unit. All address signs shall be clearly posted, lighted and permanently maintained.

## **BUILDING REQUIREMENTS**

### **5. Sustainable Development Policies.**

*Prior to issuance of any building permit and ongoing.*

The Project Sponsor shall include energy-conserving fixtures and designs, as required by Title 24 of the Uniform Building Code (UBC). [OARB MM 4.4-6]

### **6. Solar Systems.**

*Prior to issuance of any building permit.*

New active or passive solar systems within or adjacent to the Project Area shall be set back from the property line a minimum of 25 feet. Proposed solar systems shall be located in a manner that will not unduly restrict design of future development. Such conflicts, if any, shall be resolved in design review. If the proposed solar system cannot be designed to accommodate adjacent activities on future development, it shall be disallowed.

New building or landscaping shall not shade existing or proposed parks or open spaces in a manner that would make these public spaces substantially less useful or enjoyable to the public.

The City may require specific building placement, tiered roofs, or other means of reducing shadow effects on public opens spaces to reduce shade to the maximum extent feasible.  
[OARB MM 4.11-3]

**7. Construction Adjacent to Parks/Open Space.**

***Prior to issuance of any building permit.***

The Project Sponsor shall demonstrate through design review, to the satisfaction of the City, that the Project will not interfere with, or have a detrimental effect on the public using Raimondi Park. [OARB MM 4.11-6]

**7A. Construction Labor Partner.**

***Prior to issuance of first demolition grading or building permit and during all construction activity.***

The Project Sponsor shall engage an experienced construction personnel training and evaluation individual or entity ("Construction Labor Partner") to solicit, interview and test, select, train and prepare for work, residents of West Oakland. If it appears there will not be enough West Oakland Residents to fill likely construction employment positions at all of the construction employment positions at all of the construction projects planned within the Wood Street Zoning District, the Construction Labor Partner will extend the same services to other residents of the City of Oakland. The Construction Labor Partner shall contact groups including but not limited to the Youth Employment Partnership, BACSIC, Men of Valor, and Cypress Mandela Training Center to assure a ready workforce. The engagement of the Construction Labor Partner will commence no less than three months before the commencement of any construction activity on any parcel and will continue until the date of a Notice of Substantial Completion is filed for such construction activity.

The Project Sponsor shall require that its general contractor and all subcontractors (collectively, "Contractor") engaged to perform construction work on the site provide written notice (by facsimile, electronic mail or hand delivery) to the Construction Labor Partner and the Project Sponsor of Contractor's intent to hire employees at least six weeks prior to commencement of construction. The Project Sponsor shall require that in the event the Construction Labor Partner refers individuals ("Resident Construction Applicants") to Contractor for work within five business days of receipt of the written notice, Contractor shall interview and diligently consider for hire such Resident Construction Applicants prior to interviewing or hiring any other persons. If the work on the project is covered by a Project Labor Agreement or other agreement with a labor union, the Construction Labor partner shall refer the Resident Construction Applicant to the appropriate union for consideration for employment and/or apprenticeship.

The Project Sponsor shall require each Contractor to submit to the Project Sponsor, along with any request for payment, a monthly report of the Resident Construction Applicants interviewed and/or employed during the prior month, including the hours worked, and the name, address and California driver's license number (or other satisfactory identification) of such Residential Construction Applicants interviewed or employed.

Compliance with this condition shall be monitored by the Workforce Investment Manager through review of reports which shall be contained in the regular Job Performance Training Standards. Copies of all reports shall also be provided to the Development Director or his/her designee.

Each Project Sponsor (which, for purposes of this Condition of Approval includes any agent, heir, successor and/or assign of a Project Sponsor) voluntarily agrees to be bound by this Condition and waives any right that it may have to challenge this Condition on any grounds. This Condition shall not limit the right of City/Agency, in its discretion, to impose any term or condition on a decision to subsidize or otherwise participate in any portion of the project, including, without limitation, the right to apply City/Agency programs requiring local hiring, payment of prevailing wage, and equal benefits.

**7B. Project Labor Agreement for City-Subsidized Work.**

*Prior to issuance of first demolition grading or building permit and during all construction activity.*

In the event any portion of the development of Parcel 2 of VTPM 8554 or Parcel 3 of VTPM 8551 is financially subsidized by the City of Oakland or the Redevelopment Agency, the Project Sponsor of such parcel shall enter into a Project Labor Agreement for such construction. The City encourages the Project Sponsors of all other parcels within the Wood Street Zoning District to meet with the Building Trades Council.

Each Project Sponsor (which, for purposes of these Conditions of Approval includes any agent, heir, successor and/or assign of a Project Sponsor) voluntarily agrees to be bound by this Condition and waives any right that it may have to challenge this Condition on any grounds. This Condition shall not limit the right of City/Agency, in its discretion, to impose any term or condition on a decision to subsidize or otherwise participate in any portion of the project, including, without limitation, the right to apply City/Agency programs requiring local hiring, payment of prevailing wage, and equal benefits.

**CONSTRUCTION HOURS & ACTIVITIES**

**8. Grading Construction Hours.**

*During all grading and construction activities.*

Grading and construction hours shall be limited to between 7:00 AM to 7:00 PM, Monday through Friday. Grading and construction activities shall be allowed on Saturdays or outside the hours of 7:00 a.m. to 7:00 p.m. only upon the written approval of the Planning Director. No grading or construction activity shall take place on Sundays or Federal or State holidays.

**9. Construction Phasing and Traffic Management Plan.**

*Prior to issuance of the first building permit (items a and b), and during construction (items c-p).*

The Project Sponsor and construction contractor shall meet with the Traffic Engineering and Parking Division of the Oakland Public Works Agency (PWA) and other appropriate City of Oakland agencies to determine traffic management strategies to reduce traffic congestion and the

effects of parking demand, to the maximum feasible extent, by construction workers during construction of this project and other nearby projects that could be simultaneously under construction.

The Project Sponsor shall prepare and implement a construction phasing plan and traffic management plan that defines how traffic operations will be managed and maintained during each phase of construction. The plan shall be developed with the direct participation of the City of Oakland. AC Transit shall be given the opportunity to review and comment on the plan. In addition, the property owners of all businesses adjacent to the construction areas shall be consulted. To the maximum practical extent, the plan shall include at least the following: [WS MM TR-1.1]

- a. Provide a set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.
- b. Provide detail regarding how access will be maintained to individual businesses where construction activities may interfere with ingress and egress. Any driveway closures shall take place during non-business hours. [WS MM TR-1.1]
- c. Specify predetermined haul routes from staging areas to construction sites and to disposal areas by agreement with the City prior to construction. The routes shall follow streets and highways that provide the safest route and have the least impact on traffic and residents. [WS MM TR-1.1]
- d. Provide for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.
- e. Provide notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.
- f. Provide for accommodation of pedestrian flow.
- g. Locate construction staging areas.
- h. Provide for monitoring of surface streets used for haul routes so that any damage and debris attributable to haul trucks can be identified and corrected.
- i. Locate a temporary construction fence to contain debris and material and to secure the site.
- j. Provide for removal of trash generated by project construction activity.
- k. Provide dust control measures set forth in [Condition No. 15] [See WS MM AQ-1.1].
- l. Noise control measures as set forth in [Condition No. 17] [See WS MM NO-1.1].

- m. Require the contractor to provide information to the public during construction, using signs, press releases, and other media tools of traffic closures, detours or temporary displacement of left-turn lanes. [WS MM TR-1.1]
- n. Provide a process for responding to, and tracking, complaints pertaining to construction activity, including the identification of an on-site Project Manager.
- o. Provide a single phone number for the Project Manager that property owners and businesses can call for construction scheduling, phasing, and duration information, as well as for complaints. [WS MM TR-1.1]
- p. Identify construction activities that must take place during off-peak traffic hours or result in temporary road closures due to concerns regarding traffic safety or traffic congestion. Any road closures will be done at night under ordinary circumstances. If unforeseen circumstances require road closing during the day, the City of Oakland shall be consulted. [WS MM TR-1.1]

**10. Construction Site Project Manager.**

***Prior to issuance of first demolition, grading or building permit and during all construction activity.***

The Project Sponsor shall designate a Project Manager who shall be responsible for responding to any complaints from the neighborhood residents and businesses about excessive noise or construction issues during construction periods. The Project Manager's office and mobile telephone number and identification photograph shall be conspicuously posted at the construction site. The Project Manager shall determine the cause of any complaints and shall take prompt action to correct the problem consistent with these conditions. The Project Sponsor shall provide the Planning and Zoning Division with the name and telephone number of the Project Manager prior to the issuance of a grading permit.

**11. Neighbor Noticing of Access Obstructions.**

***During all construction activities.***

To the maximum extent feasible, construction vehicles, materials, and other equipment shall not block roads so that neighbors would be adversely affected from getting to and from their properties. The Project Sponsor shall ensure that immediately adjacent property owners are notified in writing no less than 48 hours before the occurrence of any major delivery or hauling which might cause detours or lane closures related to the project's construction activities.

**12. Encroachment Permit.**

***Prior to issuance of any grading or building permit in public right of way.***

The Project Sponsor shall obtain any encroachment permits, waiver of damages or other approvals required by the Building Services Division, prior to grading permit and building permit issuance, for any privately constructed public improvements, or any permanent or temporary elements located in the public right of way, including fences, stairs, driveways, and/or retaining walls.

### **13. Site Maintenance.**

#### ***During all construction activities.***

The Project Sponsor shall ensure that debris and garbage is collected and removed from the site daily.

### **14. Approved Plans on Site.**

#### ***During all construction activities.***

At least one (1) copy of the above referenced approved construction phasing and traffic management plans and the Conditions of Approval for this project shall be available for review at the job site at all times.

### **15. Dust Control Measures.**

#### ***Prior to issuance of the first demolition, grading or building permit.***

Dust control measures shall be instituted and maintained during construction to minimize air quality impacts. The measures shall be included in the contractor construction documents and include the following:

- a. Water all active construction areas as necessary (at least twice daily) to control dust.
- b. Cover stockpiles of debris, soils or other material if blown by the wind.
- c. Sweep adjacent public rights of way and streets daily (with water sweepers) if visible soil material or debris is carried onto these areas.
- d. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard. Trucks hauling materials qualified as hazardous waste must be covered.
- e. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- f. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- g. Install sandbags or other erosion control measures to prevent silt runoff onto public roadways.
- h. Replant vegetation in disturbed areas as quickly as possible.
- i. Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas, and staging areas at the construction sites.
- j. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at the construction sites.
- k. Install wheel washers for all exiting trucks or wash off the tires or tracks of all trucks and equipment leaving the construction site.



- l. Install wind breaks at the windward sides of the construction areas.
- m. Suspend excavation and grading activities when wind (as instantaneous gusts) exceeds 25 miles per hour.
- n. Limit traffic speeds on unpaved roads to 15 miles per hour.

[WS MM AQ-1.1]

**16. Construction-Related Water and Fire Service.**

***Prior to issuance of grading or building permit.***

The Project Sponsor shall secure from the East Bay Municipal Utilities District verification of water service and fire hydrant flow prior to delivery or storage of combustible materials (e.g., lumber, plywood, etc.) on site and as required by the Fire Department.

**17. Construction-Related Noise Control.**

***Prior to issuance of the first building permit; inspections during construction phase of Project.***

To reduce daytime noise impacts due to construction to the maximum feasible extent, the Project Sponsor shall develop a site-specific noise reduction program, subject to City review and approval. The following practices shall be incorporated into the construction documents to be implemented by the Project Sponsor's contractor, and these practices shall be provided to the Department of Building Inspection for approval prior to the issuance of building permits:

- i) Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City and Project Manager in the event of complaints. Pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday, with no extreme noise generating activity permitted between 12:30 and 1:30 p.m. or on weekends and holidays.
- ii) Schedule construction activity that produces higher noise levels during less noise-sensitive hours (normally 8:00 a.m. to 4:00 p.m. on weekdays). Minimize noise-intrusive impacts during the most noise-sensitive hours by planning noisier operations during times of highest ambient noise levels (normally 8:00 a.m. to 4:00 p.m. on weekdays).
- iii) The Project Manager or his/her appointed on-site complaint and enforcement manager/noise disturbance coordinator (if different from the Project Manager) shall be designated and posted to respond to and track complaints about noise during construction. The office and mobile telephone number of the noise disturbance coordinator shall be conspicuously posted at the construction site and shall be provided to the Department of Building Inspection. Copies of the construction schedule shall also be posted at nearby noise-sensitive areas.

- iv) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and-practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc.).
- v) Equipment and trucks used for project construction shall utilize the best available noise control techniques wherever feasible (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds) in order to minimize construction noise impacts.
- vi) Impact tools and equipment (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered whenever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler or compressed air silencers shall be used on the compressed-air exhaust; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures, such as drilling rather than use of impact equipment, shall be used whenever feasible.

Compressed air exhaust silencers shall be used on other equipment.

- vii) Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, or insulation barriers or other measures shall be incorporated to the extent feasible. Such noise reduction measures include, but are not limited to, the following:
  - Use shields, impervious fences, or other physical sound barriers to inhibit transmission of noise to sensitive receptors;
  - Locate stationary equipment to minimize noise impacts on the community; and
  - Minimize backing movements of equipment.
- viii) Prohibit unnecessary idling of internal combustion engines.
- ix) Select routes for movement of construction-related vehicles and equipment so that noise-sensitive areas, including residences, hotels, and outdoor recreation areas, are avoided as much as possible. Include these routes in materials submitted to the Department of Building Inspection for approval prior to the issuance of building permits. [WS MM NO-1.1]

**18. Pile Driving - Noise Attenuation.**

***Prior to any pile driving or other extreme noise generating activities on the site.***

As part of a noise reduction plan, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. This noise reduction plan shall be submitted for review and approval by the City Building Services Department to ensure that maximum feasible noise attenuation is achieved to satisfy the City's standards contained in Section 17.120.050 of the Planning Code. A third-party peer review, paid for by the Project Sponsor, shall be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the Project Sponsor. A special inspection deposit to pay for the City's reasonable costs of determining compliance with the noise reduction plan shall be paid by the Project Sponsor concurrent with submittal of the noise reduction plan. These attenuation measures shall include as many of the following control strategies as feasible and shall be implemented prior to any required pile-driving activities:

- i) Implement "quiet" pile-driving technology, where feasible, in consideration of geotechnical and structural requirements and conditions;
- ii) Erect temporary plywood noise barriers around the entire construction site;
- iii) Adjust the scheduling and duration of pile driving;
- iv) Utilize noise control blankets on the building structure as it is erected to reduce noise emission from the site;
- v) Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and
- vi) Monitor the effectiveness of noise attenuation measures by taking noise measurements during pile driving activities. [WS MM NO-1.2]

**19. Pile Driving - Complaint Response.**

***Prior to the issuance of the first building permit.***

Prior to the issuance of each building permit, along with the submission of construction documents, the Project Sponsor shall submit to the City Building Department a list of measures to respond to and track complaints pertaining to pile driving construction noise. These measures shall include:

- i) A procedure for notifying the City Building Division staff and Oakland Police Department;
- ii) A plan for posting signs on site pertaining to permitted construction days and hours, complaint procedures, and who to notify in the event of a problem;
- iii) A listing of telephone numbers (during regular construction hours and off hours);

- iv) Designation of an on-site construction complaint manager for the Project in accordance with Condition No. 10;
- v) Notification of neighbors within 300 feet of the Project construction area at least 30 days in advance of pile-driving activities about the estimated duration of the activity; and
- vi) A preconstruction meeting to be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, neighborhood notification, and posted signs) are completed. [WS MM NO-1.3]

**20. Construction-related Waste Recycling.**

*During all construction activities.*

Concrete and asphalt removed during demolition/construction shall be crushed on-site or at a near-site location, and reused in redevelopment or recycled to the construction market in order to avoid disposal to landfill of this material. [OARB MM 4.9-8]

**EMERGENCY PREPAREDNESS**

**21. Emergency Preparedness and Evacuation Plan.**

*Prior to issuance of any building permits.*

The Project Sponsor shall submit for review and approval by the Planning and Zoning Division and any other relevant City departments, an Emergency Preparedness and Evacuation Plan for the proposed project.

**22. Emergency Response Area Construction Activities.**

*During all construction activities.*

The Project Sponsor shall notify the Office of Emergency Services (OES) of its plans in advance of construction or remediation activities so that OES may plan emergency access and egress taking into consideration possible conflicts or interference during the construction phase. The Project Sponsor shall also notify OES once construction is complete. [OARB MM 4.9-3]

**ENVIRONMENTAL REVIEW**

**23. CEQA Compliance with Mitigation Monitoring and Reporting Program.**

*Ongoing.*

The Project Sponsor shall implement all the mitigation measures contained in the attached MMRP to the extent such measures are its responsibility as set forth in the MMRP. The MMRP contains mitigation measures from the EIR approved pursuant to the California Environmental Quality Act (CEQA) for the project. The MMRP identifies the time frame and specific responsible party for implementation and monitoring for each mitigation measure. Overall monitoring and compliance with the mitigation measures will be the responsibility of the Planning and Zoning Division.

**24. Recordation of Mitigation Monitoring and Reporting Program and Conditions of Approval.**

***Prior to issuance of first demolition, grading or building permit.***

The Project Sponsor shall execute and record with the Alameda County Recorder's Office a copy of the MMRP and Conditions of Approval for the project, on a form approved by the Planning and Zoning Division. Proof of recordation shall be provided to the Planning and Zoning Division.

