

**CITY OF OAKLAND
AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK

2004 FEB -5 PM 4: 17

TO: Office of the City Manager
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: February 17, 2004

RE: Public Hearing to Consider:

- 1) Resolution Approving the Applications of the Desilva Group to Close the Leona Quarry, Reclaim it and Redevelop the Site for 477 Residential Units at 7100 Mountain Boulevard in Compliance with Alameda Superior Court Order (Action No. RG-03077607)
- 2) Resolution Modifying Resolution No. Regarding the Leona Quarry Residential Project at 7100 Mountain Boulevard to Incorporate Additional Conditions of Approval Consistent with the Approved Settlement Agreement in the Matter of Maureen Dorsey, et al. v. City of Oakland, et al.

SUMMARY

This public hearing concerns the Leona Quarry Residential Project and the re-approval of that project due to the Alameda County Superior Court Order and the subsequent Leona Quarry Settlement Agreement approved by the City Council on January 6, 2004. The Council is to consider first whether to certify the EIR, as revised and supplemented by the Supplemental EIR and re-approve the project, incorporating the changes to the hydrology system recommended in the SEIR. Re-approving the project with only the changes recommended in the SEIR is necessary to ensure the City follows the procedures directed by the court in the litigation regarding the Leona Quarry EIR, and to ensure that the City can easily demonstrate that its decision is based upon scientific analysis that is consistent with the Court's order. As a separate agenda item, the Council is requested to consider whether to modify that re-approved project by adding the conditions proposed in the Leona Quarry Settlement Agreement. Staff recommends that the City Council take any public testimony concerning the SEIR, the proposed re-approval and the proposed modified approval, and then take action to approve both resolutions.

On December 2, 2002, the City Council previously approved construction of 477 residential condominium and townhouse units, an approximately 2,500 square foot Community Center, parks and open space and associated roadways, pedestrian paths and trails on a 128-acre quarry site known as Leona Quarry. Nineteen single family home lots have access from Campus Drive. This approval stemmed from an appeal filed by Maureen Dorsey, on behalf of the Burckhalter Neighbors and Citizens for Oakland's Open Space. Subsequently, these neighbors filed a lawsuit challenging the adequacy of the Environmental Impact Report ("EIR") for the project. The Alameda County Superior Court then ordered that the PUD Permit, subdivision map, variances and design review approval for the Leona Quarry project, and the EIR previously

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certified for those approvals, be set aside until a new Subsequent EIR is prepared with regard to hydrological issues, and geology issues only if changes arising out of matters related to hydrology result in changes to the geology analysis.

A Subsequent EIR was prepared, circulated for public comment, and has now been finalized. The Final Subsequent EIR ("SEIR"), along with recommendations and revisions to the project were considered by the Planning Commission on January 21, 2004. While these matters would normally remain within the jurisdiction of the Commission except for an appeal, the court remanded the matter to the City Council. Accordingly, the Council is now requested, in agenda item 1, to review and consider the SEIR, the Planning Commission comments and recommendations, and take action to re-approve the project. The land use approvals that are required are: a PUD, a subdivision map, variances and design review approval (PUD02-437, VDR02-439, TTM 7351 and ER01-33).

In addition, in agenda item 2, the City Council is asked to consider imposing conditions referenced in a Settlement Agreement ("LQSA") which was approved by the Council on January 6, 2003 among the City, the DeSilva Group ("Project Applicant"), and Maureen Dorsey, et.al to resolve the litigation *Dorsey, et.al vs. the City of Oakland*. The settlement agreement requires the Council to consider in good faith imposing six modifications to the re-approved project.

This staff report summarizes the review and consideration process for the Leona Quarry Project, details the SEIR process and the major findings of that analysis concerning hydrology, provides specific recommendations concerning revised conditions of approval about hydrology and those required to implement the LQSA.

FISCAL IMPACTS

As proposed and as required through the Conditions of Approval (COA), all costs for all related City staff and professional services to monitor the project, review plans, inspections, and the like would be recovered through fees paid by the Project Applicant. If the Leona Quarry Project moves forward, it will provide the City with increased property tax revenues because an existing quarry site would be reclaimed, restored and redeveloped with 477 residential units. The Leona Quarry property is located within the Wildfire Prevention Assessment District and will be subject to the assessment.

BACKGROUND

Brief Overview of the Project.