**FAIR SHARE IMPROVEMENTS**

**25. West Grand Avenue/Frontage Road Intersection.**

***Prior to issuance of the first building permit.***

The Project Sponsor shall fund, on a fair share basis, the following improvements at the intersection of West Grand Avenue/frontage road:

- Revise the northbound frontage road lanes to provide:
  - one left-turn lane
  - one combination left-through lane
  - one through lane
  - one right-turn lane with overlap signal phasing (green arrow)
- Revise the southbound I-80 East Ramp lanes to provide:
  - one left-turn lane
  - one combination left-through lane
  - one through lane
  - one right-turn lane with overlap signal phasing (green arrow)
- Revise the eastbound West Grand Avenue lanes to provide:
  - one left-turn lane
  - one through lane
  - one combination through-right lane
- Revise the westbound West Grand Avenue lanes to provide:
  - one left-turn lane
  - two through lanes
  - one right-turn lane

The estimated amount of the Project Sponsor's contribution is \$1.596 million. Final determination of the Project Sponsor's contribution shall be based on a reasonable formula of the expected growth in traffic at the intersection. This formula shall be devised at the sole and complete discretion of the City of Oakland, and final cost estimates shall include right-of-way costs and all project support costs including design and engineering, construction oversight, preparation of plans and specifications, and detailed project cost estimates. The measured

growth in traffic is based on the traffic analysis in the EIR and the City has no obligation to fund any required improvements in the future. [WS MM TR-9.1]

**26. West Grand Avenue/Mandela Parkway Intersection**

***Prior to issuance of the first certificate of building occupancy.***

The Project Sponsor shall contribute its fair share of modifications at the West Grand Avenue/Mandela Parkway intersection estimated at \$180,000 (in combination with condition of approval #27, including design and engineering, construction oversight, preparation of plans and specifications and detailed project costs estimates.) The modifications at the intersection shall include providing protected left-turn signal phasing (left-turn green arrows) for the West Grand Avenue approaches to the intersection. [WS MM TR-9.2]

**27. 7<sup>th</sup> Street/Mandela Parkway Intersection.**

***Prior to issuance of the first certificate of building occupancy.***

The Project Sponsor shall contribute its fair share of modifications at the 7<sup>th</sup> Street/Mandela Parkway intersection estimated at \$180,000 (in combination with condition of approval #26, including design and engineering, construction oversight, preparation of plans and specifications and detailed project costs estimates). The modifications at the intersection shall include adding a northbound lane on the 3<sup>rd</sup> Street extension to provide one left-turn lane, one combination through-right turn lane, and protected left-turn signal phasing (left-turn green arrows) for all four approaches to the intersection. [WS MM TR-9.3]

**28. West Grand Avenue/Maritime Street and 3<sup>rd</sup> Street/Market Street Intersections.**

***Prior to issuance of the first certificate of building occupancy.***

As part of the cumulative growth of the OARB Area Redevelopment Plan, the Project Sponsor shall pay an amount equal to its fair share, estimated at \$180,000, as determined by the OARB Area Redevelopment Plan EIR, 2002, of future improvements at West Grand Avenue/Maritime Street and 3<sup>rd</sup> Street/Market Street intersections. [WS MM TR-9.4]

**29. BART Train Capacity.**

***Prior to issuance of the first certificate of building occupancy.***

The Project Sponsor shall participate in efforts to ensure that adequate BART train capacity will be available for riders to and from the Project Area, and fund BART train capacity improvements on a fair share basis. [WS MM TR-12.1]

**30. West Oakland BART Station.**

***Prior to issuance of the first certificate of building occupancy.***

The Project Sponsor shall participate in efforts to provide adequate fare gate capacity at the West Oakland BART Station to accommodate the Project. The City and the Project Sponsor shall provide detailed information regarding development to BART to enable BART to conduct a comprehensive fare gate capacity assessment at the West Oakland BART Station. Based on the results of that assessment, the Project Sponsor shall fund its fair share for adding one or more new fare gates at the West Oakland BART Station. *[This condition will be attached to the subdivision maps for Parcels 1, 2, 3, and 4 of VTPM 8551, Parcels 1 and 2 for VTPM 8552,*

*Parcels 1, 2, and 3 for VTPM 8553, Parcel 3 of VTPM 8554, and Parcels 1 and 2 of VTPM 8555 only.] [WS MM TR-8.1].*

**31. Cul-de-Sac or other Turn-Arounds.**

***Prior to approval of Final Development Plan and specifications.***

The Project Sponsors shall incorporate the design of a cul-de-sac or other appropriate turn-around at the end of 11<sup>th</sup> Street and at the end of the 18<sup>th</sup> and 20<sup>th</sup> Street extensions and construct these extensions in compliance with City of Oakland Design Standards. Appropriate turn-around designs would allow vehicles to return along 11<sup>th</sup> Street and enter Wood Street in a front-end-first manner. *[This condition will be attached to the subdivision maps for Parcels 1 and 2 of VTPM 8552, Parcel 3 of VTPM 8554, and Parcels 1 and 2 of VTPM 8555 only.] [WS MM TR-4.1]*

**32. Underground Utilities.**

***Prior to issuance of a building permit.***

The Project Sponsor shall submit plans for review and approval of the Planning and Zoning Division, Building Services Division and the Public Works Agency, and other relevant agencies as appropriate. The plans shall show all new electric and telephone facilities; fire alarm conduits; street light wiring; other wiring, conduits, and similar facilities placed underground by the developer from the Project Sponsor's structures to the point of service; and all electric and telephone facilities installed in accordance with standard specifications of the serving utilities.

**33. Maintenance of Land Dedicated to Public.**

***Prior to recordation of the Final Map.***

The Project Sponsor shall enter into a Maintenance Agreement in a form acceptable to the City Attorney, which shall be made binding on all successors and assigns and which obligates the owner(s) of each parcel included in the VTPM to pay, on a fair share basis, for the City's reasonable costs of maintaining the public access areas (also referred to as pocket parks), that are located between the terminus of 14th, 16th, 18th and 20th Streets and frontage road to be offered for dedication to the City. As used herein, "fair share" means dividing the number of residential units owned by the number of residential units built within Parcels 1, 2, 3 and 4 of VTPM 8551, Parcels 1 and 2 of VTPM 8552, Parcels 1, 2 and 3 of VTPM 8553, Parcel 3 of VTPM 8554, and Parcels 1 and 2 of VTPM 8555. Concurrently with the execution of the Maintenance Agreement, the Project Sponsor shall submit security in a form acceptable to the City Attorney (e.g., set-aside letter of credit) securing this obligation for a period of five years. Although the obligation is secured for five years only, the Maintenance Agreement will require an annual payment of the fair share amount for the life of the project. This covenant shall expire as to any streets or parks that are modified to meet City standards, as determined by the Planning Director. *[This condition will be attached to the subdivision maps for Parcels 1, 2, 3 and 4 of VTPM 8551, Parcels 1 and 2 of VTPM 8552, Parcels 1, 2 and 3 of VTPM 8553, Parcel 3 of VTPM 8554, and Parcels 1 and 2 of VTPM 8555.]*

## **GRADING, GEOTECHNICAL, EROSION CONTROL, STORMWATER & DRAINAGE**

### **34. Grading, Erosion and Drainage Plan.**

#### ***Prior to issuance of grading permit and during all construction activities.***

To the extent any grading is necessary, the Project Sponsor shall submit for review and approval by the Building Services Division a Site Grading and Drainage plan in conformance with City standards and “Best Management Practices” (BMP) for use during construction. The plan shall indicate the methods, means, and design to conduct site run-off, attenuate storm drainage flow, and minimize sedimentation and erosion during and after construction activity (utilizing a combination of permeable surfaces, subsurface-drainage, silt debris barriers, drainage retention systems, and/or filtration swale landscaping). All graded slopes or disturbed areas shall be temporarily protected from erosion by implementing seeding, mulching and/or erosion control blankets/mats until permanent erosion control measures are in place. No grading shall occur without a valid grading permit issued by the Building Services Division or within the period of October 15 through April 15 unless specifically authorized in writing by the Building Services Division. Site design, source control and post construction treatment measures shall comply with requirements of the Alameda Countywide Clean Water Program, C.3 Stormwater Handbook, February 2005.

### **35. Stormwater Pollution Prevention Plan.**

#### ***Prior to issuance of grading permit and during all construction activities.***

Prior to ground-disturbing activities, the Project Sponsor shall develop and implement a site-specific Stormwater Pollution Prevention Plan (SWPPP) acceptable to the Regional Water Quality Control Board (RWQCB), Region 2, and the City that includes erosion and sediment control measures.

The contractor shall submit the SWPPP to the City for review, and shall keep a copy of the SWPPP at the construction site. While erosion control measures included in the plan will be site-specific, they must be effective at prevention of accelerated erosion by the following: minimizing the length of time soils are exposed; reducing total area of exposed soil during the rainy season; protecting critical areas (the Bay); and monitoring before and after each rain storm to assess control measure effectiveness. SWPPP erosion control measures may include, and are not limited to, the following:

- Schedule grading, and activities related to grading (excavation, construction, preparation and use of equipment and material storage) to occur during dry season (April through September)
- Avoid run-on (divert run-off from up-slope sites so it does not enter construction zone)
- Discharge grading and construction runoff into small drainages at frequent intervals to avoid the buildup of large, potentially erosive flows



- Stabilize disturbed areas as quickly as possible, either by vegetative or mechanical methods
- Trap sediment before it leaves the site with such techniques as check dams, sediment ponds, or siltation fences
- Control landscaping activities carefully with regard to the application of fertilizers, herbicides, pesticides or other hazardous substances. Provide proper instruction to all landscaping personnel on the construction team.
- Preserve existing vegetation
- Seed and mulch, or hydromulch
- Control dust
- Use blankets, geotextiles, and fiber rolls
- Install tire washers at exits.

All construction activities shall be undertaken in accordance with requirements of the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction Activity (General Permit). The General Permit requires that all dischargers develop and implement a SWPPP that specifies BMPs that would prevent construction pollutants from contacting stormwater with the intent of keeping products of erosion from moving off site into receiving waters.

Additional SWPPP sediment control measures may include, and are not limited to, the following:

- Stabilize the construction entrance;
- Silt fencing;
- Temporary straw bale dike;
- Sand/gravel bag;
- Brush/rock filter;
- Inlet protection;
- Catch basin inlet filter; and
- Sediment basin or trap.

SWPPP pollution control measures generally are “good housekeeping” BMPs, and may include, and are not limited to, establishing practices and protocols for the following:

- Solid and demolition waste management;
- Hazardous materials and waste management;
- Spill prevention and control;
- Vehicle and equipment maintenance;
- Covered materials storage;
- Handling and disposal of concrete/cement;
- Pavement construction management;
- Contaminated soil and water management; and
- Sanitary/septic waste management.

An erosion control professional is required to be on site to supervise the implementation of the designs and maintenance of facilities throughout the site clearing, grading and construction period. [OARB MM 4.13-3, OARB MM 4.15-3, with language from Wood Street DEIR page 3.10-10]

**36. Outside Agency Permits.**

***Prior to issuance of any building permits.***

The Project Sponsor shall comply with all permit conditions from the RWQCB and -- for Parcel 3 on VTPM No. 8554 and Parcels 1 and 2 on VTPM No. 8555 only -- BCDC. The Project Sponsor shall demonstrate to the satisfaction of the City that Project Sponsor has required and shall enforce compliance through contract specifications on all construction contractors and any other entities whose work is affected by these permit conditions. [OARB MM 4.15-2]

**37. Shallow Groundwater.**

***Prior to issuance of grading permit and during all construction activities.***

The SWPPP shall include protocols for determining the quality and disposition of construction water which includes shallow groundwater encountered during construction/remediation; depending on the results of the testing, contaminated water shall be disposed of via standards of the applicable regulatory agency (RWQCB, DTSC, or EBMUD), as appropriate, in addition, the Project Sponsor shall comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) Permit Nos. CAG912002 and CAG912003 if appropriate.

The Project Sponsor's SWPPP shall include a RWQCB-acceptable protocol and BMPs for handling construction water. The SWPPP shall include methods for visual inspection, triggers for laboratory testing, and appropriate use/disposal of the water. If NPDES Permit Nos. CAG912002 and CAG912003 are relevant to the site, a notice of intent (NOI) must be filed, and the related Self-Monitoring Plan must be complied with. [OARB MM 4.15-4]

### **38. Grading Activity Status Reports and Map.**

#### ***Prior to issuance of grading permit and during all grading activities.***

The project engineer shall file status reports to be followed by a final grading completion report, along with a geologic mapping of all cut-and-fill pads and slopes within the graded area, as a condition of the project grading permit. Locations of subdrains and clean-outs shall be shown on the approved grading map. The Project Sponsor shall ensure periodic monitoring of project grading activities by a geotechnical engineer.

### **39. Storm Drainage Compliance.**

#### ***Prior to issuance of a grading permit and during all construction activities.***

The Project Sponsor shall ensure that all proposed improvements comply with all provisions of Alameda County's NPDES permit issued on February 19, 2003, and related post-construction BMPs that would apply to the project; all proposed improvements shall also comply with the Clean Water Act (1972) as amended by the Water Quality Act of 1987, and City of Oakland Storm Water Management and Controls Ordinance No. 11590 C.M.S. and Creek Protection Ordinance No. 12024; and shall utilize all BMPs to prevent sediments or pollutants from entering the storm drain system or watercourses. The impact of the proposed improvements on the storm drain system and watercourses shall be mitigated to the extent practicable. Analysis of anticipated runoff volumes and potential effects to receiving water quality from stormwater shall be made for specific redevelopment elements, and site-specific BMPs shall be incorporated into design. BMPs shall be incorporated such that runoff volume from 85 percent of average annual rainfall at a development site is pre-treated prior to its discharge from that site, or a pre-treated volume in compliance with RWQCB policy in effect at the time of design.

Non-structural BMPs may include and are not limited to good housekeeping and other source control measures, such as the following:

- Stencil catch basins and inlets to inform the public they are connected to the Bay;
- Sweep streets on a regular schedule;
- Use and dispose of paints, solvents, pesticides, and other chemicals properly;
- Keep debris bins covered; and
- Clean storm drain catch basins and properly dispose of sediment.

Structural BMPs may include and are not limited to the following:

- Minimize impervious areas directly connected to storm sewers;
- Include drainage system elements in design as appropriate such as:
  - infiltration basins
  - detention/retention basins

- vegetated swales (biofilters)
- curb/drop inlet protection.

[OARB MM 4.15-5]

#### **40. Geotechnical Compliance.**

##### ***Prior to issuance of building permits.***

Project elements shall be designed in accordance with criteria established by the UBC, soil investigation and construction requirements established in the Oakland General Plan, and the Bay Conservation and Development Commission Safety of Fill Policy.

The UBC requires structures in the San Francisco Bay Area to be designed to withstand a ground acceleration of 0.4 g. A licensed engineer should monitor construction activities to ensure that the design and construction criteria are followed.

The Health and Safety Element of the Oakland General Plan requires a soils and geologic report be submitted to the Public Works Agency prior to the issuance of any building permit. The Oakland General Plan also requires all structures of three or more stories to be supported on pile foundations that penetrate Bay Mud deposits, and to be anchored in firm, non-compressible materials unless geotechnical findings indicate a more appropriate design. The General Plan also provides for the identification and evaluation of existing structural hazards and abatement of those hazards to acceptable levels of risk. [OARB MM 4.13-1]

#### **41. Geotechnical Evaluation.**

##### ***Prior to issuance of building permits and during all construction activities.***

Project elements shall be designed and constructed in accordance with requirements of a site-specific geotechnical evaluation.

Site-specific geotechnical, soils, and foundation investigation reports shall be prepared by a licensed geotechnical or soil engineer experienced in construction methods on fill materials in an active seismic area. The reports shall provide site-specific construction methods and recommendations regarding grading activities, fill placement, compaction, foundation construction, drainage control (both surface and subsurface), and seismic safety. Designers and contractors shall comply with recommendations in the reports. A licensed geotechnical or soil engineer shall monitor earthwork and construction activities to ensure that recommended site-specific construction methods are followed. [OARB MM 4.13-2]

#### **42. Review of Building and Environmental Records.**

##### ***Prior to issuance of grading permits and during all construction activities.***

The Project Sponsor shall thoroughly review available building and environmental records in order to identify underground utilities and facilities, so that these may be either avoided or incorporated into design as relevant. [OARB MM 4.13-4]

**43. Subsurface Investigation.**

***Prior to issuance of grading permits and during all construction activities.***

The Project Sponsor shall perform due diligence, including without limitation, retaining the services of subsurface utility locators and other technical experts prior to any ground-disturbing activities. The Project Sponsor shall utilize Underground Service Alert or other subsurface utility locators to identify and avoid underground utilities and facilities during construction. The Project Sponsor shall keep a record of its contacts regarding underground features, and shall make these records available to the City upon request. This condition shall be enforced through contract specification. [OARB MM 4.13-5]

**HAZARDOUS MATERIALS & CONTAMINATION**

**44. State, Federal, or County Authority Environment Approval.**

***Prior to issuance of any demolition, grading or building permit.***

The Project Sponsor shall provide to the Planning and Zoning Division written verification that the State, Federal or County authorities with jurisdiction over the project have granted all required clearances and confirmed compliance with all applicable conditions imposed by said authorities, for any and all previous contamination at the site.

**45. Pre-Construction Hazardous Materials Surveys and Management of Hazardous Materials.**

***Prior to issuance of the first demolition permit and ongoing during demolition.***

The Project Sponsor shall retain a qualified environmental specialist (e.g., a certified consultant or lead inspector/assessor or similarly qualified individual) to inspect existing buildings subject to demolition or renovation for the presence of asbestos, PCBs, mercury, lead, or other hazardous materials. If after inspection and analytical testing, hazardous building materials are found at levels that require special handling (e.g., special packaging prior to transport, separation from other non-hazardous solid waste, keeping material damp with water, etc.), the Project Sponsor and its contractors shall manage these materials as required by law and according to federal and state regulations and guidelines, including those of DTSC, RWQCB, BAAQMD, Cal/OSHA, and any other agency with jurisdiction over these hazardous materials. The Project Sponsor shall obtain permits for demolition and show proof that the building materials have been tested and/or removed by a certified environmental professional. *[This condition will be attached to the subdivision maps for Parcels 1 and 2 of VTPM 8552, Parcels 1, 2, and 3 of VTPM 8553, and Parcels 2 and 3 of VTPM 8554 only.]* [WS MM HM-1.1]

**46. Hazardous Materials Assessment and Reporting Program.**

***Prior to issuance of any demolition, grading or building permit.***

The Project Sponsor shall provide evidence from the City's Fire Department, Office of Emergency Services, indicating compliance with the City of Oakland Hazardous Material Assessment and Reporting Program, pursuant to City Ordinance No. 12323, including the removal or abatement of asbestos and lead.

#### **47. Site Health and Safety Plan.**

***Prior to issuance of the first grading or building permit and during all construction activities affecting soil and groundwater if petroleum hydrocarbons or VOCs are present.***

The Project Sponsor and its contractors shall comply with the *Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities* (National Institute for Occupational Safety and Health (NIOSH), Occupational Safety and Health Administration (OSHA), U.S. Coast Guard (USCG), and Environmental Protection Agency (EPA), October, 1985) regulatory requirements for hazardous materials/waste health and safety plans. The site health and safety plan shall establish policies and procedures to protect workers and the public from potential hazards posed by residual contamination in the development area. The plan shall identify contaminants, potential hazards, material handling procedures, dust suppression measures, personal protection clothing and devices, access controls to the site, health and safety training requirements, monitoring equipment used during construction to verify health and safety of workers and the public, measures to protect public health and safety, and emergency response procedures. If petroleum hydrocarbons or VOCs are present in the soil and/or groundwater proposed for the use of backfill or disposal, the handling and disposal of the contaminated soil and groundwater shall be in accordance with applicable local and federal hazardous materials regulations. [WS MM HM-2.1]

#### **48. Soil Management Plan and Compliance with Soil Remediation Standards.**

***Prior to issuance of the first building permit.***

The Project Sponsor shall submit all applicable documentation and plans required by the Cal-EPA/RWQCB, the Alameda County Public Health Department, and the City's Fire Department, Office of Emergency Services, regarding remediation of the contaminated soil and groundwater identified on the site. These documents and plans shall be submitted to the Planning and Zoning Division, and shall demonstrate to the satisfaction of each agency with jurisdiction that all applicable standards and regulations have been met for the construction and site work to be undertaken pursuant to the permit.

In conformance with the Cal-EPA/RWQCB approved soil remediation standards, the Project Sponsor and its contractors shall be responsible for ensuring that any soils within ten feet of the surface (but not below the groundwater table) containing concentrations exceeding TTLCs and soils above such remediation standards shall be removed or treated on site prior to development. [The soil remediation standards are included in a May 18, 2004, letter from Geomatrix to the RWQCB. Successful completion of remediation activities cannot be confirmed until closure reports have been submitted to and approved by RWQCB and they agree that the development areas have been satisfactorily remediated.] [WS MM HM-2.2]

#### **49. ACM Annual Assessment.**

***Prior to issuance of any demolition, grading or building permit and during all construction activities.***

The condition of identified asbestos containing materials (ACM) shall be assessed annually, and prior to reuse of any building known to contain ACM. [OARB MM 4.7-12]

## **HISTORIC, CULTURAL & ARCHAEOLOGICAL RESOURCES**

### **50. Archaeological Monitoring.**

#### ***During all construction activities.***

The Project Sponsor shall retain a qualified archaeologist, who is a member of the Register of Professional Archaeologists, upon the discovery of prehistoric remains or buried historic or cultural features. The archaeologist shall prepare a preliminary evaluation to assess the archaeological sensitivity of the specific site(s) under consideration and shall recommend actions to protect archaeological resources. If the archaeologist's evaluation indicates a more detailed site assessment is warranted, a testing program shall be initiated under the supervision of the qualified archaeologist. If, after testing, the archaeologist determines that the discovery is not significant as defined in CEQA, no further investigations or precautions are necessary to safeguard the find. The archaeologist shall prepare a final report to be sent to the responsible agency, the Oakland Landmarks Advisory Board, and the California Historical Resources Information System Northwest Information Center. If, however, after testing, the archaeologist determines that the discovery is significant as defined in CEQA, ground-disturbing activities in the immediate vicinity of the discovery shall remain suspended until an appropriate mitigation plan can be agreed upon by the archaeologist and the City and implemented by the Project Sponsor. [WS MM CR-1.1]

The contractor shall instruct the construction personnel on the project as to the potential for discovery of prehistoric remains or buried historic or cultural features. The contractor shall ensure that all construction personnel understand the need for proper and timely reporting of such finds, and the consequences of any failure to report them. Any recommendations of the qualified archeologist shall be implemented prior to resumption of work in the affected area.

### **51. Cultural Resources Management/Mitigation Plan.**

#### ***During all construction activities.***

If further investigations or precautions are necessary or appropriate, the City of Oakland and the archaeologist shall jointly determine the additional procedures necessary to protect the resource and/or mitigate any significant impacts. Additional measures to be implemented by the Project Sponsor might include a redesign of the Project, data recovery excavations, or a program to monitor all site excavation, during which the archaeologist shall record observations in a permanent log. The archaeologist shall prepare a final report to be sent to the responsible agency, the Oakland Landmarks Advisory Board, and the California Historical Resources Information System Northwest Information Center. [WS MM CR-1.2]

### **52. Discovery of Human Remains.**

#### ***During all construction activities, immediately upon determination by qualified archaeologist of human remains discovery.***

Should any human remains be encountered, work in the vicinity shall halt and the County Coroner notified immediately. If the remains are determined to be Native American, the coroner shall contact the California Native American Heritage Commission (NAHC) pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code. The NAHC in Sacramento

would identify a Most Likely Descendant (MLD) pursuant to subdivision (a) of Section 5097.98 of the Public Resources Code. The City of Oakland and the archaeologist shall consult with the MLD. The MLD may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American remains and may recommend to the owner or the person responsible for the excavation work means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The descendants shall complete their inspection and make their recommendations within 24 hours of their notification by the NAHC. The recommendation may include scientific removal and nondestructive analysis of human remains and items associated with Native American burials. Work may not commence until the coroner's approval has been received. [WS MM CR-1.3]

**52A. Preservation of the Historic 16th Street Train Station.**

***Prior to demolition or renovation***

The Project Sponsor shall preserve the historic 16th Street Train Station including the Main Hall, Baggage Wing, and as much of the Elevated Platform as possible behind the Main Hall, as included in Development Area 5 of the Wood Street Zoning District, Parcel 2 of VTPM 8554, and as specified in Conditions 56A, 56B and 57A. *[This condition will be attached to the subdivision map for VTPM 8554 only.]*

**53. HABS Recordation of the 16<sup>th</sup> Street Train Station.**

***Within 12 months of effective date of Wood Street Zoning District.***

The Project Sponsor of Parcel 2 of VTPM 8553, and Parcels 2, 3 and 4 of VTPM 8554 shall, within 12 months of the effective date of the Wood Street Zoning District, record the 16<sup>th</sup> Street Train Station in accordance with the procedures of the Historical American Building Survey (HABS). In accordance with the HABS recordation process, the Project Sponsor shall consult with the National Park Service (NPS) to determine the appropriate level of documentation, and all documentation shall be subject to review and approval by NPS with approval determined by compliance with HABS procedures. *[This condition will be attached to the subdivision maps for Parcel 2 of VTPM 8553, and Parcels 2, 3 and 4 of VTPM 8554 only.]* [WS MM CR-2.1]

**54. Salvage of Original Building Materials from Structures Proposed for Demolition.**

***Within 12 months of effective date of the adoption of the condition of approval.***

The Project Sponsor shall, within twelve months of the effective date of the Wood Street Zoning District, submit a study to the City of Oakland detailing what parts of the portions of the 16<sup>th</sup> Street Train Station to be demolished can be feasibly salvaged. The study shall include an assessment of the feasibility of salvaging terra-cotta cladding, windows, doors and hardware. The study must be approved by the City's Planning Director, who shall find the study acceptable if it demonstrates which parts can be feasibly salvaged. Following City approval of the study, the Project Sponsor shall salvage parts as indicated in the approved study and shall make the salvaged materials available for reuse in rehabilitating the portions of the 16<sup>th</sup> Street Train Station that are to be rehabilitated. *[This condition will be attached to the subdivision maps for Parcel 2 of VTPM 8553, and Parcels 2, 3 and 4 of VTPM 8554 only.]* [WS MM CR-2.2]



**55. Stabilization of Main Hall and Signal Tower.**

*Within three months of the effective date of the adoption of the condition of approval.*

The Project Sponsor of Parcels 2 and 3 of VTPM 8554 shall, within three months of the effective date of the Wood Street Zoning District, take measures designed to preclude further deterioration of the Main Hall and the Signal Tower (both as defined in the notes and definitions on page 1) from rain and to exclude trespassers. Within 45 days of the effective date of the adoption of this condition of approval, the Project Sponsor shall submit to the Planning Director a description of the proposed measures. The Planning Director shall review, and may approve, disapprove, or modify the measures intended to eliminate deterioration or vandalism. These measures shall remain in place until the decision regarding reuse of the Main Hall is made. The facilities preserved and protected by this measure include the canopy at the Wood Street entrance to the Main Hall. *[This condition will be attached to the subdivision maps for Parcels 2 and 3 of VTPM 8554 only.]* [WS MM CR-2.3]

**56. Interim Stabilization of Baggage Wing.**

*Within three months of the effective date of the adoption of the condition of approval.*

The Project Sponsor of Parcel 2 of VTPM 8554 shall, within three months of the effective date of the Wood Street Zoning District, take measures designed to preclude further deterioration of the Baggage Wing from rain and to exclude trespassers, pending a decision from the Redevelopment Agency on whether to fund retention of the Baggage Wing. Within 45 days of the effective date of the adoption of the condition of approval, the Project Sponsor shall submit to the Planning Director a description of the proposed measures. The Planning Director shall review, and may approve, disapprove, or modify the measures intended to eliminate deterioration or vandalism. These measures shall remain in place until a decision from the Redevelopment Agency on whether to fund retention of the Baggage Wing is made. *[This condition will be attached to the subdivision map for Parcel 2 of VTPM 8554 only.]*

**56A. Possible Agency Funding for Preservation and Restoration of Baggage Wing.**

*Prior to demolition or renovation of the Baggage Wing.*

(a) To assist the Redevelopment Agency in its efforts to preserve and restore the Train Station, the Project Sponsor of Parcel 3 of VTPM 8554 (“BUILD”) shall set aside the additional approximate .33 acre of land depicted on VTPM 8554 upon which the Baggage Wing is located (the “Baggage Wing Parcel”) for a period of no less than eight months following the effective date of the Wood Street Zoning District, and shall include such parcel in the final map of Parcel 2 of VTPM 8554. During this period (1) BUILD and the Train Station Entity, defined in the General Notes and Definitions and described in Condition 59, shall negotiate in good faith to enter into an agreement for the Train Station Entity to purchase the Baggage Wing Parcel from BUILD within said eight-month period for the Purchase Price (defined below), (the “Baggage Wing Purchase Agreement”) and (2) upon the receipt and acceptance by the Redevelopment Agency Board of a Business Plan, Financing Plan and Management Plan from the Train Station Entity, the Redevelopment Agency shall determine whether to make available the financial assistance necessary for the Train Station Entity to acquire the Baggage Wing Parcel and preserve the Baggage Wing, and the Train Station Entity and the Redevelopment Agency shall then negotiate in good faith to enter into an agreement for such financial assistance (the

“Baggage Wing Funding Agreement”). The Baggage Wing Funding Agreement shall (3) provide for Agency funding for the acquisition and preservation of the Baggage Wing and the Baggage Wing Parcel from available tax increment funds as such funds are received, under customary redevelopment agency terms and conditions; and (4) provide that the Train Station Entity shall seek funding from non-Agency and non-City sources (including state and federal programs, historic preservation tax credits, and private lenders) as appropriate for the acquisition, preservation, and restoration of the Baggage Wing and the Baggage Wing Parcel. For purposes of this condition, the term “available tax increment funds” shall mean the net tax increment revenues generated by the property in the Wood Street Project that are actually received by the Agency, excluding any pass-through payments to other entities, payments to the Low and Moderate Income Housing Fund, the Educational Revenue Augmentation Fund, or other set aside funds, or funds otherwise diverted from the Agency.

(b) In the event the Baggage Wing Purchase Agreement and the Baggage Wing Funding Agreement are executed within the eight month period, then:

- (1) BUILD will include the Baggage Wing in the materials, plans and information to be prepared in accordance with Conditions of Approval 58 and 59, BUILD will not make any alteration to the Baggage Wing that is not consistent with the preservation, rehabilitation, or reuse recommendations contained in the *OARB Area Redevelopment Plan* (as amended); the *City of Oakland General Plan* (as amended); the Wood Street Zoning District; and Secretary of the Interior’s Standards for the Treatment of Historic Buildings, and alterations shall be further restricted in accordance with any additional design standards, guidelines, or recommendations when the development plan, adopted pursuant to Mitigation Measure CR-2.5, becomes effective;
- (2) in accordance with Condition 59, BUILD will transfer title to the Baggage Wing Parcel to the Train Station Entity upon approval by the City Council, which approval shall be based upon the Council’s satisfaction of the progress in implementing Conditions 58, 59 and 60; and
- (3) the City will cooperate to develop and approve preliminary and final development plans for the remaining areas of Parcel 3 of VTPM 8554 such that the Project Sponsor will be able to build the residential units approved for development on such parcel, which cooperation may include, subject to appropriate environmental review, future approval of residential use of certain areas of the future adjacent right of way located in 18<sup>th</sup> street, provided that an equivalent area of public space is provided elsewhere within the Baggage Wing Parcel or the remaining areas of Parcel 3.

(c) For purposes of the above, the “Purchase Price” for the Baggage Wing Parcel shall be the lesser of (1) Fair Market Value, or (2) the Acquisition/Holding/Entitlement Costs. “Fair Market Value” shall mean the purchase price that an unrelated party negotiating at arm’s length would pay to purchase such property, taking into account all then current market factors,

including without limitation the quality, design, condition and location of the property including the extent and condition of the construction completed to date, if any, the amount of any and all liens, mortgages, and encumbrances against the property, required environmental remediation, and the value of the existing improvements to such party, and assuming the property was included with Parcel 3 of VTPM 8554. "Acquisition/Holding/Entitlement Costs" shall mean (1) the actual price initially paid for the Baggage Wing Parcel by BUILD, calculated on the basis of the overall purchase price paid by BUILD for developable acres within the Wood Street Zoning District and prorated on a square footage basis to the Baggage Wing Parcel, plus (2) actual costs incurred by BUILD in holding, maintaining and entitling the Baggage Wing Parcel (calculated on a developable square footage basis prorated to the Baggage Wing Parcel), including taxes, carrying costs (which shall be defined as the investment return BUILD's investor, CalPERS, has received on investments in similar projects in the CalPERS CURE program (California Urban Real Estate) since its inception in 1997, but not to exceed 10%), insurance, maintenance, and other out-of-pocket payments by BUILD to third parties for holding, maintaining and entitling the property, but not including BUILD's administrative or staff costs. The Acquisition/Holding/Entitlement Costs shall be determined by an independent cost certification obtained by BUILD.

(d) BUILD shall submit its determination of Acquisition/Holding/Entitlement Costs, along with the independent cost certification, and its determination of Fair Market Value to the Redevelopment Agency within three months of the City Council's approval of the District. If the Agency disputes BUILD's determination either of Fair Market Value or Acquisition/Holding/Entitlement Costs, or both, as contained in BUILD's notice, the Agency shall notify BUILD in writing within 30 calendar days of its receipt of BUILD's determination, which notice shall set forth the Agency's determination of the Fair Market Value and/or Acquisition/Holding/Entitlement Costs. The Agency and BUILD shall thereupon attempt to resolve their differences within 10 days following BUILD's receipt of the Agency's notice. If the Agency and BUILD cannot agree on Fair Market Value during such 10-day period, the Agency and BUILD shall each appoint an appraiser who shall be an M.A.I. and a California licensed appraiser experienced in appraising commercial and residential real estate in Alameda County, and give notice of such appointment to the other within 10 calendar days after the foregoing 10-day period. Such appraisers shall, within 30 calendar days after the appointment of the last of them to be appointed, complete their written determinations of Fair Market Value and furnish the same to the Agency and BUILD. Each party shall pay the fees and costs of the appraiser appointed by it. If the valuations vary by ten percent (10%) or less of the higher value, the Fair Market Value shall be the average of the two valuations. If the valuations vary by more than ten percent (10%) of the higher value, the two appraisers shall, within ten (10) calendar days after submission of the last appraisal report, appoint a third disinterested appraiser who shall be an M.A.I. and a California licensed appraiser with the experience described above. If the two appraisers are unable to agree in a timely manner on the selection of the third appraiser, then either appraiser, on behalf of both, may request appointment of such third disinterested M.A.I. appraiser by the presiding judge of the Superior Court of Alameda County. Such third appraiser shall, within 15 calendar days after appointment, make a determination of Fair Market Value by selecting one of the prior appraisals. The third appraiser shall have no right to select a Fair

Market Value other than as determined by one of the prior appraisals. If the Agency and BUILD cannot agree on Acquisition/Holding/Entitlement Costs during such 10-day period, the Agency and BUILD shall submit the issue to binding arbitration.

(e) If, after good faith negotiations, BUILD and the Train Station Entity have not entered into the Baggage Wing Purchase Agreement within the eight-month period, or the Agency and the Train Station Entity have not entered into the Baggage Wing Funding Agreement within the eight-month period, then the Agency or the Agency's designee shall have the option of purchasing the Baggage Wing Parcel for the Purchase Price. The Agency or its designee shall give written notice of its exercise of said option to BUILD (or the then-current owner of the Baggage Wing Parcel) within 60 calendar days of the end of the eight-month period.