On December 3, 2002, City Council previously approved land use entitlements for a project with a total of 477 residential units, with clustered residential development adjacent to Edwards Avenue and 19 single-family homes fronting on Campus Drive. A 54 unit, affordable senior housing project was also approved as a single building at the base of Edwards Avenue. A two-acre internal park, pathway system, slope stabilization, and flood control detention basin were included in the proposal. The project includes extensive reclamation, restoration and

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revegetation of the quarry site, as well as stabilization of slope areas along the western edge of the project.

The City Council approved the project as a Planned Unit Development ("PUD") with Conditions of Approval, based on Mitigation Measures contained in the Final EIR and other City conditions and requirements. A Vesting Tentative Map was approved in order to be able to subdivide the property into the residential lots proposed for the PUD. Resolution 77545 forming a Geologic Hazard Abatement District (GHAD) for the project, was also adopted by the City Council on December 3, 2002.

The City Council also approved a Zoning Boundary Adjustment (ZBA), which was required so that the developed area at the base of the site is all within the R-50 residential boundaries. It is also consistent with the attached townhouse character of the proposed development. The 19 single family homes along Campus Drive remain in the R-30 zone and a portion of the center of the site that will not be developed would be down zoned to R-30.

In addition, the Council approved design review of the project, along with three variances from the zoning ordinance development standards that were not a part of the exceptions provided through the PUD, although they also directly relate to the planned and integrated development approach being proposed for the site. The variances are for retaining wall height greater than 6 feet in certain locations; garage widths; and the amount of paving in front yard areas (greater than 50 percent).

Lawsuit Challenging the Project's CEQA Review. In January, 2003, the appellant, Maureen Dorsey, the Burckhalter Neighbors and Citizens for Oakland's Open Space, Inc., filed a lawsuit challenging the adequacy of the EIR that was prepared and certified for the project. The Alameda County Superior Court ordered that the PUD, Variances, Vesting Tentative Map and Design Review, and the certification of the EIR prepared for those approvals, be set aside. The court stayed the effect of the Zoning Boundary Adjustment, but did not order the ZBA set aside. The formation of the GHAD was not challenged.

The court ordered the approvals set aside until a Subsequent EIR was prepared with regard to only that portion of the EIR dealing with hydrological issues. The court also ordered that the geology segment of the EIR should be revised only if changes arising out of matters relating to hydrology resulted in changes to the geology analysis in accord with CEQA standards. This Subsequent EIR work has now been completed. The Council, in agenda item 1, is considering recommendations on whether to certify the EIR, as revised and supplemented by the SEIR, and whether to re-approve the project approvals that were ordered set aside.

Settlement Agreement. On January 6, 2004, the City Council confirmed the approval of a Settlement Agreement (LQSA) among the City, the DeSilva Group and the petitioners in Dorsey v. City of Oakland, in which the Council is asked to consider in good faith certain modifications to the project. A copy of the text portion of the LQSA is attached for the Council's information.

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Reconsideration and Approval Process. The City Council must now respond to the court order, which remanded the matter to the Council for its final reconsideration. On January 21, 2004, the Planning Commission reviewed and made recommendations to the Council regarding the SEIR, the project modifications referenced in that SEIR, and whether to re-approve the PUD, map, design review and variances. The Planning Commission's recommendation was to certify the SEIR and re-approve the Leona Quarry project without eliminating the Gateway Senior Housing component as is proposed in the LQSA.

The Council is considering two separate agenda items. In agenda item 1, the City Council will consider action to certify the EIR, as revised and supplemented by the SEIR, and re-approve the project incorporating only the refined hydrology measures from the SEIR. Thereafter, in agenda item 2, the Council will separately consider whether to modify that re-approval by adding the modifications proposed in the LQSA.

Proceeding in two steps, rather than considering only the project as modified by the LQSA, will assist the City in court. It will make clear that the Council has followed the procedures and considered the matters referenced in the court order. It will also make clear that the Council is complying with CEQA by basing its decision on scientific analysis. The refinements proposed in the SEIR are the result of an intensive study in which an array of experts participated. The measures proposed in the re-approval resolution are based on this scientific analysis. The measures in the settlement agreement, while adding more protections, are the result of negotiation, not science. Considering re-approval of the project separately will allow the Council to determine whether it endorses the scientific conclusions reached as a result of an extensive, intensive process involving all these experts.