(f) Should the Agency exercise the above option, BUILD shall deliver title to the Baggage Wing Parcel to the Agency free and clear of any junior liens, leases, mortgages, or encumbrances, except those liens, mortgages, or encumbrances that have been specifically approved by the Agency in writing. Escrow for the sale of the Baggage Wing Parcel shall close and BUILD shall execute and deliver to the Agency or its designee a grant deed or deeds to the Baggage Wing concurrent with the transfer of the Main Hall, in accordance with Condition 59, at which time the Purchase Price shall be paid by the Agency or its designee to BUILD. The Purchase Price shall be paid in the form of a promissory note executed by the Agency to BUILD in which the Agency pledges to pay the Purchase Price from available tax increment funds as such funds are received, along with interest at a rate equal to the prevailing Local Agency Investment Fund rate. The Agency shall be allowed to prepay the note without penalty. Prior to the close of escrow, BUILD shall take all necessary steps to ensure that a title company will be able to issue to the Agency or its designee, upon close of escrow, a standard CLTA owner's policy of title insurance, in an amount equal to the Purchase Price, showing title to the Baggage Wing Parcel vested in the Agency or its designee, with only the following exceptions:

- (1) Liens for property taxes not yet due and payable;
- (2) Any other lien or encumbrance approved in writing by the Agency in its sole discretion.

(g) Prior to the time for the Agency to provide notice of its election to exercise the option, the Agency or its designee and its agents may, upon reasonable notice to BUILD, enter the Baggage Wing Parcel for purposes of inspection, survey, tests, or other actions reasonably related to acquisition of the property by the Agency or its designee. The Agency or its designee shall indemnify and defend BUILD for any liability, claims or damages arising from such entry.

(h) The Agency may assign the option to purchase the Baggage Wing Parcel to any other entity in its sole discretion.

(i) If BUILD and the Train Station Entity have not entered into the Baggage Wing Purchase Agreement, or if BUILD and the Agency have not entered into the Baggage Wing

Funding Agreement, within the eight month period and any of them assert that one or the other of them has not negotiated the agreement in good faith, BUILD, the Agency or the Train Station Entity shall submit the issue to binding arbitration.

(j) If BUILD and the Agency have not entered into the Baggage Wing Funding Agreement within the eight month period because the Agency has declined to provide the funding from available tax increment funds necessary for the Train Station Entity to purchase and preserve the Baggage Wing Parcel as set forth above, and if the Agency or its designee has declined to exercise its option to purchase the Baggage Wing Parcel as set forth above, then BUILD shall have no further obligations under this condition. *[This condition will be attached to the subdivision map for Parcel 2 of VTPM 8554 only.]*

**56B. Feasibility Determination If Funding Not Provided For Baggage Wing.**  
***Prior to demolition or renovation of Baggage Wing.***

In the event that the Baggage Wing Purchase Agreement and the Baggage Wing Funding Agreement described in Condition 56A are not executed within the eight month period, the Project Sponsor shall submit for City Council review application to demolish the Baggage Wing or its application to alter the Baggage Wing. Any alteration of the Baggage Wing shall be consistent with the preservation, rehabilitation, and reuse recommendations contained in the OARB Area Redevelopment Plan (as amended by action concurrent with approval of the Wood Street Zoning District), the City of Oakland General Plan (as amended by action concurrent with approval of the Wood Street Zoning District), the Wood Street Zoning District, and Secretary of the Interior's Standards for the Treatment of Historic Buildings. Upon review of detailed pro forma information (amount invested, return on equity, financing options) and any other information requested by the City Council, including CEQA compliance determination, financing requirements and other pertinent information, the City Council shall approve, deny, or conditionally approve the application.

**57. Restriction on Alteration of the Main Hall and the Signal Tower.**  
***Prior to demolition or renovation of any structures.***

The Project Sponsor of Parcels 2 and 3 of VTPM 8554 shall not make any alteration to the Main Hall that is not consistent with the preservation, rehabilitation, or reuse recommendations contained in the *OARB Area Redevelopment Plan* (as amended); the *City of Oakland General Plan* (as amended); the Wood Street Zoning District; and Secretary of the Interior's Standards for the Treatment of Historic Buildings. Alterations shall be further restricted in accordance with any additional design standards, guidelines, or recommendations when the development plan, adopted pursuant to Mitigation Measure CR-2.5, becomes effective. *[This condition will be attached to the subdivision maps for Parcels 2 and 3 of VTPM 8554 only.]* [WS MM CR-2.4]

**57A. Restriction on Alteration of the Elevated Platform Feasibility Study Area.**  
***Prior to demolition of the elevated track platform adjacent to the Main Hall.***

The Project Sponsor shall not make any alteration to the Elevated Platform Feasibility Study Area until the Project Sponsor has further pursued, with due diligence, the feasibility of retaining and preserving more width of the Elevated Platform Feasibility Study Area, than is shown in

FEIR Figure CR-4 and, in any event, no alteration shall be made prior to the approval of a preliminary development plan for Parcel 3 of VTPM 8554. The Project Sponsor shall include in its preliminary development plan application for Parcel 3 of VTPM 8554 additional evidence of the feasibility or infeasibility of retaining a greater width of the Elevated Platform Feasibility Study Area. The determination of the width to be retained and preserved shall be made by the City in connection with its consideration and approval of such preliminary development plan. The preliminary development plan shall include retention and preservation of as much width of the Elevated Platform Feasibility Study Area as the City determines is feasible. The precise location of the parcel line between Parcel 2 and Parcel 3 on the final map for Parcel 3 shall accommodate such determination. *[This condition will be attached to the subdivision map for Parcel 3 of VTPM 8554 only.]*

**58. Application for Redevelopment Agency Funding Approval for Train Station Preservation, Rehabilitation, and Stabilization.**

*Within 12 months of the effective date of the adoption of this condition of approval.*

Consistent with the *OARB Area Redevelopment Plan* goals as set out in Section 100 of that Plan, the Project Sponsor of Parcel 2 of VTPM 8554 or the Train Station Entity shall submit an application to the Redevelopment Agency of the City of Oakland (the "Agency") requesting that the Agency make available tax increment funds provided for in Section 502 of the *OARB Area Redevelopment Plan* for the preservation, rehabilitation, and stabilization of the Main Hall. In connection with such application, the property owner shall submit the following materials and information to the Agency:

- a. a finance plan demonstrating the prudent use of tax increment funds in restoring, preserving, and reusing the Main Hall, including a commitment by the property owner to maximize the leverage of the tax increment funds by seeking additional public funding, tax credits, private financing, and/or private philanthropic grants;
- b. a management plan demonstrating exemplary and continued stewardship of the Main Hall, with recognition of its cultural and historical importance to the City of Oakland and which is accountable to the goals and policies of the *OARB Area Redevelopment Plan* and the *City of Oakland General Plan*;
- c. a community participation plan providing for input by Oakland community members in decisions concerning the Main Hall's preservation and reuse;
- d. a development plan demonstrating that the proposed renovation and reuse of the Main Hall is consistent with the design standards, policies, and goals of the *OARB Area Redevelopment Plan* (as amended); the *City of Oakland General Plan* (as amended); and the Wood Street Zoning District; as well as with any other design criteria that the Agency determines is appropriate to meet said goals and policies; and
- e. a business plan that establishes a framework for the funding of rehabilitation efforts and identifies the grant source(s), the funding mechanisms and the budget for the work, as provided in Condition 59.

Not in limitation of the Project Sponsor's obligations in Conditions No. 95, 96 and 97, any Agency decision to fund all or any portion of the 16<sup>th</sup> Street Train Station, including either the Main Hall, Baggage Wing and/or Signal Tower shall be conditioned upon Project Sponsor's indemnification of the Agency and the City for any claims related to the construction, operation or maintenance of any and all projects using Agency funds.

*[This condition will be attached to the subdivision map for Parcel 2 of VTPM 8554 only.]*  
[WS MM CR-2.5]

**59. Rehabilitation and Reuse of Main Hall, Platform and Signal Tower.**

*Within six months of the effective date of the adoption of this condition of approval for establishment of a Train Station Entity to oversee the rehabilitation and reuse of the historic 16<sup>th</sup> Street Train Station; within twelve months of the effective date of the adoption of this condition of approval to prepare a business plan for the retention of historic resources and the reuse of the 16<sup>th</sup> Street Train Station.*

Within six months of adoption of this condition of approval, the Project Sponsor will establish a Train Station Entity to oversee the rehabilitation and reuse of the historic 16<sup>th</sup> Street Train Station (as defined in the General Notes and Definitions), which will assure public access and include elements commemorating its historical significance, and within twelve months of the effective date of this condition of approval the Project Sponsor shall obtain City Council approval of such Train Station Entity. Within twelve months of adoption of this condition of approval, the Project Sponsor and/or the new Train Station Entity for the historic 16<sup>th</sup> Street Train Station shall prepare a business plan for the retention of historic resources and the reuse of the 16<sup>th</sup> Street Train Station. The business plan will establish a framework for the funding of rehabilitation efforts and identify the grant source(s) and the funding mechanisms for the work. The business plan will also establish the information needed for requesting tax increment financing and the timing and sequencing of such funding in relation to the phasing of the historic restoration efforts. Within two years of approval of the Wood Street Zoning District, the Project Sponsor will complete a schematic set of plans and specifications for the restoration of the 16<sup>th</sup> Street Train Station. The plans shall include an analysis of the feasibility of restoration and reuse of the structure and establish a budget for the project to demonstrate the viability of proposals related to possible use of historic resources and identify important details about how modifications to historic resources will be integrated into the final project. Upon receipt of Agency tax increment funds and other public and/or private funds in accordance with Condition of Approval #58, the Project Sponsor of Parcel 2 of VTPM 8554 will, within one year, diligently commence and pursue the completion, within seven years, in accordance with the plans and specifications for the restoration of the 16<sup>th</sup> Street Train Station, and rehabilitation of the facilities depicted for retention in Figure 2-4 of the Draft EIR of the proposed project, in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Buildings, and in conformance with the following General Standards.

- (1) Any renovation, modification or addition to the 16<sup>th</sup> Street Train Station shall conform with the standards set forth in the Planning Code "Special regulations of designated landmarks."

(2) Any reuse of the 16th Street Train Station shall include stabilization and repair of exterior materials to improve the exterior appearance and to ensure a watertight building envelope. This rehabilitation shall include using salvaged materials to the extent feasible, and seismically strengthening and rehabilitating the exterior of the Main Hall, including the portions of the platform that are to be preserved. No additions to the structures would be permitted except as specified in the following standards:

(a) No addition to the existing 16th Street Train Station shall exceed a total building footprint greater than 20 percent of the existing structure to be retained.

(b) No addition to the existing 16th Street Train Station shall exceed the height of the north or south wings that flank the Main Hall (approximately 25 feet in height).

(c) No addition shall be made to either the primary façade facing the 16th Street Plaza or the southern façade, facing the 16th Street right of way or pocket park.

(d) No additions are permitted to the Signal Tower. Plaques shall be installed on the exterior façade of the station and the Signal Tower that identify their historic uses and include additional historical information. A display shall be created on the interior of the station using historic photos and documents to give a more complete history of the station and the Signal Tower.

The Project Sponsor of VTPM 8554 shall not transfer title of the retained portion of the 16th Street Train Station to the Train Station Entity unless and until the transfer is approved by the City Council, which shall be based upon Council's satisfaction of the progress in implementing Conditions 58, 59 and 60. Not in limitation of the Project Sponsor's obligations in Conditions No. 95, 96 and 97, in the agreement between the Project Sponsor and Agency to fund all or any portion of the 16th Street Train Station (as defined in the General Notes and Definitions), the Project Sponsor shall indemnify, in a form acceptable to the City Attorney, the Agency and the City for any claims related to the construction, operation or maintenance of any and all projects constructed by or at the direction of a Project Sponsor, using Agency funds.

Not in limitation of the Project Sponsor's obligations in Conditions No. 95, 96 and 97, any Agency decision to fund all or any portion of the 16th Street Train Station, including either the Main Hall, Baggage Wing and/or Signal Tower shall be conditioned upon Project Sponsor's or the Train Station Entity's indemnification of the Agency and the City for any claims related to the construction, operation or maintenance of any and all projects using Agency funds. ***[This condition will be attached to the subdivision maps for Parcels 2 and 3 of VTPM 8554 only.]***  
[WS MM CR-2.6]



**60. Reuse of the Main Hall**

*Prior to issuance of the first certificate of occupancy; upon approval of funding by the Redevelopment Agency as specified in WS MM CR-2.5.*

Following the satisfaction of the prior Condition No. 59, the Project Sponsor of Parcel 2 of VTPM 8554 in the reuse of the Main Hall shall incorporate exhibit space commemorating the site's cultural history and its function as the end of the trans-continental railroad and the gateway arrival point in the West. The exhibit space could also serve as a venue for private and public events, facilitating greater exposure of persons to the historical significance of the station. Oral histories shall be recorded and made available to the extent feasible. The building would not be subjected to extensive night lighting. Reuse shall proceed according to the finance, management, community participation, and development plans submitted pursuant to Condition No. 58, as approved by the Redevelopment Agency, as well as any other design criteria that the City Planning Director determines is appropriate to meet the City's goals and policies. *[This condition will be attached to the subdivision map for Parcel 2 of VTPM 8554 only.]* [WS MM CR-2.7]

**61. Enhancement of the Train Station Setting**

*Prior to issuance of certificate of building occupancy of the restored Main Hall or issuance of a certificate of occupancy for the 600<sup>th</sup> residential dwelling with the Project Area, whichever occurs first.*

The Project Sponsor of Parcel 1 of VTPM 8554 shall construct and landscape the plaza area to provide an enhanced visual setting for the Main Hall, to provide a visual focus and view corridor, to increase public accessibility to the 16<sup>th</sup> Street Train Station, and to create a feature that recalls the historic use of the station. All these improvements shall be completed with private financing by the Project Sponsor; no public funds would be requested with respect to the Plaza. *[This condition will be attached to the subdivision map for Parcel 1 of VTPM 8554 only.]* [WS MM CR-2.8]

**LANDSCAPING & TREE PERMIT**

**62. Installation of Landscaping and Bonding.**

*Prior to issuance of certificate of occupancy, unless bonded.*

The Project Sponsor shall install all proposed landscaping indicated on the approved landscape plan prior to the issuance of a certificate of occupancy, unless bonded pursuant to the provisions of Section 17.124.50 of the Oakland Planning Code. The amount of such bond or cash deposit shall equal the greater of \$2,500 or the estimated cost of the required landscaping, based on a licensed contractor's bid.

**63. Tree Removal Permit.**

*Prior to the removal of subject trees.*

The Project Sponsor shall obtain a Tree Removal Permit prior to removing trees subject to Chapter 12.36 of the Oakland Municipal Code. [OARB MM 4.12-7]

**64. Securing Future Residents' Acknowledgment of Potential Future Land Uses.**

*Prior to lease or sale of any unit and ongoing.*

The Project Sponsor shall ensure that future residents sign a notice acknowledging that they are aware of and accept the possible noise levels related to Frontage Road located near the project site.

**65. Reduced Water Usage.**

***Prior to issuance of the building permits for the mechanical system.***

The Project Sponsor shall confer with East Bay Municipal Utility District (EBMUD) to examine incorporating water saving techniques such as dual piping for recycled water into the final design of the mixed-use project.

**66. Internal Landscaping.**

***Prior to issuance of the certificate of occupancy.***

The Project Sponsor shall ensure that internal landscaping conforms with City design standards as contained in the City Planning Code.

**NOISE (OPERATIONAL) & OTHER NUISANCES**

**67. Operational Noise.**

***Ongoing.***

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

**68. Compliance with Title 24.**

***Prior to issuance of certificate of occupancy.***

The Project Sponsor shall implement acoustical techniques in compliance with Title 24 to ensure that noise levels in interior habitable spaces remain at or below 45 CNEL with all doors and windows closed.

**68.A. Buffer Area Adjacent to California Waste Solutions Facility.**

***Ongoing.***

The Project Sponsor of Parcel 1 of Vesting Tentative Parcel Map No. 8551 shall not develop residential units within said parcel, and the Project Sponsor of Parcel 1 of Vesting Tentative Parcel Map No. 8552 shall not convert the structure (known as the "Ice House") currently located on that parcel into residential units or otherwise develop residential units so long as California Waste Solutions is actively operating its plant in substantially the same manner as at the time of approval of this condition, including using the same recycling technologies and hours of operation and generating substantially the same truck traffic, odor, and noise, on the parcel identified as APN 006-0029-003-02 (located between 10<sup>th</sup> and 11<sup>th</sup> Streets, north of Pine Street). Notwithstanding the foregoing, residential units may be developed sooner if buffering measures are incorporated into the design of the residential development (such as increasing the distance between the CWS operations and future residential units, adding more landscaping, modifying

building orientation or access, and applying Title 24 noise abatement measures), which the Planning Director determines, after notice and a hearing, sufficiently reduce land use conflicts between the current CWS operations and future residential units. *[This condition will only apply to Parcel 1 of VTPM 8551 and Parcel 1 of VTPM 8552.]*

## **PARKING AND DRIVEWAYS**

### **69. Closure of Parking Lot After Hours.**

#### ***Ongoing.***

The project is approved with more than ten on-site parking spaces, and the project site is located within the area designated; therefore, all openings to the parking lot used for the ingress or egress of motor vehicles shall be secured by an approved barrier chain and locking device within one (1) hour after the close of business and shall remain secured until one (1) hour prior to the opening of business, pursuant to the standards included in City Ordinance No. 12390, with access only granted to tenants and police.

### **70. Off-site Parking Agreement.**

#### ***Prior to approval of any final development plan for which off-site parking is requested.***

In the event that the project sponsor of any proposed development subject to these conditions shall request to satisfy required parking obligations off-site, and pursuant to Chapter 17.116 of the Oakland Planning Code, the Project Sponsor and the property owner(s) of off-site property located within 300 feet of the project boundary shall prepare, using forms provided by the Planning and Zoning Division, execute to the satisfaction of the City Attorney, and file with the Alameda County Recorder, a "Joint Parking Agreement" specifying that the required number of donor parking spaces shall be provided at the off-site property location to satisfy on-site parking requirements for the required number of parking stalls approved by the applicable permit. Said donor parking spaces shall be designated for said activity for the duration of operation of the activity approved by the permit.

### **71. Parking and Circulation Plan.**

#### ***Prior to issuance of building permit and prior to final inspection.***

The Project Sponsor shall submit a Parking and Traffic Circulation Plan for review and approval by the Planning and Zoning Division. This plan shall include wheel stops for all parking spaces, and pavement marking and striping that delineate the driveways and traffic paths to be used by the general public and deliveries. All wheel stops, pavement markings and striping, as approved by the Planning and Zoning Division shall be installed prior to final inspection.

### **72. Parking Lot Lighting.**

#### ***Ongoing.***

The exterior lighting fixtures which serve the parking area shall be equipped with daylight sensors or computerized time clocks that will automatically turn the lights on at dusk and off at sunrise, and that shall be adequately shielded to a point below the bulb and reflector, and that shall prevent unnecessary glare onto adjacent properties.

### **73. Parking Spaces**

#### ***Ongoing.***

The Project Sponsor shall include parking spaces in the Project Area as required by the Wood Street Zoning District.

### **74. Designated Parking.**

#### ***Ongoing.***

The Project Sponsor shall designate all on-site parking spaces consistent with the Oakland Municipal Code by marking, either with a small sign at the head of the parking stalls or stenciled lettering painted with the parking stalls, that read “resident-only,” or “employee-only” parking as appropriate.

## **PARKING & TRANSPORTATION MANAGEMENT**

### **75. Transportation Demand Management.**

***Prior to issuance of the certificate of building occupancy; upon City adoption of a traffic demand management program in West Oakland.***

The Project Sponsor shall distribute materials concerning the availability of public transit to initial Project residents, and prior to certificate of occupancy shall pay the fee adopted by the City on residential units to assist the City in implementing traffic demand management programs. [WS MM TR-10.1]

### **76. Shuttle Service.**

***Prior to approval of Final Development Plans and specifications; within three months following the issuance of a certificate of occupancy of the 300<sup>th</sup> residential dwelling with the Project Area; every two years thereafter until the Planning Director determines the shuttle service is no longer necessary.***

The Project Sponsor shall provide or cause to be provided a public or private shuttle service between the Project Area and the West Oakland BART Station and incorporate shuttle stops into the final design. The Project Sponsor shall provide full funding for the shuttle service whether it is public or private. In the event the Project Sponsor elects to not use a private shuttle service, the Project Sponsor shall work with AC Transit and BART to design a public shuttle service and incorporate public transit stops into the final development plans in consultation with AC Transit. The shuttle or transit stops shall be located within the Project Area and would be dispersed such that Project residents would be no more than one-quarter mile from a shuttle or transit stop. Shuttle or transit stops at the existing AC transit bus stop on Wood Street by Parcel 3 of VTPM 8553, in front of the 16<sup>th</sup> Street Plaza (Parcel 1 of VTPM 8554), and on Wood Street at 20<sup>th</sup> Street by Parcel 1 of VTPM 8555 should be considered. The shuttle service would operate at 15-minute peak-hour headways during commute hours. The shuttle service shall be designed to meet City of Oakland standards, link with pedestrian access, and be reviewed for approval by the City.

The shuttle service shall be implemented within three months following the issuance of a Certificate of Occupancy of the 300<sup>th</sup> residential dwelling within the Project Area. At that time, the Project Sponsor, or its successor in interest, will fund operation and maintenance of the

shuttle. Thereafter, and every two years until such time as the Planning Director determines that the shuttle service is no longer necessary, the Project Sponsor or its successor shall report to the Planning Director on the amount of shuttle use by Project residents and occupants, and the availability of other means to reduce the use of private vehicles by Project residents and occupants. The Planning Director shall permit discontinuation of the shuttle service upon finding either that (a) the shuttle is not being used sufficiently to result in a substantial reduction in private vehicle use by Project residents and occupants, or (b) another means of reducing the use of private vehicles by Project residents and occupants would be feasible and cost the same or less than the shuttle, would create a greater reduction in private vehicle use than would the shuttle, and would result in a substantial reduction in private vehicle use by Project residents and occupants. If the Planning Director determines item (b), above, is the basis for discontinuing the shuttle service, then the Project Sponsor or its successor or their successors shall implement other means of reducing private automobile use by Project residents and occupants. [WS MM TR-10.2]

## **PUBLIC IMPROVEMENTS**

### **77. Conformance with Vesting Tentative Parcel Maps.**

#### ***Ongoing.***

All public improvements shall be constructed in substantial conformance with the individual vesting tentative parcel maps submitted by the Project Sponsors and as specified in Condition of Approval Numbers 78 through 82.

### **78. Public Improvements – Vesting Parcel Map 8551.**

#### ***Prior to the issuance of certificate of occupancy for development on each parcel.***

Project Sponsor of Parcel 1 of VTPM No. 8551 shall construct or cause the construction of improvements to the extension of 10<sup>th</sup> Street, including the pocket park. Project Sponsor of Parcel 2 shall construct or cause the construction of improvements to the portion of 14<sup>th</sup> Street accessed from the frontage road. Project Sponsor of Parcel 3 shall construct or cause the construction of improvements to the existing 14<sup>th</sup> Street right of way, as well as the portion accessed from the frontage road, should its development precede parcel 2 of this map or Parcel 1 of Map 8553. Project Sponsor of Parcel 4 shall construct or cause the construction of improvements to 12<sup>th</sup> Street, Wood Street from 12<sup>th</sup> Street to 14<sup>th</sup> Street, and 14<sup>th</sup> Street should development on this parcel precede development of Parcel 2 or 3 of this map and Parcel 1 of Map 8553.

Except as otherwise provided in this condition, the street improvements referred to in this condition include complete street width, curb, gutter, sidewalk, and installation of utilities in accordance with the standards of the City of Oakland to the limits shown on VTPM 8551. Sidewalks on the opposite side of Wood Street Zoning District perimeter streets (i.e. outside the District) will get minor repairs only.

**79. Public Improvements – Vesting Parcel Map 8552.**

***Prior to the issuance of certificate of occupancy for development on each parcel.***

Project Sponsor of Parcel 1 of VTPM No. 8552 shall construct or cause the construction of improvements to 11<sup>th</sup> Street when the “Ice House” parcel is redeveloped. Project Sponsor of Parcel 2 shall construct or cause the construction of improvements to Pine Street between 11<sup>th</sup> Street and 12<sup>th</sup> Street.

Except as otherwise provided in this condition, the street improvements referred to in this condition include complete street width, curb, gutter, sidewalk, and installation of utilities in accordance with the standards of the City of Oakland to the limits shown on VTPM 8552. Sidewalks on the opposite side of Wood Street Zoning District perimeter streets (i.e. outside the District) will get minor repairs only.

**80. Public Improvements – Vesting Parcel Map 8553.**

***Prior to the issuance of certificate of occupancy for development on each parcel.***

The Project Sponsor of the first development project within VTPM 8553 shall construct all public improvements to 14<sup>th</sup> Street, 16<sup>th</sup> Street, and Wood Street between 14<sup>th</sup> Street and 16<sup>th</sup> Street, unless development has occurred on an adjacent parcel and the public improvements are already installed.

Except as otherwise provided in this condition, the street improvements referred to in this condition include complete street width, curb, gutter, sidewalk, and installation of utilities in accordance with the standards of the City of Oakland to the limits shown on VTPM 8553. Sidewalks on the opposite side of Wood Street Zoning District perimeter streets (i.e. outside the District) will get minor repairs only.

**81. Public Improvements – Vesting Parcel Map 8554.**

***Prior to the issuance of certificate of occupancy for development on each parcel.***

The Project Sponsor of the first to be developed of Parcel 1, 2 or 3 of VTPM No. 8554 shall construct or cause the construction of improvements to 16<sup>th</sup> Street. The Project Sponsor of Parcel 3 shall construct or cause the construction of improvements to the 16<sup>th</sup> Street Train Station Public Plaza on Parcel 1. The Project Sponsor of Parcel 3 shall construct or cause the construction of improvements to 18<sup>th</sup> Street. Improvements to Wood Street, between 16<sup>th</sup> and 17<sup>th</sup> Streets, will be constructed prior to the completion of Parcel 1 (plaza). Wood Street between 17<sup>th</sup> and 18<sup>th</sup> Streets will be constructed when Parcel 3 is developed.

Except as otherwise provided in this condition, the street improvements referred to in this condition include complete street width, curb, gutter, sidewalk, and installation of utilities in accordance with the standards of the City of Oakland to the limits shown on VTPM 8554. Sidewalks on the opposite side of Wood Street Zoning District perimeter streets (i.e. outside the District) will get minor repairs only.

**82. Public Improvements – Vesting Parcel Map 8555.**

*Prior to the issuance of certificate of occupancy for development on each parcel.*

The Project Sponsor of Parcel 1 of VTPM No. 8555 shall construct or cause the construction of improvements to Wood Street, from 18<sup>th</sup> Street to 20<sup>th</sup> Street, (unless preceded by Parcel 2 of VTPM 8555), 18<sup>th</sup> Street (unless preceded by Parcel 3 of Map 8554), and 20<sup>th</sup> Street if needed for access. The Project Sponsor of Parcel 2 of VTPM No. 8555 shall construct or cause to be constructed public improvements to Wood Street, from 20<sup>th</sup> Street to West Grand Avenue (unless it precedes the development of Parcel 1 of VTPM 8555, in which case I shall construct Wood Street from 18<sup>th</sup> Street to West Grand Avenue), and 20<sup>th</sup> Street, if not already installed by Project Sponsor of Parcel 1.

Except as otherwise provided in this condition, the street improvements referred to in this condition include complete street width, curb, gutter, sidewalk, and installation of utilities in accordance with the standards of the City of Oakland to the limits shown on VTPM 8555. Sidewalks on the opposite side of Wood Street Zoning District perimeter streets (i.e. outside the District) will get minor repairs only.

**SHARED MAINTENANCE**

**83. Use and Maintenance Easement.**

*Prior to submittal of Final Map.*

The Project Sponsor shall indicate on the Final Map a Use and Maintenance Easement reserved for all parcels to ensure the continued shared maintenance of the entire plaza (Parcel 1 on VTPM No. 8554) and the planned access road across Parcel 3 of VTPM No. 8554 and Parcels 1 and 2 of VTPM No. 8555.

**84. Recordation of Agreement.**

*Prior to submittal of Final Map.*

The Project Sponsor shall ensure that a Joint Maintenance Agreement in a form acceptable to the City Attorney is executed and recorded with the Alameda County Recorder concurrent with the recordation of the Parcel Map. Said agreement shall ensure the shared maintenance of the plaza (Parcel 1 on VTPM No. 8554) and the planned access road across Parcel 3 of VTPM No. 8554 and Parcels 1 and 2 of VTPM No. 8555. A copy of this document shall be submitted for review and approval by the Planning and Zoning Division prior to its execution.

**SUBDIVISIONS**

**85. Recordation of Legal Descriptions.**

*Within sixty (60) days of the effective date of this approval.*

The Project Sponsor shall record a written legal description of the new configuration of the parcels at the Alameda County Offices as part of the deed for the site; and shall provide evidence of recordation to the Planning and Zoning Division within 60 days of the effective date of this approval.

## WASTE REDUCTION AND RECYCLING

### **86. Waste Reduction and Recycling Plan.**

#### ***Prior to issuance of the first certificate of building occupancy.***

The Project Sponsor shall submit a “Waste Reduction and Recycling Plan” and a plan that demonstrates a good faith effort to divert at least fifty (50) percent of operations phase solid waste from landfill disposal to the Public Works Agency for review and approval, pursuant to City of Oakland Ordinance No. 12253. This measure shall reflect future increases in the City’s waste diversion goals above the current 50 percent.

The Project Sponsor would be responsible for development and implementation of its plan, and for reporting its progress and success rate to the City. Should the source reduction/diversion plan program not meet its stated goal, the Project Sponsor would modify the plan until the desired level of reduction/diversion is achieved. While each plan would be specific, the following general topics should be addressed:

- Goals,
- Key personnel,
- Quantification of waste,
- Identification of waste materials,
- Program elements,
- Monitoring requirements and performance standards, and
- Reporting.

[OARB MM 4.9-9]

### **87. Recycling Space Allocation Requirements.**

#### ***Prior to issuance of a building permit and ongoing.***

The design, location and maintenance of recycling collection and storage areas must substantially comply with the provision of the Oakland City Planning Commission “Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas,” Policy 100-28. Pursuant to Section 17.118.020 of the Oakland Planning Code, this condition shall apply to 1) new residential development of five or more units, 2) new commercial and industrial development that requires a building permit and, 3) additions that increase the gross floor area of the aforementioned projects by more than 30 percent. A minimum of two cubic feet of storage and collection area shall be provided for each dwelling unit and for each 1,000 square feet of commercial space.



## WATER

### **88. Irrigation - Recycled Water.**

#### ***Prior to issuance of any building permits and ongoing.***

Individual actions with landscaping requirements of one or more acres shall plumb landscape areas for irrigation with recycled water and shall include a reclaimed landscaping irrigation system if required by the City at the time of permit approval. [OARB MM 4.9-4]

### **89. Plumbing - Recycled Water.**

#### ***Prior to issuance of any building permits and ongoing.***

Commercial buildings with gross floor area exceeding 10,000 square feet shall install dual plumbing for both potable and recycled water, unless determined to be infeasible by the City. Reclaimed water may be used for certain industrial uses, and for landscape irrigation, toilet flushing, and other appropriate purposes. [OARB MM 4.9-5]

### **90. Site Design - Recycled Water.**

#### ***Prior to issuance of any building permits and ongoing.***

The site design of the Project Area shall facilitate the use of recycled water, and shall comply with the requirements of CCR Title 22 regarding prohibitions of site run-off to surface waters. The Project Sponsor should coordinate these efforts with the reclaimed water supplier, EBMUD. [OARB MM 4.9-6]

### **91. Stormwater.**

#### ***Prior to issuance of any building permits.***

The Project Sponsor shall incorporate post-construction controls into the design of new redevelopment elements to reduce pollutant loads. NPDES permitting requires that best management practices (BMPs) to control post-construction stormwater be implemented to the maximum extent practicable.

### **92. Runoff Prevention.**

#### ***During all construction activities.***

Site-specific design and best management practices (BMPs) shall be implemented to prevent runoff of recycled water to receiving waters. These BMPs may be either structural or non-structural in nature and may include but are not limited to the following:

- Preventing recycled water from escaping designated use areas through the use of:
  - berms
  - detention/retention basins
  - vegetated swales (biofilters)
- Not allowing recycled water to be applied to irrigation areas when soils are saturated.

- Plumbing portions of irrigation systems adjacent to receiving waters with potable water.

[OARB MM 4.15-6]

**93. Flood Protection.**

***Prior to issuance of any building permits.***

The Project Sponsor shall conform all construction with the policies of the City of Oakland's Comprehensive Plan Environmental Health Hazards Element regarding flood protection. The Hazards Element includes development controls that place the burden of demonstrating flood safety upon the individual Project Sponsor. In addition, the Hazards Element includes policies regarding support of flood control and management programs of other agencies, maintenance of the natural character of creeks to the maximum extent possible, and City participation in the federal Flood Insurance Program. [OARB MM 4.15-7]

**MISCELLANEOUS**

**94. Successors and Assigns.**

***Ongoing.***

The Project Sponsor and its agents, heirs, successors and assigns (collectively the "Project Sponsor") shall be bound by these Conditions of Approval and by any other terms and conditions of "this Approval." The Project Sponsor's agents, heirs, successors and assigns are fully informed of the terms and conditions of this Approval.

**95. Indemnification Requirements.**

***Ongoing.***

To the maximum extent permitted by law, the Project Sponsor shall defend, hold harmless, and indemnify the City and its respective officers, agents and employees, and the Oakland Redevelopment Agency and its respective officers, agents and employees, (the "Indemnified Parties") against any and all liability damages, claims, demands, judgments or other losses (including, without limitation, attorneys' fees, expert witness and consultant fees and other litigation expenses), or an initiative relating to, resulting from or caused by, or alleged to have resulted from or caused by any action or approval associated with the Project.

This indemnity includes, without limitation, any legal or administrative challenge, or initiative filed or prosecuted to overturn, set-aside, stay or otherwise rescind any or all approvals granted in connection with the Project, certification of the Environmental Impact Report ("EIR") for the Project, and granting any permit issued in accordance with the Project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs as used herein shall include, without limitation any attorneys' fees, expert witness and consultant fee, court costs and other litigation fees, City Attorney time and overhead costs, and other City Staff overhead costs and normal day-to-day business expenses incurred by the City ("Litigation Expenses"). The Indemnified Parties shall have the right to select counsel to represent the Indemnified Parties, at the Project Applicant's expense, in the defense of any action specified in this Condition of Approval No. 95. The Indemnified

Parties shall take all reasonable steps to promptly notify the Project Sponsor of any claim, demand, or legal actions that may create a claim for indemnification under these Conditions of Approval.

**96. Additional Indemnification Requirements.**

***Ongoing.***

Not in limitation of the foregoing Condition of Approval No. 95, Project Sponsor shall defend, hold harmless and indemnify the Indemnified Parties and their insurers against any and all liability, damage, claims, demands, judgments, losses (“Indemnified Claims”) or other forms of legal or equitable relief related to implementation of the Project, including, without limitation, design, construction or maintenance of the Project and any private or public improvements. The foregoing indemnity shall not be released upon completion of the Project. A Project Sponsor may be released from this indemnity obligation, including the Indemnification Agreement referred to in the following Condition of Approval No. 97, only in the event (a) it is assigned to and assumed by and binding upon a subsequent owner of the Property, and (b) such Project Sponsor gives 30 days’ written notice of such proposed assignment to the City Administrator, and the City Administrator approves such assignment in writing, which approval may be withhold if the City Council determines, in its discretion, that the proposed assignee’s net worth or other financial resources are not sufficient to fulfill the foregoing indemnity obligation. Provided, however, that with respect to public improvements, this indemnity shall apply only to Indemnified Claims that arise prior to the City’s acceptance of the public improvement and the expiration of any maintenance obligations of the Project Sponsor, unless the Indemnified Claim (i) arose as a result of a hidden defect in the public improvement; or (ii) arose as a result of direct or indirect action or inaction by Project Sponsor, including, without limitation, construction maintenance or operational activities, prior to the City’s acceptance of the public improvement. In the case of the foregoing (i) or (ii), this indemnification shall apply regardless of whether the public improvement has been accepted by the City. “Public improvements” include all infrastructure improvements and property customarily accepted and maintained by the City that are offered for dedication to the City and actually accepted by the City, such as streets, sanitary sewer lines and the like. This indemnity shall include, without limitation, payment of all Litigation Expenses associated with any action herein. The Indemnified Parties shall have the right to select counsel to represent the Indemnified Parties, at the Project Sponsor’s expense, in the defense of any action specified in this Condition of Approval No. 96. The Indemnified Parties shall take all reasonable steps to promptly notify the Project Sponsor of any claim, demand, or legal actions that may create a claim for indemnification under these Conditions of Approval.