KEY ISSUES

SEIR's Major Hydrology Findings, Results, and Further Specified Mitigation Measures. Since early 2003, the project applicant has been working on further analysis and refinements of the stormwater management system for the project. In addition, there was further review and consideration of the modeling parameters used to test design assumptions, identify issues as design work progressed and resolve these issues. In the SEIR, the same significance criteria were used to determine whether the project would have any potentially significant impacts, as follows:

- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion on- or off-site;
- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on – or off-site;
- Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems;

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- Place housing within a 100 year flood hazard area structures which would impede or redirect flood flows;
- Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of failure of a levee or a dam; or
- Inundation by seiche, tsunami, or mudflow.

The SEIR confirmed the previous EIR's conclusions that implementation of the project would potentially have the following impact:

Impact F.1: *Development of the project site could increase storm water flow to create localized flooding and contribute to existing flooding downstream.*

The SEIR also reviewed and considered much more detailed information regarding hydrologic modeling, assumptions used in this type of modeling and a review of the modeling parameters. Out of this information and analysis, and employing a consensus approach involving the City's Public Works Agency, Alameda County Flood Control, the applicant's consultant, Balance Hydrologics (BH), and the City's peer reviewer, Phillip Williams and Associates (Williams), the modeling, assumptions and parameters were mutually agreed upon for use at the Leona Quarry site. It was determined that both the BH parameters used in the original EIR, and the Williams parameters used in Williams initial peer review, are reasonable, and consistent with or are more conservative than the standard engineering practices, current City requirements and the published standards of the Alameda County Flood Control and Water Conservation District (ACFCWCD). City staff directed use of the more conservative Williams parameters, and the experts arrived at a consensus on how to implement that direction. The SEIR reflects the results of this consensus approach, and uses these more conservative parameters in the hydrology analysis.

The SEIR analysis confirms that the proposed stormwater management system would reduce project impacts to pre-project levels, and would maintain pre-project levels even with the inclusion of the redirected stormwater flows from the Ridgemont subdivision. Post-project, 24 hour, 25 year peak flows would be equal to or less than existing peak flows from a 25 year storm. In addition, the SEIR analysis concluded that the proposed stormwater management system would operate during a 100 year, 24 hour storm without structural failure. The proposed system assessed in the SEIR would actually maintain peak flows from the 100 year storm at pre-project levels. In short, after further extensive, detailed analysis including a comprehensive review of the major parameters that affect stormwater flow at the site, the City can be confident that the new system will result in equal to or less pre-project stormwater flows from the Leona Quarry site, even with the additional stormflows from Ridgemont added to the Leona Quarry flows. In addition, the 100 year design peak flows will be equivalent to pre-project conditions.

In order to reduce the identified impact to a less than significant level, two alternate mitigation measures are recommended to be incorporated into the stormwater management system. Mitigation Measure F.1a incorporates a two-basin design, and specifies design standards and

requirements (page IV-20 of the SDEIR), including a 15.6 acre-foot lower detention basin, and modification of the existing Ridgemont Sub-watershed pond (pond 4 – as identified in Figure IV-2 of the SDEIR.). The alternative mitigation measure F.1a calls for a single, 20.5 acre-foot detention basin. These requirements have been included in the recommended Conditions of Approval, as set forth in the Mitigation Monitoring and Reporting Program (MMRP). With implementation of either of these two mitigation measures, the project's potentially significant hydrologic impact will be reduced to a less than significant level.

The SEIR revises and supplements the hydrology and geology discussions contained in the original EIR. The remainder of the original EIR has survived a court challenge, and there is no basis for modifying its discussions. Specifically, staff confirms that the environmental circumstances surrounding the project have not changed substantially and that there is no new information indicating new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The only changes proposed in the project are those discussed in the SEIR and as the result of the LQSA. The SEIR confirms that the alternate stormwater management systems (the two-basin system or the single-basin system) will reduce hydrology impacts to less than significant levels. The discussion of geology issues confirms that no changes are required to the geology discussion in the original EIR. There are no mitigation measures previously imposed that have been found to be infeasible, and no feasible mitigation measures the Project Applicant refuses to adopt. Accordingly, there is no basis for re-opening any portions of the original EIR except those ordered reconsidered by the court.

Modified Conditions as the Result of the Settlement Agreement. The LQSA proposes some modifications to the re-approved project. The major provisions of the Agreement that require modified conditions are set forth below.