**97. Indemnification Agreement.**

***Within 90 days following the effective date of the adoption of these Conditions of Approval.***

Within 90 days following the adoption of these Conditions of Approval, the Project Sponsor shall enter into an Indemnification Agreement in a form acceptable to the City Attorney to establish in more specific detail terms and conditions of the Project Sponsor’s indemnification obligations set forth in the two preceding Conditions of Approval Nos. 95 and 96. Any failure of any party to timely execute such Indemnification Agreement shall not be construed to limit any

right or obligation otherwise specified in the Conditions of Approval, including without limitation, the two preceding Conditions of Approval Nos. 95 and 96, except that it shall not limit Planning Director authority as set forth in immediately following Condition of Approval No. 98.

**98. Planning Director Authority Regarding Compliance with Conditions.**

***Ongoing.***

For the duration of the project, the City Planning Director shall have the authority to determine whether the Project Sponsor and the Project substantially comply with terms and conditions of this approval, including, without limitation, these Conditions of Approval. In determining compliance, the Director shall interpret and apply conditions and terms requiring conformance with engineering standards, conformance with the purpose and intent of the Municipal Code sections upon which conditions are based, conformance with the intent of mitigation measures as discussed in the EIR, or as reasonably necessary to promote architectural integrity and the purpose of compatible development as set forth in the Wood Street Zoning District. Upon a determination of non-compliance, the Director shall have the authority to suspend further Project approvals, including without limitation final subdivision maps, grading permits, building permits or certificates of occupancy for the duration of such noncompliance. The City shall take reasonable steps to promptly notify, in writing, the Project Sponsor of any request (including a request by City staff or by the public) that the City Planning Director make a determination of noncompliance, and shall provide the Project Sponsor with written notice of any non-compliance determination by the City Planning Director. The City shall provide the Project Sponsor a copy of all documents used or relied upon in making such determination.

On or before October 15 of each year, the Project Sponsor shall submit to the City Development director a report demonstrating the Project Sponsor's and the Project's compliance with the terms and conditions of the Approval, including these Conditions of Approval identified by the Planning Director. This report may be used by the City Planning Director to evaluate the Project Sponsor's and the Project's compliance with the terms and conditions of the approval. Project Sponsor's obligation to submit this annual report shall terminate upon the City's written determination that the Project is complete.

**99. Conflict with Notes on Vesting Tentative Parcel Maps.**

***Ongoing.***

In the event of a conflict between these conditions of approval and one or more notes appearing on the face of one or more vesting tentative parcel maps, these conditions of approval shall prevail.

**100. Affordable Housing**

***Prior to the issuance of the first building permit.***

a. In order to assist the Redevelopment Agency to meet the obligations of Health and Safety Code Section 33413 and the Redevelopment Plan to make available units affordable to very low income households, BUILD shall set aside Parcel 3 of VTPM 8551, which Parcel is approximately 1.5 acres (the "Affordable Housing Parcel") for a period of no less than one year

from the City Council's approval of the District. During this period, the Affordable Housing Parcel shall be reserved for purchase by a nonprofit housing developer chosen by BUILD for the purpose of developing at least 94 rental units, including as many as thirty percent (30%) 3-bedroom units, if feasible, affordable to very low income households (the "Very Low Income Units"). During this period (1) BUILD and the nonprofit housing developer shall negotiate in good faith to enter into an agreement for the nonprofit housing developer to purchase the Affordable Housing Parcel for the Purchase Price, as defined below (the "Purchase Agreement"), within said one year period and (2) the nonprofit housing developer and the Redevelopment Agency or the City shall negotiate in good faith to enter into an agreement for the Agency or City to provide the financial assistance necessary to make such an affordable housing project economically feasible (the "Funding Agreement"). BUILD shall apply for such funding through the 2005 Notice of Funding Availability (NOFA) process. The Funding Agreement shall (1) provide for City/Agency funding under terms and conditions consistent with the City/Agency's affordable housing development guidelines and standard practices in the field of affordable housing finance; (2) provide that the nonprofit housing developer shall seek funding from non-Agency and non-City sources (including state and federal housing subsidy programs, low income housing tax credits, and private lenders) as appropriate; (3) require the nonprofit developer to commence construction of the project within three years from the date it acquires the site; and (4) provide for restrictions on the rental of the Very Low Income Units at an affordable rent only to very low income households (less than or equal to 50% of AMI) for at least 55 years, in accordance with Health and Safety Code Section 33413 (contingent on adequate Agency funding necessary to make the Very Low Income Units affordable to very low income households), with the restrictions in the form of recorded covenants running with the land that are enforceable by the Redevelopment Agency or the City.

For purposes of the above, the "Purchase Price" for the Affordable Housing Parcel shall be the lesser of (1) Fair Market Value, or (2) the Acquisition/Holding/Entitlement Costs. "Fair Market Value" shall mean the purchase price that an unrelated party negotiating at arm's length would pay to purchase such property unrestricted by affordable housing requirements, taking into account all then current market factors, including without limitation the quality, design, condition and location of the property including the extent and condition of the construction completed to date, if any, the amount of any and all liens, mortgages, and encumbrances against the property, environmental remediation costs, and the value of the existing improvements to such party.

"Acquisition/Holding/Entitlement Costs" shall mean (1) the actual price initially paid for the Affordable Housing Parcel by BUILD, calculated on the basis of the overall purchase price paid by BUILD for developable acres within the Wood Street Zoning District and prorated on a square footage basis to the Affordable Housing Parcel, plus (2) actual costs incurred by BUILD in holding, maintaining and entitling the Affordable Housing Parcel (calculated on a developable square footage basis prorated to the Affordable Housing Parcel), including taxes, carrying costs (which shall be defined as the investment return BUILD's investor, CalPERS, has received on investments in similar projects in the Cal PERS CURE program (California Urban Real Estate) since its inception in 1997, but not to exceed 10%), insurance, maintenance, and other out-of-

pocket payments by BUILD to third parties for holding, maintaining and entitling the property, but not including BUILD's administrative or staff costs. The Acquisition/Holding/Entitlement Costs shall be determined by an independent cost certification obtained by BUILD. BUILD shall submit its determination of Acquisition/Holding/Entitlement Costs, along with the independent cost certification, and its determination of Fair Market Value to the Redevelopment Agency within three months of the City Council's approval of the District. If the Agency disputes BUILD's determination either of Fair Market Value or Acquisition/Holding/Entitlement Costs, or both, as contained in BUILD's notice, the Agency shall notify BUILD in writing within 30 calendar days of its receipt of BUILD's determination, which notice shall set forth the Agency's determination of the Fair Market Value and/or cost of Acquisition/Holding/Entitlement. The Agency and BUILD shall thereupon attempt to resolve their differences within 10 days following BUILD's receipt of the Agency's notice. If the Agency and BUILD cannot agree on Fair Market Value during such 10-day period, the Agency and BUILD shall each appoint an appraiser who shall be an M.A.I. and a California licensed appraiser experienced in appraising commercial and residential real estate in Alameda County, and give notice of such appointment to the other within 10 calendar days after the foregoing 10-day period. Such appraisers shall, within 30 calendar days after the appointment of the last of them to be appointed, complete their written determinations of Fair Market Value and furnish the same to the Agency and BUILD. Each party shall pay the fees and costs of the appraiser appointed by it. If the valuations vary by ten percent (10%) or less of the higher value, the Fair Market Value shall be the average of the two valuations. If the valuations vary by more than ten percent (10%) of the higher value, the two appraisers shall, within ten (10) calendar days after submission of the last appraisal report, appoint a third disinterested appraiser who shall be an M.A.I. and a California licensed appraiser with the experience described above. If the two appraisers are unable to agree in a timely manner on the selection of the third appraiser, then either appraiser, on behalf of both, may request appointment of such third disinterested M.A.I. appraiser by the presiding judge of the Superior Court of Alameda County. Such third appraiser shall, within 15 calendar days after appointment, make a determination of Fair Market Value by selecting one of the prior appraisals. The third appraiser shall have no right to select a Fair Market Value other than as determined by one of the prior appraisals. If the Agency and BUILD cannot agree on Acquisition/Holding/Entitlement Costs during such 10-day period, the Agency and BUILD shall submit the issue to binding arbitration.

If, after good faith negotiations, BUILD and the nonprofit housing developer have not entered into a Purchase Agreement for the Affordable Housing Parcel within the one-year period, or the Agency and the nonprofit housing developer have not entered into a Funding Agreement within the one-year period, then BUILD shall provide notice to the Agency of its purchase option and the Agency shall exercise its purchase option within 60 days of the notice, for the purpose of providing housing at an affordable price to households at or below 50% of AMI, and deed restrict the parcel as affordable housing for households at or below 50% of AMI.

Upon exercise of the Agency's option, BUILD shall deliver title to the Affordable Housing Parcel to the Agency or its designee free and clear of any junior liens, leases, mortgages, or encumbrances, except those liens, mortgages, or encumbrances that have been specifically

approved by the Agency in writing. Escrow for the sale of the Affordable Housing Parcel shall close and BUILD shall execute and deliver to the Agency or its designee a grant deed or deeds to the Affordable Housing Parcel no later than 180 calendar days after exercise of the option, at which time the Purchase Price shall be paid by the Agency or its designee to BUILD. Prior to the close of escrow, BUILD shall take all necessary steps to ensure that a title company will be able to issue to the Agency or its designee, upon close of escrow, a standard CLTA owner's policy of title insurance, in an amount equal to the Purchase Price, showing title to the Affordable Housing Parcel vested in the Agency or its designee, with only the following exceptions:

- Liens for property taxes not yet due and payable;
- Any other lien or encumbrance approved in writing by the Agency in its sole discretion;
  - Conditions restricting use of the property to the development of the Very Low Income Units for rental only to very low income households.

At any time following the Agency's notice of its election to exercise the option, the Agency or its designee and its agents may enter the Affordable Housing Parcel for purposes of inspection, survey, tests, or other actions reasonably related to acquisition of the property by the Agency. The Agency or its designee shall indemnify and defend BUILD for any liability, claims or damages arising from such entry. The Agency may assign the option to purchase the Affordable Housing Parcel to any other entity in its sole discretion.

If after good faith negotiations either the Purchase Agreement or the Funding Agreement have not been entered into within the one-year period, and if the Agency or its designee has declined to exercise its option to purchase the Affordable Housing Parcel as set forth above, then BUILD shall have no further obligations with respect to affordable housing development on the Affordable Housing Parcel.

b. Each of the Wood Street Project Sponsors shall reserve at least 12.65% of the units within each for-sale project but no fewer than 9% of the total number of residential units built within the District (the "Reserved Units") for purchase by persons and families of low or moderate income until the Close of Escrow Date (defined below) for such unit. At least six months prior to the anticipated completion date of each Reserved Unit, the applicable Project Sponsor shall notify the Agency in writing of the anticipated completion date, the Purchase Price (defined below), and the address of each such unit (the "Availability Notice"). The Agency Administrator shall have 60 days from receipt of the Availability Notice (the "Option Period") to provide written notice to the applicable Project Sponsor that the Agency has elected to participate in the purchase of such unit, either by providing the Additional Homebuyer Purchase Assistance (defined below) or by directly purchasing the Reserved Unit (the "Agency Participation Notice"). The Agency Participation Notice need not specify whether the Agency will provide the Additional Homebuyer Assistance or purchase the unit; rather, it need only state

it will do one or the other by the Close of Escrow Date for each unit. If the Agency Administrator does not provide the Project Sponsor with the Agency Participation Notice during the Option Period, the Agency Administrator shall inform the Agency Board of such inaction, but such information shall not extend the Option Period.

Close of escrow shall occur within 165 days after completion of a Reserved Unit ("Close of Escrow Date"). The Purchase Price for the Reserved Unit shall be comparable to that of similar unit types, and situations within the same phase and development, except that in the event the closing occurs more than 120 days after completion of the unit, an amount equal to the extra costs attributable to construction financing costs resulting from such delay shall be added to the Purchase Price. All Reserved Units shall contain the same quality level of finishes, appliances and amenities, and the same standard features as are included in the base price for the same market rate unit.

Fewer than 12.65% of the units within each for-sale project may be reserved if the Project Sponsor demonstrates to the Agency Administrator's satisfaction that the total number of Reserved Units to be built within the District, when combined with the Very Low Income Units described in paragraph a, will equal or exceed 15% of the total number of residential units built within the District.

BUILD or its designee shall commit at least \$2.5 million of mortgage assistance funding to assist persons or families of low or moderate income in qualifying to purchase the Reserved Units. This assistance will be provided in the form of a loan of up to \$25,000 per borrower as a second mortgage with 4% interest-only payments for the first five years, and the remaining payments amortized over 15 years at 4% interest. Such funds will be available consistent with the conditions imposed upon the provider of the assistance by the source of the funds (i.e., per unit maximums, credit criteria, etc.).

The Redevelopment Agency or City may provide any additional funding necessary for a person or family of low or moderate income to purchase a Reserved Unit at an affordable housing cost to persons or families of low or moderate income, with an affordability level for all Reserved Units within each respective for-sale project at or below 100% of area median income (the "Additional Homebuyer Purchase Assistance"). Should the Agency or City provide the Additional Homebuyer Purchase Assistance, the Wood Street Project Sponsors shall cooperate with the Agency and the City to record restrictions on the Reserved Units restricting resale only to persons and families of low or moderate income at an affordable housing cost, with an affordability level of all Reserved Units at 100 % of area median income within each respective for-sale project, for at least 45 years, in accordance with Health and Safety Code Section 33413. Such restrictions also shall require that Reserved Units may be resold only to households with incomes at or below 100% AMI, at an affordable housing cost as defined by California Redevelopment Law, during the 45 year restricted affordability period, and must be in the form of recorded covenants running with the land that are enforceable by the Redevelopment Agency or the City.



In the event the Agency fails to provide the Agency Participation Notice, then the Wood Street Project Sponsors shall have no obligation with respect to the sale of the Reserved Units, other than to reserve such units for purchase by persons and families of low or moderate income until the Close of Escrow Date and to provide the mortgage assistance from BUILD or its designee as specified above.

c. The Project Sponsor shall establish a Homeownership Center in West Oakland no later than January, 2006, and shall provide operating funding for the Center for at least two years at no less than \$60,000 per year. The Center shall provide information on housing opportunities within the Project to prospective very low, low and moderate income homebuyers, and shall employ the services of home counseling agencies and financial institutions to assist such households.

d. Although the units built within the Wood Street Zoning District will be exempt from the provisions of Oakland's Just Cause Eviction Ordinance because they will be new construction, the Wood Street developers will agree to voluntarily incorporate and abide by provisions in tenant leases which would require cause before a tenant could be evicted from rental units within the Wood Street Zoning District.

e. The following terms are defined as follows:

- "affordable housing cost" means the definition contained in Health & Safety Code § 50052.5, as further defined in 25 California Code of Regulations § 6924.
- "affordable rent" means the current definition contained in Health & Safety Code § 50053, as further defined in 25 California Code of Regulations § 6922.
- "low income" means the definition contained in Health & Safety Code § 50079.5, as further defined in 25 California Code of Regulations § 6928.
- "persons and families of low or moderate income" means the definition contained in Health & Safety Code § 50093, as further defined in 25 California Code of Regulations § 6930.
- "monitor" means the collection of information about the continued affordability of a dwelling unit and taking steps to insure that affordability is maintained as required by law, pursuant to the provisions of the California Community Redevelopment Law, including but not limited to Health & Safety Code § 33418 and 33334.3.
- "very low income" means the current definition contained in Health and Safety Code § 50105, as further defined in 25 California Code of Regulations § 6926.

f. The Agency shall monitor, on an ongoing basis, the affordable rental housing units by requiring the then current owner to submit an annual report to the Agency containing all information required by Health & Safety Code § 33418, including but not limited to annual compliance reports, operating budgets and a fair housing marketing plan. The annual compliance report will include information as to the family size, household income and affordable rent calculation. Additionally, the then current owner shall allow for on site inspections of tenant records and tenant units. As to the ownership units, the Agency shall monitor the initial and subsequent sales of the affordable units for compliance with all affordability resale restrictions as defined by California Community Redevelopment Law, including but not limited to an affordable housing cost calculation. The units are to be sold to owner occupants only.

**101. Consistency with Final Action of the City Council**

The City Council hereby directs and authorizes the Planning Director to make any and all necessary changes to the Exhibits to this approval to make them consistent with the final action of the City Council.