1. Stormwater Management System. The Agreement specifies a larger, single detention basin of 25 acre feet, as well as details concerning parameter and peer review requirements. This larger basin would replace the two alternate mitigation measures set forth in the SEIR. The environmental impacts of this modification were analyzed in the SEIR, in the oversized basin chapter. This modification is set forth in Modification 1 in the resolution presented with agenda item 2.
2. Substitution of \$500,000 Contribution for an Affordable Housing Project in Council District # 6 for the 54 Unit Senior Housing Component. The 54 unit senior housing project at the base of Edwards Avenue would be replaced with a requirement calling for a \$ 500,000 contribution by the Project Applicant for a senior housing project at the Eastmont Town Center, if such a project is later approved by the City. To ensure the funds will be expended on an affordable housing project, there is a provision requiring that if an Eastmont Town Center project is not pursued, the issue would be taken back to the Council. The Council would then consider other, similar projects and redesignate the funds to a specific project. This change would reduce the overall project density to 423 units (404 in the lower development area and 19 single family lots along Campus Drive.)

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A park and ride share lot would instead be installed at the site of the Gateway center. This modification would reduce environmental impacts by avoiding the visual and other impacts associated with the Gateway component. This modification is set forth in Modification 2 in the resolution presented with agenda item 2.

3. Modifications to the Emergency Vehicle Access (EVA) on Altura Place and the Northwestern EVA. Specific provisions have been delineated in the LQSA to discourage pedestrian and bicycle access to the project from Altura Place. For the Northwestern EVA, construction specification and construction details are delineated. Finally, prohibitions about using Altura Place or Leona Street for construction vehicles are included. These modifications have no significant environmental impacts. This modification is set forth in Modification 3 in the resolution presented with agenda item 2.
4. Further Responses to Geotechnical Report Recommendations. The Agreement includes provisions to follow up on specific recommendations from the petitioner's geotechnical consultant, Nicholas Sitar, as determined by the City's peer reviewer, Lowney Associates. This modification addresses processing requirements, and provides further assurance that there will be no significant geological impacts from the project. This modification is set forth in Modification 4 in the resolution presented with agenda item 2.
5. Further Refinement of Traffic Improvements and Commitment for Further Traffic Monitoring at Certain Intersections. The previously approved project contained specific traffic improvements at various intersections in order to accommodate the increased traffic resulting from the project. In order to accomplish these improvements, the approval further provided that either the applicant would fund these measures or that the City would take action to develop a Traffic Improvement Program and Traffic Impact Fee. If the Project Applicant funds these improvements and the City takes action to subsequently institute a Traffic Improvement Fee, the Project Applicant's funding requirement may be less given the distribution of fees amongst other, future development projects. Instead of crediting any excess funds back to the Project Applicant, the Agreement proposes that these funds would be used for improvements at the Keller/Fontaine, Keller/Mountain and Mountain/I-580 westbound intersections. The LQSA also proposes to require the Project Applicant to conduct traffic studies during and at buildout, to provide a Van Pool vehicle, new traffic direction signs within the Coliseum and Oakland Airport area directing traffic to use the Seminary/98th Avenue exit, and, if approved by Caltrans, to install signs along both I-580 and Highway 13 directing traffic to use Seminary/98th Avenue for travel routes to the Oakland Airport and Coliseum. The signage may result in more efficient traffic patterns, but is likely to have no measurable effect on traffic. The improvements referenced in this modification are considered to be minor changes in directional signs on existing highway networks. This modification is set forth in Modification 5 in the resolution presented with agenda item 2.

6. Conservation Easement for Open Space Area within Project Site. The LQSA provides that the conservation easement originally included as Condition of Approval No. 32 shall be perpetual in nature and shall constitute an interest in real property. This affects only certain legal attributes of the easement, and does not affect the analysis of physical impacts on the environment. This modification is set forth in Modification 6 in the resolution presented with agenda item 2.

In addition, the LQSA proposes that the Council will not waive or modify the requirements of the project modifications unless, upon a duly noticed public hearing, the City Council has made a finding that the waiver or modification is necessary due to overriding concerns of public health, safety or welfare. This provision has been included in the resolution presented with agenda item 2.

SUSTAINABLE OPPORTUNITIES

A comprehensive set of sustainability measures have been incorporated into the COAs for the Leona Quarry Project, including the provision of solar energy, through a large array of photovoltaic panels located on the main, south facing slope, for the complete power needs of fifteen percent of the units in the lower development area. With regard to social equity, the project will serve to create a safer environment where the open space and recreational features on the site will be maintained safely and appropriately, with funding assured by the GHAD. Economically, the GHAD will assure that required services are provided in a responsible manner for the community where they are needed.

DISABILITY AND SENIOR CITIZEN ACCESS

The project re-approval includes an affordable senior housing center. The settlement agreement modifications include a provision for the Project Applicant to contribute \$ 500,000 toward a senior citizen housing project located in the Eastmont Town Center. The project, as required by federal and state law, will include accessibility features for disabled citizens.

ACTIONS REQUESTED OF THE CITY COUNCIL:

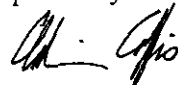
1. To take public testimony concerning agenda items 1 and 2.
2. To close the public hearing.
3. To adopt the City Council Resolution re-approving the project, entitled: Resolution Approving the Applications of the Desilva Group to Close the Leona Quarry, Reclaim it and Redevelop the Site for 477 Residential Units at 7100 Mountain Boulevard in Compliance with Alameda Superior Court Order (Action No. RG-03077607)

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The resolution includes Exhibit A- CEQA Findings; Exhibit B – CEQA Mitigation Monitoring and Reporting Program; Exhibit C – Conditions of Approval and Exhibit D – General Findings.

4. To adopt the City Council Resolution implementing the LQSA, entitled: Resolution Modifying Resolution No. Regarding the Leona Quarry Residential Project At 7100 Mountain Boulevard to Incorporate Additional Conditions of Approval Consistent with the Approved Settlement Agreement in the Matter of Maureen Dorsey, et al., v. the City of Oakland, et al.

Respectfully submitted,



CLAUDIA CAPPIO
Development Director

APPROVED AND FORWARDED TO THE
CITY COUNCIL BY:



OFFICE OF THE CITY MANAGER

ATTACHMENTS:

- 1) Resolution Approving the Applications of the Desilva Group to Close the Leona Quarry, Reclaim it and Redevelop the Site for 477 Residential Units at 7100 Mountain Boulevard in Compliance with Alameda Superior Court Order (Action No. RG-03077607) (This resolution includes Exhibits "A", "B", "C" and "D".)
- 2) Resolution Modifying Resolution No. Regarding the Leona Quarry Residential Project at 7100 Mountain Boulevard to Incorporate Additional Conditions of Approval Consistent with the Approved Settlement Agreement in the Matter of Maureen Dorsey, et al. v. City of Oakland, et al.
- 3) Text portion of the Leona Quarry Settlement Agreement as approved by the City Council on January 6, 2004.
- 4) Draft and Final Subsequent Environmental Impact Report (delivered under separate cover; copies of these reports are also available in the Planning Division offices of the Community and Economic Development Agency, 250 Frank Ogawa Plaza, Suite 3330, Oakland)

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SUPPORTING DOCUMENTATION FOR
LEONA QUARRY DRAFT
SUBSEQUENT ENVIRONMENTAL
IMPACT REPORT AND FINAL
SUBSEQUENT ENVIRONMENTAL
IMPACT REPORT

THESE DOCUMENTS ARE ON FILE
AND AVAILABLE FOR REVIEW AT THE
OFFICE OF THE CITY CLERK
AND ARE AVAILABLE ON LINE AT
www.oaklandnet.com

Location of Office:

Office of the City Clerk
1st Floor, Records Section
One Frank Ogawa Plaza
Oakland, Ca. 94612

Office Hours 8:30 A.M. – 5:00 P.M.
Closed During Lunch Hour (12:00 P.M. – 1:00 P.M.)

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OAKLAND CITY COUNCIL

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RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION MODIFYING RESOLUTION NO. REGARDING THE LEONA QUARRY RESIDENTIAL PROJECT AT 7100 MOUNTAIN BOULEVARD

WHEREAS, on July 30, 2001, in accordance with the California Environmental Quality Act ("CEQA"), City staff issued an Initial Study and Notice of Preparation ("NOP") indicating an intent to prepare an Environmental Impact Report for the Leona Quarry project, including the requested Zoning Boundary Line Adjustment ("ZBA"), Planned Unit Development ("PUD") permit, Vesting Tentative Map ("VTM"), Design Review, and Variances; and