BICYCLE PARKING.....	2
BIOLOGICAL RESOURCES.....	3
BUILDING REQUIREMENTS.....	3
CONSTRUCTION HOURS & ACTIVITIES.....	5
EMERGENCY PREPAREDNESS.....	12
ENVIRONMENTAL REVIEW.....	12
FAIR SHARE IMPROVEMENTS.....	13
GRADING, GEOTECHNICAL, EROSION CONTROL, STORMWATER & DRAINAGE.....	16
HAZARDOUS MATERIALS & CONTAMINATION.....	21
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LANDSCAPING & TREE PERMIT.....	34
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PARKING & TRANSPORTATION MANAGEMENT.....	37
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SHARED MAINTENANCE.....	40
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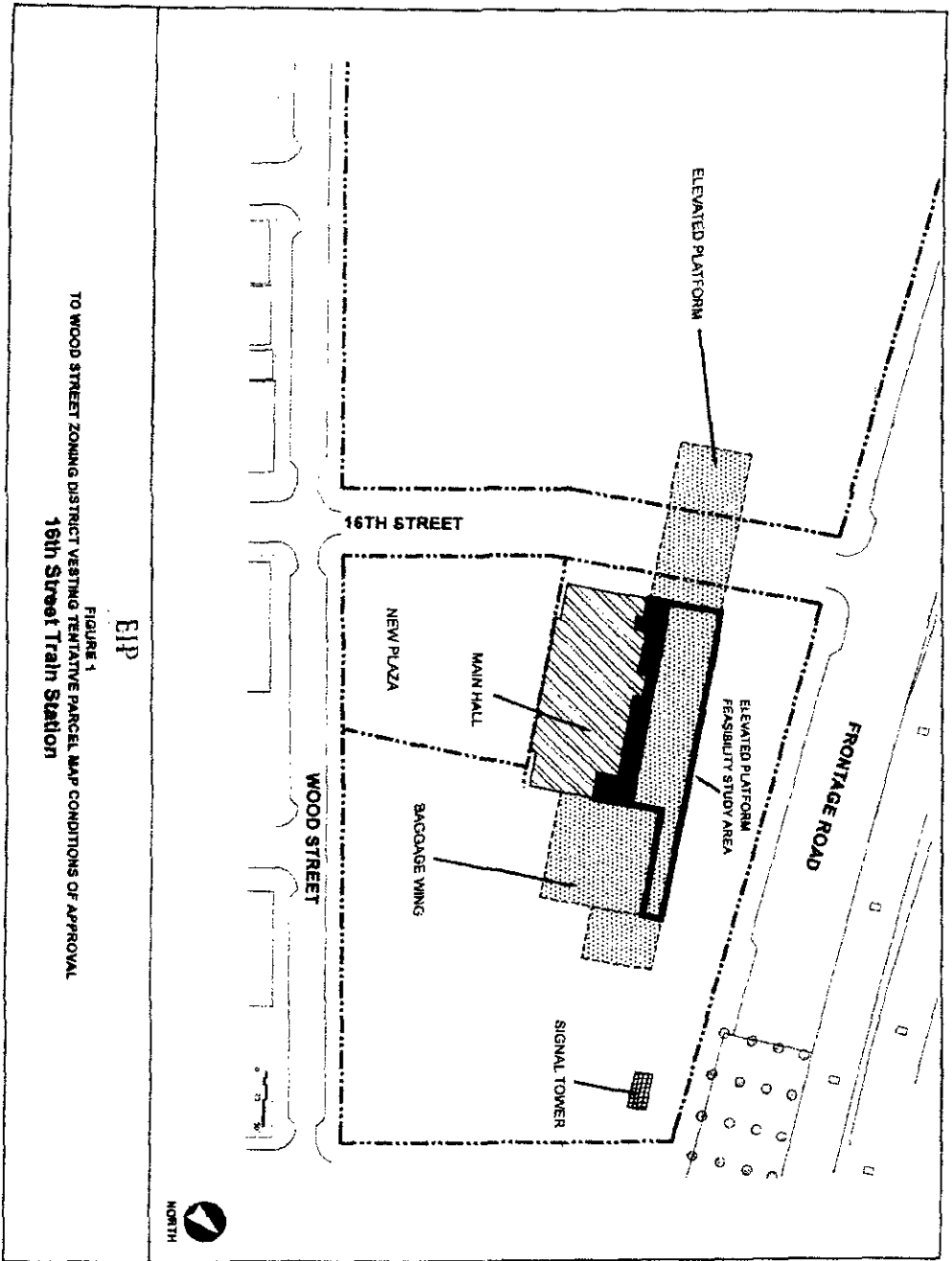


FIGURE 1  
 TO WOOD STREET ZONING DISTRICT VESTING TENTATIVE PARCEL MAP CONDITIONS OF APPROVAL  
 16th Street Train Station

EIP

# EXHIBIT D TO ALL APPROVAL DOCUMENTS

## GENERAL FINDINGS RELATED TO APPROVAL OF THE WOOD STREET PROJECT

CITY COUNCIL HEARING  
MAY 17, 2005

I. INTRODUCTION .....	1
II. GENERAL PLAN CONSISTENCY .....	3
III. WOOD STREET ZONING DISTRICT .....	8
IV. OAKLAND ARMY BASE AREA REDEVELOPMENT PLAN AMENDMENT.....	10
V. VESTING TENTATIVE PARCEL MAPS .....	11

### I. INTRODUCTION

1. These general findings are adopted by the City of Oakland and the Redevelopment Agency of the City of Oakland for the Wood Street Project. These findings refer to the EIR prepared for that project, SCH #2004012110, and are based upon that EIR. Capitalized terms are defined in Exhibit A (CEQA Findings). These findings are based upon all materials contained in the record of proceedings, as identified in Exhibit A (CEQA Findings). Some findings are based especially on specific reports, or upon specific pages of the EIR, as noted below. However, all findings are based upon the entire record. References to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the finding.

2. These general findings are attached as Exhibit D and incorporated by reference into several approval documents pertaining to the Wood Street Project: a resolution amending the General Plan, an ordinance amending the Oakland Army Base Redevelopment Plan, a resolution recommending the Redevelopment Plan amendment, an ordinance creating the *Wood Street Zoning District*, an ordinance rezoning the Project Area to the *Wood Street Zoning District*, and a resolution approving five separate Vesting Tentative Parcel Maps (VTPMs) for five sites within the Project Area, and denying appeals regarding the Planning Commission decision regarding the Maps. For ease of reference, all the relevant findings under the Planning and Zoning Law, the Municipal Code, the Redevelopment Law and other applicable policies or regulations are included in this one document.

3. Attached to these same approval documents is an Exhibit A that contains CEQA findings. Also attached is an Exhibit B that references impacts, mitigation measures, and resulting levels of significance, and sets forth the Mitigation Monitoring and Reporting Program. Also attached is an Exhibit C that contains the conditions of approval. All Exhibits are incorporated by reference into each other, and into the approval documents.

4. Exhibit C to the VTPM Resolutions contains definitions relating to Train Station facilities that are used in all findings as well. Specifically, references to the 16<sup>th</sup> Street Train Station and its various components are as follows. “16<sup>th</sup> Street Train Station” refers to all facilities associated with the station, which are as follows:

- the “Main Hall” (including its north and south wings, and the canopy at the Wood Street entrance to the Main Hall)
- the “Elevated Platform” (which housed the Elevated Tracks before they were removed in the 1940s)
- the “Baggage Wing”
- the “Signal Tower”
- the “Elevated Platform Feasibility Study Area,” which is the area of the Elevated Platform which is immediately adjacent to the Main Hall and the Baggage Wing

Each of these capitalized, quoted terms refers to facilities that comprise the 16<sup>th</sup> Street Train Station, as depicted in Figure 1 attached to the VTPM Conditions of Approval (Exhibit C to the VTPM Resolution). References to portions of the 16<sup>th</sup> Street Train Station to be preserved or rehabilitated, and references to portions of the 16<sup>th</sup> Street Train Station to be demolished, refer to the portions to be preserved, rehabilitated and demolished after implementation of VTPM Conditions 56A and 57A.

5. References to title, chapter and to code sections are references to the Oakland Municipal Code unless the context clearly indicates otherwise. References to Exhibits are references to the other exhibits to which this Exhibit D is attached.

6. Pursuant to Water Code section 10911(c), the City finds, based upon the water supply assessment provided by EBMUD and information in the entire record, that projected water supplies (including the supplemental water supply and demand management described by EBMUD in its water supply assessment) will be sufficient to satisfy the demand of the Project, in addition to existing and planned future uses. The City further finds that there are no subdivisions of more than 500 dwelling units, as none of the VTPMs propose more than 500 dwelling units. Accordingly, Government Code section 66473.7 does not apply.

7. On March 16, 2005, the Planning Commission certified the EIR and approved five Vesting Tentative Parcel Maps (VTPMs) for the Project, subject to numerous conditions. Arthur D. Levy appealed the Commission’s approval of the VTPMs. These findings support denial of that appeal, as well as approval of the Project. A separate appeal was filed by Margaretta Lin, on behalf of Just Cause Oakland and the Coalition for West Oakland Revitalization, but that appeal challenged only the Commission’s certification of the EIR. The CEQA aspects of the Levy appeal and the Lin appeal are addressed in Exhibit A (CEQA findings).

8. These findings are adopted after extensive review and consideration. The hearings are listed in Exhibit A (CEQA findings). The City has considered the advice and recommendations from the Landmarks Preservation Advisory Board, Planning Director, Planning Commission and Community and Economic Development Committee of the Council,

all of which have recommended the Project subject to certain considerations. The recommendations are deemed to include recommendations for all approvals and findings required to adopt the approvals to which these findings are attached.

## II. GENERAL PLAN CONSISTENCY

9. The Project is governed by the *City of Oakland General Plan* and any decision by the City affecting land use and development must be consistent with the General Plan. In order to achieve consistency between the Wood Street Project and the General Plan, the Project sponsors have requested a General Plan Amendment to change the designation of the Project Area from “Business Mix” to “Urban Residential.” The proposed Amendment is discussed in the EIR, especially at pages 3.2-6 through 3.2-18 of the DEIR along with a discussion of General Plan policies that are consistent with the Project. The proposed General Plan Amendment is also discussed in the staff reports presented to the Landmark Preservation Advisory Board, Planning Commission, Community and Economic Development Council Committee, the City Council and the Oakland Redevelopment Agency. The City adopts the conclusions, analysis and explanations contained in the EIR and staff reports.

10. The intent of the Business Mix land use category is to “create, preserve and enhance areas of the City that are appropriate for a wide variety of business and related commercial and industrial establishments.” When the General Plan Land Use and Transportation Element (LUTE) was adopted in 1998, it was anticipated that the Project Area would be developed with light industrial, manufacturing, bioscience, and research and development facilities. However, there was no demand for the light industrial land uses envisioned for this area, as evidenced by the lack of interest in developing the Business Mix land uses referenced in the LUTE since it was adopted. Instead, there was a demand for residential land uses, which are not permitted under the Business Mix designation.

11. The Project Sponsors have requested a General Plan Amendment to change the land use designation in the Project Area to Urban Residential, and have proposed the development of up to 1,570 residential units, including 186 live/work units, some in converted warehouses, 13,000 square feet of neighborhood serving commercial uses, and 14,487 square feet of community and civic uses associated with the historic 16<sup>th</sup> Street Train Station. The Project Sponsors propose to preserve and restore the Main Hall and the Signal Tower, and to construct a public plaza in front of the train station.

12. The Project, including the General Plan Amendment, Redevelopment Plan Amendment, Rezoning, and each Vesting Tentative Parcel Maps, is consistent with the General Plan and will result in an internally consistent General Plan.

13. The General Plan Amendment approved for this Project will not cause the General Plan to become internally inconsistent. The General Plan Amendment and the remainder of the General Plan comprise an integrated, internally consistent and compatible statement of policies for the City. The various land uses authorized for the Project are compatible with the objectives, policies, general land uses, and programs specified in the General Plan, as amended. The Project is compatible with and conforms to the objectives, policies, general land uses and programs specified in the General Plan. The Project furthers the objectives

and policies of the General Plan and does not obstruct their attainment. The Project, as conditioned through conditions of approval set forth in Exhibit C to the VTPM Resolution, is compatible with, and in harmony with, General Plan goals and policies. The Project is in harmony with surrounding neighborhoods, and the site is physically suitable for the development proposed.

14. The General Plan comprises many objectives, policies, principles, programs, standards, proposals and action plans (collectively “policies”), as well as performance standards. The City recognizes that the policies necessarily compete with each other. Examples of the tensions between General Plan policies are found between those policies that promote managed growth and encourage new residential construction, and those that provide for protection of historical resources that exist on undeveloped land. The City has considered all applicable General Plan policies and the extent to which the Project conforms to and potentially competes with each of those policies.

15. The City has fully evaluated the extent to which the Project achieves each policy, including those pertaining to compatibility of land uses, protection of open space, standards regarding geology, soils and earthquake risks, hazardous materials, flood hazards and drainage, protection of water quality, protection of biological resources, transportation standards and goals, regional and local housing needs, jobs/housing balance, noise, protection of air quality, protection of visual resources, standards for public services and utilities, protection of archeological and historical resources, the provision of housing for all sectors of the economic community, economic incentives, and the provision of employment opportunities for residents of Oakland in general, and West Oakland in particular. The City has also fully considered the Project’s compliance with all goals, policies and objectives in the General Plan, and finds the Project in compliance with the General Plan.

16. For the reasons stated in the EIR, in the staff reports referenced above, in these findings, and in the CEQA findings for the Project (Exhibit A), the City finds that the balance achieved by the Project among competing General Plan policies is acceptable, and that the Project complies with all performance standards in the General Plan. The Project achieves each applicable policy to some extent, and represents a reasonable accommodation of all applicable competing policies in the General Plan. The Project promotes the General Plan goals referenced in the CEQA statement of overriding considerations (Exhibit A). Specifically, the implementation of the approved project will result in the fulfillment of several important General Plan policies including investment in an economically distressed area, the encouragement of infill development, meeting regional fair share of housing needs, the creation of a new civic open space, and the preservation of a designated City landmark.

17. The Project also complies with applicable Historic Preservation Element goals and policies. The City adopts the explanation of how the Project complies with this Element from the EIR, particularly the Cultural Resources Chapter of the DEIR and Master Response 4 of the FEIR. The 16<sup>th</sup> Street Train Station is a Class 1 Landmark. The Project preserves the vast majority of this Class 1 Landmark, proposing demolition of only the north and south ends of the Elevated Platform that extend beyond the Elevated Platform Feasibility Study Area, and demolition of the portion of the Elevated Platform Feasibility Study Area, if any, that is not retained after implementation of VTPM Condition 57A. Demolition is permitted under the



Historic Preservation Element upon either of the following two findings: (c) the applicant demonstrates that the existing property has no reasonable use or cannot generate a reasonable economic return and that the development replacing it will provide such use or generate such return; or (d) the applicant demonstrates that the property constitutes a hazard to public safety and is economically infeasible to rehabilitate on its present site. For the reasons explained in Exhibit A (CEQA findings), the City adopts both findings. The City also finds that the mitigation measures reasonably assure compliance with Secretary of Interior standards that the potential rehabilitation of the Main Hall and Baggage Wing will be compatible with the property's historic design.

18. When the Landmarks Preservation Advisory Board and Planning Commission considered the proposed demolition of portions of the 16<sup>th</sup> Street Train Station, and the proposed retention and reuse of portions of the 16<sup>th</sup> Street Train Station, they determined that demolition should not be permitted absent further investigation into possibilities for retaining a greater width of the Elevated Platform Feasibility Study Area and the Baggage Wing. The Planning Director likewise determined that demolition should not be permitted absent additional efforts to preserve these facilities. The Project Sponsors therefore proposed to preserve a greater portion of the 16<sup>th</sup> Street Train Station, and the Council directed that additional language be included in the proposed measures at its meeting of May 3, 2005. These measures are now reflected in VTPM Conditions 52A (providing for preservation of the 16<sup>th</sup> Street Train Station including the Main Hall, Baggage Wing, and as much of the Elevated Platform Feasibility Study Area as possible), 56A (providing an opportunity for the Redevelopment Agency to fund retention of the Baggage Wing), 56B (assuring that the Baggage Wing may not be demolished as part of this approval, and setting forth a process to ensure even more consideration of feasibility should the Project Sponsor seek permission to demolish the Baggage Wing at some future date) and 57A (providing for additional investigation of retaining a greater width of the Elevated Platform Feasibility Study Area). There was also concern at the Landmarks Preservation Advisory Board regarding the feasibility of reusing the Main Hall if lot lines were drawn immediately around the Main Hall without providing additional space for parking or accessory functions. In response, the Project Sponsor submitted evidence (Attachment H to the staff report for the March 16, 2005 Planning Commission meeting), which demonstrates the feasibility of reuse. The City now finds the concerns of the Planning Director and these lower bodies have been addressed adequately in VTPM Conditions 56A, 56B and 57A, and as explained in the following paragraphs.

19. Implementation of VTPM Condition 56A will involve a determination by the Redevelopment Agency whether to fund retention of the Baggage Wing. If the Redevelopment Agency elects to fund retention of the Baggage Wing, the Baggage Wing shall be retained, and rehabilitation and reuse of the Baggage Wing will be explored pursuant to VTPM Conditions 58 and 59. If the Redevelopment Agency does not elect to fund retention of the Baggage Wing, the Project Sponsor will not be allowed to demolish the Baggage Wing unless the Project Sponsor obtains additional approvals at a later date, as provided in VTPM Condition 56B.

20. Implementation of VTPM Condition 57A will result in a determination, to be made in connection with approval of a Preliminary Development Plan, of the amount of width of the Elevated Platform Feasibility Study Area that can be retained, leaving the portion that

cannot be retained to be demolished. The portion of the Elevated Platform Feasibility Study Area that is not demolished will be preserved, and rehabilitation and reuse of the preserved portion of the Elevated Platform Feasibility Study Area will be explored pursuant to VTPM Conditions 58 and 59.

21. The City finds that, with imposition of these conditions, demolition and removal of the Class 1 Landmark facilities (demolition of the north and south ends of the Elevated Platform that extend beyond the Elevated Platform Feasibility Study Area, and demolition of the portion of the Elevated Platform Feasibility Study Area, if any, that is not retained after implementation of VTPM Condition 57A) are appropriate because the applicant has demonstrated that the existing property has no reasonable use and cannot generate a reasonable economic return, and that the proposed replacement structures will provide a reasonable use and a reasonable economic return. The reasons for this conclusion are set forth in the section of Exhibit A (CEQA Findings) pertaining to Historic Resource Issues. With respect to the portions of the 16<sup>th</sup> Street Train Station proposed for retention and rehabilitation, the City finds the proposal conforms substantially with the Secretary of Interior's Standards for the Treatment of Historic Property; and that, to the extent the proposals can be argued not to conform due to demolition of other portions of the 16<sup>th</sup> Street Train Station, the applicant has demonstrated that the property has no reasonable use or cannot generate a reasonable economic return without that demolition, and that no feasible alternatives are available to obtain such use or return. (Tables 4-1 and 4-2 of Historic Preservation Element)

22. The City finds compliance with Note 1 of Table 4-1 of the Historic Resources Element as follows. There are already been extensive discussion and consideration of the demolition of portions of the 16<sup>th</sup> Street Train Station. Many commenters have made numerous, specific suggestions regarding the portions that will or may be demolished. Despite the breadth, length and extent of this process, there have been no proposals by any person or entity to purchase or move the historic structures, except for the concepts already embodied in mitigation measures and VTPM conditions of approval. In light of this extensive processing, the City finds that a period of 90 days, starting from the date of the Council's final decision to adopt of the Wood Street Zoning District, is a sufficient period of time for the Project Sponsors to investigate sale or moving of the property in compliance with Note 1 in Table 4-1. The sufficiency of the investigation shall lie in the sole discretion of the Planning Director. The City finds that VTPM conditions of approval comply with the requirements of Note 2(i) of Table 4-1 pertaining to documentation and a salvage program. The City finds that note 2(ii) of Table 4-1, pertaining to Class 3 landmarks, is not applicable as no Class 3 landmarks are in the Project.

23. As explained in Master Response 4 in the FEIR, and in the definitions of terms contained in the Historic Preservation Element, none of the other properties in the Wood Street Zoning District are subject to the regulatory portions of the Historic Preservation Element. That element contains regulations restricting or prohibiting alteration or demolition of certain buildings. Those regulations apply only to properties that have been designated historic properties pursuant to the procedures in Policy 2.3. Neither Bea's Hotel nor the Pacific Coast Canning Company Buildings have been subjected to the procedures in Policy 2.3, and are therefore not designated historic properties. Demolition of these buildings is appropriate because the demolition has been studied in an Environmental Impact Report, and the properties are blighted as previously determined when the Redevelopment Plan was adopted, and based upon

the information about the existing setting in the EIR, in photographs submitted to the City by commenters, and in the testimony of numerous commenters at the May 3, 2005 Council hearing. No funding has been located that would permit retention of these properties, and the City is not able to acquire the properties.

24. Bea's Hotel and the four Pacific Coast Canning Company Buildings are Potential Designated Historic Properties. The City finds compliance with Policy 3.5 of the Historic Preservation Element with respect to Bea's Hotel. Bea's Hotel has experienced alteration and deterioration, resulting in a rating of Dc2+, and in a determination that the property does not warrant retention. This determination is confirmed by a recent inspection performed by Alan Dreyfus, as noted in the materials presented to the Council for its May 3, 2005 meeting. Bea's Hotel is proposed for demolition under the Project. The regulations of the Wood Street Zoning District assure that the design quality of the new development will be compatible with the character of the neighborhood, and that the new design will be at least equal in quality to the existing design.

25. The City finds compliance with Policy 3.5 of the Historic Preservation Element with respect to the Pacific Coast Canning Company buildings. These buildings are located at 1111 through 1119 Pine Street, between 11<sup>th</sup> and 13<sup>th</sup> Streets, in Development Area 2. One building (the Cannery Building) is proposed for reuse. The two smaller buildings are currently proposed for demolition. The fourth building (referred to as the Icehouse) will continue to be used for warehouse storage and is zoned to accommodate future residential development, and may be demolished. The buildings have been substantially altered, and have been vacant for some time. The district that encompasses the buildings has not been designated a Preservation District by the City, and none of the buildings themselves have been designated as historic properties. The condition of the buildings and the fact that their design is undistinguished, result in the City's determination that the buildings do not warrant retention. The regulations of the zoning district provide adequate assurance that proposed design of the new development will be compatible with the character of the neighborhood, and at least equal in quality to the existing design. The proposal for the Cannery Building will comprehensively modify that building, while incorporating elements to honor its history. Lew Hing's granddaughter expressed support for the development proposal for Development Area 2, at the April 11, 2005 meeting of the Landmarks Preservation Advisory Board.

26. The City acknowledges the controversy and difference of opinion regarding the consistency of the Project with the General Plan. In some instances, commenters have urged that the City consider the Project inconsistent with the General Plan unless the Project is redesigned to incorporate attributes desired by the commenters. Examples include affordable housing; redesign of architectural elements, project intensity or density to provide what the commenters believe is a better degree of compatibility with adjacent neighborhoods; economic incentives; job creation; retention of existing businesses; and job training opportunities. To the extent these subjects are reflected in the Oakland General Plan, the City finds that the controversy is about the extent to which the Project will achieve each General Plan provision, and not whether the Project is inconsistent with any of those provisions. However, the City has never interpreted its General Plan to require that every single development project incorporate every ideal referenced in the General Plan to fullest extent possible. Rather, the City has historically interpreted its General Plan to provide City-wide goals, objectives, policies and

programs designed to make Oakland as a whole a balanced, inviting, viable community with sufficient housing to meeting the City's fair share of regional housing needs. The City has reviewed carefully the role the Project will play in achieving city-wide goals, policies, objectives and programs, and finds the extent and manner in which the Project will participate acceptable and desirable.

27. The City has also carefully reviewed the goals, policies, objectives and programs specifically applicable to the West Oakland neighborhood, and finds the extent and manner in which the Project will participate to be acceptable and desirable. The City finds that the Project particularly advances certain General Plan goals, policies, objectives and programs that are specific to the West Oakland neighborhood. The Project will improve neighborhood land use compatibility through the development of pedestrian-oriented mixed-use development rather than industrial or transportation related uses, and will contribute to moving high impact industrial uses away from residences. The Project will invest in neighborhood infrastructure by modernizing the existing sewer and storm drains to serve the site, undergrounding utilities and providing new streetscape, sidewalks and lighting. The Project will address disinvestment in West Oakland by redeveloping and revitalizing underutilized or vacant land. The Project will meet the goal of adaptive reuse through the preservation and rehabilitation of the 16<sup>th</sup> Street Train Station. Finally, the Project will provide the neighborhood with compatible infill development that includes live-work units.

28. During the processing of the Project, the various Project Sponsors have agreed to additional regulations applicable to the Development Areas each controls, as reflected in VTPM Conditions 7A (regarding hiring practices), 52A (provision for preservation of the 16<sup>th</sup> Street Train Station including the Main Hall, Baggage Wing, and as much of the Elevated Platform Feasibility Study Area as possible), 56A (providing an opportunity for retention of the Baggage Wing), 56B (assuring that the Baggage Wing may not be demolished as part of this approval, and setting forth a process to ensure even more consideration of feasibility should the Project Sponsor seek permission to demolish the Baggage Wing at some future date), 57A (regarding the width of the Elevated Platform Feasibility Study Area), 68A (Buffer Area Adjacent to California Waste Solutions Facility), and 100 (providing opportunities for lower income persons and families to reside in the Project). These additional provisions will assure that General Plan policies encouraging job opportunities, opportunities for housing for persons and families of lower economic status, preservation of historic resources, and compatibility with the surrounding neighborhood are achieved to a greater extent than they would otherwise be, and further evidence General Plan consistency. The retained portions of the 16<sup>th</sup> Street Train Station will continue to be subject to the protections of Ordinance 10435, by which the 16<sup>th</sup> Street Train Station was designated as an Oakland landmark.

### **III. WOOD STREET ZONING DISTRICT**

29. The Wood Street Zoning District is attached to the Ordinance of the City of Oakland Adopting the Wood Street Zoning District. The City adopts the conclusions, analysis and explanations contained in the EIR, staff reports and presentations by the Project Sponsors relating to the zoning district.

30. Pursuant to Chapter 17.144, the City finds the rezoning of the Project Area to the Wood Street Zoning District is consistent with the goals and policies of the General Plan and the proposed General Plan Amendment related to this site, as noted above. The notice required by section 17.144.060 has been given.

31. The Wood Street Zoning District is based on regulations from the existing Oakland Zoning Code and sets forth land use regulations, development standards, design guidelines and other requirements. The adoption of the Wood Street Zoning District will apply exclusively to the 29.2 acre Wood Street Project, and will allow for a residential mixed-use development in the Project Area, consistent with the proposed land use designations under the General Plan Amendment related to this site. The rezoning will promote local and regional welfare by allowing housing to be developed on a site which is currently underutilized or vacant, in a manner that accommodates a unique site that faces many development challenges. This significant addition to Oakland's housing stock will help satisfy local and regional housing needs to a much greater degree than would the current zoning designations, none of which are appropriate for residential development. The Project will provide a variety of housing types, making the development accessible to a range of needs in the market. The Wood Street Zoning District will allow the development of pedestrian-oriented, live-work, mixed-use development near the center of the Bay Area, with convenient access to public transit and freeways. The type of development will promote the public health, safety and welfare by reducing pollution associated with both long distance commuting and industrial truck traffic, as well as redeveloping and revitalizing an economically distressed area of the City. The rezoning will facilitate private investment into an economically depressed area, and will promote the goals and purposes of the Oakland Army Base Redevelopment Plan.

32. The Wood Street Zoning District does not create an incompatibility with the surrounding area. The area to the northwest of the Project Area, across I-880, contains mostly transportation-related uses. The majority of the land to the south and east of the Project Area is zoned for residential uses. Other land to the south contains industrial uses including a recycling center. Limitations have been incorporated into the requirements for the project to assure adequate setbacks and buffering between the surrounding industrial and commercial uses and the approved residential uses. Implementation of the Project will help to alleviate existing land use conflicts in the area by introducing pedestrian-oriented mixed-use development into the Project Area. Retaining the existing zoning, in contrast, would result in the expansion of new industrial and transportation related uses in the Project Area in an area immediately adjacent to existing residential uses. Limiting the expansion of these industrial and transportation uses promotes the public health, safety and welfare by restricting and re-directing heavy truck traffic and the accompanying impacts on air quality. Further, the Project would serve to buffer the existing adjacent homes from current high levels of noise from I-880 and the frontage road.

33. The Wood Street Zoning District will not create visual incompatibility with the surrounding districts. The Wood Street Zoning District promotes the public interest by identifying three "overlay zones" within the Project Area, to ensure that there is a transition in scale from the existing neighborhood to the Project, that new development fronting the 16<sup>th</sup> Street Plaza creates a well-defined urban space and is complementary to the scale of the 16<sup>th</sup> Street Train Station, and that there is greater flexibility for development facing onto the busy frontage road. The Wood Street Zoning District proposes a base set of development standards

for each Development Area. These include maximum and minimum densities, floor area ratios, height limits, setbacks, and parking. The Zoning District also includes design guidelines to be applied to future development in the Project Area which emphasize physical design features that promote visual interest, pedestrian friendliness, attractive streetscape and visual compatibility with existing nearby development.

34. The additional provisions reflected in VTPM Conditions 7A (providing for a local construction labor process), 52A (providing for preservation of the 16<sup>th</sup> Street Train Station including the Main Hall, Baggage Wing, and as much of the Elevated Platform Feasibility Study Area as possible), 56A (providing an opportunity for retention of the Baggage Wing), 57A (regarding the width of the Elevated Platform Feasibility Study Area), 68A (Buffer Area Adjacent to California Waste Solutions Facility), and 100 (providing opportunities for lower income persons and families to reside in the Project), and provide further assurance that the Project will be compatible with the surrounding neighborhood, and will promote the health, safety and welfare of the citizens of Oakland.

#### **IV. OAKLAND ARMY BASE AREA REDEVELOPMENT PLAN AMENDMENT**

35. The Project Area is within the 16th/Wood sub-area of the Oakland Army Base (OARB) Redevelopment Project Area. The OARB Redevelopment Plan was adopted in 2000, based upon determinations documented in the Report To City Council Oakland Army Base Redevelopment Project, prepared by Hausrath Economics Group and dated May 2000. This report documented physical, economic and infrastructure-related blight in the 16<sup>th</sup> and Wood Area, finding factors that substantially hinder the economically viable use of land and buildings in the area and prevent their successful redevelopment. As documented in the EIR, in staff reports, and in photographs and descriptions presented by commenters, the area has experience further deterioration since then.

36. The OARB Redevelopment Plan did not mandate a specific development program for the Project Area, deferring instead to the range of land use activities allowed by the Oakland General Plan and Zoning Code. The Project includes a General Plan Amendment to change the designation of the Project Area from "Business Mix" to "Urban Residential." The Project also includes a Redevelopment Plan Amendment, to amend the Redevelopment Plan land use map for the 16<sup>th</sup>/Wood sub-area to "Urban Residential," consistent with the General Plan. The proposed OARB Redevelopment Plan Amendment is discussed in the EIR, especially at pages 3.2-18 through 3.2-21 of the DEIR, and contains a discussion of Redevelopment Plan goals with which the Project is consistent. The proposed Redevelopment Plan Amendment is also discussed in the staff reports presented to the City and in materials presented by the applicant. The City adopts the conclusions, analysis and explanations contained in the EIR and staff reports.

37. Pursuant to Health and Safety Code sections 33450 and 33458, the City Council and the Redevelopment Agency, meeting jointly, find that the amendment to the OARB Redevelopment Plan is necessary and desirable. The proposed amendment has been submitted to the Planning Commission pursuant to Health and Safety Code section 33453. The Planning Commission has independently reviewed and considered the proposed amendment and has recommended that the City Council and the Redevelopment Agency amend the OARB

Redevelopment Plan, and that the Council amend the General Plan as proposed. The notice required by section 17.144.060 was duly given prior to the Planning Commission consideration of this action, and the City gave proper public notice prior to City Council and Redevelopment Agency consideration as required by Health and Safety Code section 33452.

38. The Redevelopment Plan Amendment is consistent with the General Plan Amendment included in the Project and consistent with the Redevelopment Plan goals. The OARB Redevelopment Plan is a long-term plan, designed to retain flexibility so the Agency can respond to changes in market and economic conditions, developer interest, and redevelopment opportunities. The proposed Amendment is desirable as it will allow for residential mixed-use development that will help to eliminate physical and economic blighting influences in the Redevelopment Project Area, a central goal of the Redevelopment Plan. Amending the Redevelopment Plan to allow for the development of the Project will help to mitigate the economic and social degradation faced by the City due to the closure of the Oakland Army Base. It will allow for the subdivision of land into parcels suitable for modern integrated development with improved pedestrian and vehicular circulation. It will strengthen the economic base of the community through the construction of infrastructure and site improvements that will in turn stimulate new development, through private investment in an economically depressed area of the City, and through development of a Project likely to implement Redevelopment Plan goals of raising property values and generating tax increment revenue.

39. Pursuant to Redevelopment law and the Redevelopment Plan, and as set forth in Exhibit F to the staff report for the 3/16/2005 Planning Commission meeting and Attachments G and H to the staff report for the 5/3/2005 Council meeting, the Redevelopment Agency has several options available to it to meet the Redevelopment Plan's requirement for the provision of affordable housing. The Plan requires that 25% of all tax increment revenue generated by redevelopment within the Redevelopment Project Area be set aside for the provision of affordable housing, which could be used to assist in the development of such housing. Such tax increment will be more than sufficient to ensure that the affordable housing requirements of the Redevelopment Plan will be met. Conley Consulting Group has estimated that such housing set aside tax increment will be \$96 - \$106 million by 2030, and that the Wood Street Project alone will generate \$36.8 million by 2030.

40. VTPM Condition No. 100 requires the Project Sponsors to provide very low, low, and moderate income housing within the Development Areas in a manner that will assist the Redevelopment Agency in meeting its obligations under the Redevelopment Plan and Section 33413 of the Health and Safety Code (State Redevelopment Law).

## **V. VESTING TENTATIVE PARCEL MAPS**

41. Pursuant to Title 16 of the Oakland Municipal Code, the City finds that each of the Vesting Tentative Parcel Maps (VTPMs) 8551, 8552, 8553, 8554 and 8555, independently and collectively, are consistent with the goals and policies of the General Plan and the General Plan Amendment related to this site, as noted above. The VTPMs are discussed in the staff reports presented to the City and also in the text accompanying the Maps. The City adopts the conclusions, analysis and explanations contained in the staff reports and in the VTPMs. The City denies the Levy appeal and approves VTPMs 8551-8555 for the Project, as

subject to the VTPM Conditions of Approval (Exhibit C to the VTPM resolution). The Planning Commission's approval of each VTPM is also conditioned upon enactment by the Council of the General Plan Amendment and Rezoning included in the Project.

42. VTPMs 8551, 8552, 8553, 8554 and 8555 each contain all information required by State Law and by the Oakland Municipal Code, including all information referenced in section 16.08.010. Each VTPM provides, to the extent feasible given the nature of the site and the challenges faced in designing a viable development project, for future passive or natural heating or cooling opportunities.

43. Final maps may be filed in phases, as set forth in the VTPMs and in the Conditions of Approval (Exhibit C to the VTPM resolution). In addition, a Final Map cannot be recorded unless the City has first approved a Final Development Plan for the area subject to the Final Map.

44. Each VTPM meets all design standards of Chapter 16.16 and all improvement standards of Chapter 16.20 through the requirements of the Wood Street Zoning District Zoning Standards, Guidelines and Regulations for Development and Use of Property with the Wood Street Zoning District, and through the items shown on each VTPM.

45. Pursuant to section 16.20.040, the City has given due consideration of the allocation of suitable areas for open space, schools, parks and playgrounds.

46. The VTPM conditions of approval require submittal of a preliminary soils report, in accordance with section 16.20.060. As required by section 16.20.070, all grading work shall be done under the direction of a registered civil engineer, who shall submit the certificate required by section 16.20.070 prior to acceptance of subdivision improvements.

47. The precise location of the portion of the line between Parcel 2 and Parcel 3 of VTPM 8554, which surrounds the Elevated Platform Feasibility Study Area, shall be as depicted in the Final Development Plan for Parcel 3, in compliance with VTPM Condition of Approval 57A. Determining the location of this portion of the line on the final map is ministerial because the line will simply mimic the proposal approved in the Final Development Plan for Parcel 3.

48. The portion of the line between Parcel 2 and Parcel 3 of VTPM 8554, which surrounds the Baggage Wing, shall be as depicted in Figure 2 to the VTPM conditions of approval. Determining the location of this portion of the line on the final map is ministerial because the only determination needed is whether the line shown on the final map substantially conforms to the line in Figure 2 to the VTPM conditions of approval.