WHEREAS, on August 8, 2001, the Planning Commission conducted a public hearing to solicit comments on the NOP; and

WHEREAS, on June 11, 2002, a Draft EIR ("DEIR"), State Clearinghouse No. 199904205, was released by the City for a 49-day public review and comment period, which reviewed and evaluated the environmental impact of both the original proposal to develop 564 residential units, an approximately 10,000 square foot commercial center, an approximately 6,000 square foot community center and related urban facilities and the "Modified Plan" which would develop 477 residential units and an approximately 2,300 square foot community center and related urban facilities; and

WHEREAS, on July 17, 2002, the Planning Commission conducted a public hearing to provide the public with an additional opportunity to comment on the DEIR; and

WHEREAS, on September 23, 2002, a document entitled "Leona Quarry Final Environmental Impact Report" ("FEIR"), which responded to comments received by the City on the DEIR and provided a more detailed analysis of the Modified Plan was released; and

WHEREAS, on October 2, 2002, the Planning Commission conducted a public hearing and took testimony regarding the Modified Plan, the DEIR and the FEIR; and

WHEREAS, on October 23, 2002, the Planning Commission conducted another public hearing on and took testimony regarding the Modified Plan, the DEIR and the FEIR; and

WHEREAS, at the Planning Commission hearing on October 23, 2002, the Planning Commission determined that the EIR (consisting of the DEIR, Responses to Comments and other information presented in the FEIR) was adequate for decision-making on the requested land use entitlements and certification of the EIR; and

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WHEREAS, the Planning Commission, including the Design Review Committee of the Planning Commission and the Special Projects Committee of the Planning Commission, duly noticed and conducted a total of 7 public hearings and 4 study sessions sponsored by the project applicant regarding the proposed development of the Leona Quarry, including the requested land use entitlements, between April, 2001 and October 23, 2002; and

WHEREAS, on October 23, 2002, the Planning Commission recommended that the City Council approve the ZBA, certified the EIR, adopted CEQA Findings and a Statement of Overriding Considerations, adopted a Mitigation Monitoring and Reporting Program, adopted General Findings and adopted accompanying Conditions of Approval, approved a PUD permit, approved a VTM, approved Design Review and approved certain Variances; and

WHEREAS, on November 4, 2002, Maureen Dorsey filed an appeal (“Dorsey Appeal”) of the Planning Commission’s certification of the DEIR and FEIR, approval of the land use entitlements and recommendations and requested that the City Council reduce the density of the Modified Plan; and

WHEREAS, on November 15, 2002, the City Council duly noticed a public hearing at which all interested members of the public were allowed to voice their opinions on the Dorsey Appeal, Modified Plan land use entitlements, and proposed ZBA; and

WHEREAS, on December 3, 2002, the City Council conducted a public hearing on and took testimony regarding the Dorsey Appeal, Modified Plan, DEIR and FEIR and the proposed ZBA; and

WHEREAS, on December 3, 2002, the City Council, having fully reviewed, considered and evaluated the DEIR and FEIR, staff reports, public testimony and all documents and other evidence submitted on this matter, resolved to take certain actions; and

WHEREAS, on December 3, 2002, the City Council certified the DEIR and FEIR as adequate for the ZBA and Ordinance 12457, An Ordinance of the City of Oakland Adjusting the Zoning District Boundary Line for the Leona Quarry Property Located at 7100 Mountain Blvd., So That the R-50 (Medium Density Residential) Is Designated for the Lower Development Area Consistent with the Approved Planned Unit Development for the Leona Quarry Residential Project, was introduced and passed to print; and

WHEREAS, on December 3, 2002, the City Council adopted Resolution No. 77544, Resolution Denying the Appeal of Maureen Dorsey and Sustaining the Decision of the City Planning Commission in Approving the Applications of the DeSilva Group to Close the Leona Quarry, Reclaim It and Redevelop the Site for 477 Residential Units at 7100 Mountain Blvd., which Resolution certified the DEIR and FEIR as adequate for, and approved, a PUD permit, VTM, Design Review and Variance applications for the Modified Plan; and

WHEREAS, on December 17, 2003, Ordinance 12457 was enacted by the Council; and

WHEREAS, on January 2, 2003, a proceeding was initiated in the Alameda County Superior Court entitled *Dorsey v. City of Oakland*, Action No. RG-03077607 challenging CEQA compliance for Ordinance 12457 and Resolution 77544; and

WHEREAS, in the *Dorsey v. City of Oakland* proceeding, on August 5, 2003 the court entered final judgment on the CEQA claims by issuing an “Amended Judgment Granting Petition For Writ of Mandate” (“Amended Judgment”) and on August 29, 2003 the court issued a “Second Amended Peremptory Writ of Mandate” (“Second Amended Writ” or “Writ”); and

WHEREAS, the Amended Judgment and Writ stayed the force and effect of Ordinance 12457 pending a showing that decisions arising from the subsequent EIR process require the Court to take further action; remanding the matter to the City Council; ordered the City to set aside certification of the EIR and set aside the approvals issued pursuant to Resolution 77544 until a subsequent EIR was prepared with regard to only that portion of the EIR dealing with hydrological issues; and ordered that, as to the Geology segment of the EIR, additional review was ordered only if changes arising out of matters related to hydrology resulted in changes to the geology analysis in accord with standards set forth in CEQA Guideline 15162; and

WHEREAS, Ordinance 12457 remains valid, but its force and effect has been stayed by the court in the *Dorsey v. Oakland* proceeding; and

WHEREAS, on August 18, 2003, City staff issued an NOP indicating an intent to prepare a Subsequent Environmental Impact Report (“SEIR”) to comply with the Amended Judgment and Second Amended Writ; and

WHEREAS, on October 23, 2003, City staff issued a Notice of Availability of a Draft Subsequent Environmental Impact Report For The Leona Quarry Project (DSEIR), and solicited public comment during a comment period initially scheduled to conclude on December 8, 2003, and later extended to conclude on December 22, 2003; and

WHEREAS, on November 19, 2003, the Planning Commission conducted a public hearing to provide the public with an additional opportunity to comment on the DSEIR; and

WHEREAS, on January 14, 2004, a document entitled “Leona Quarry Final Subsequent Environmental Impact Report” (“FSEIR”), which responded to comments received by the City on the DSEIR was released; and

WHEREAS, the DEIR and FEIR, as revised and supplemented by the DSEIR and FSEIR, comprised the “EIR” for the PUD, VTM, Design Review and Variance that were approved in the Reapproval Resolution referenced below; and

WHEREAS, on January 21, 2004, the Planning Commission conducted another public hearing on and took testimony regarding the Leona Quarry Modified Plan, and the EIR, and made recommendations to the Council that it certify the EIR, and that it re-approve the PUD

permit, VTM, Design Review and Variance applications for the Modified Plan, all as revised by the mitigation measures in the EIR; and

WHEREAS, on February 17, 2004, the City Council conducted another public hearing on and took testimony regarding the Leona Quarry Modified Plan and the EIR; and

WHEREAS, on February 17, 2004, the City Council certified the EIR as revised and supplemented by the SEIR, and approved the PUD permit, VTM, Design Review and Variance applications for the Modified Plan, all as revised by the mitigation measures in the EIR in Resolution No. ____ (the "Re-approval Resolution"); and

WHEREAS, the Project Applicant, the petitioners in the *Dorsey v. Oakland* proceeding and the City negotiated a settlement agreement ("Settlement Agreement") pursuant to which the City agreed to consider in good faith whether to modify the Leona Quarry project as set forth in that agreement, and the Council adopted Resolution 78285 authorizing the City Attorney to execute that agreement; and

WHEREAS, as documented in the staff report for this Council meeting and in the SEIR, the project modifications proposed in the settlement agreement will not involve any new or more severe significant impacts, there are no substantial changes with respect to the circumstances under which the project was approved that involve new or substantially more severe significant environmental impacts, and no significant new information has come to light that would indicate new or more significant impacts, or substantially different or feasible mitigation measures the project sponsor refuses to adopt; and

WHEREAS, the Project Applicant and all other interested parties were given opportunities to participate in all public hearings by submittal of oral and written comments

NOW, THEREFORE, BE IT RESOLVED that the City Council, modifies the conditions of approval of the PUD permit, VTM, Design Review and Variance adopted in the Re-approval Resolution to include the following:

Modification 1 Stormwater Management System.

The Project Applicant will provide on-site capacity for detention of storm water flows by increasing the detention capacity on the entire Project site to 25 acre-feet. Certain details regarding the detention basin are set forth in the attached Hydrology Exhibit, HYD- 1. The City will obtain from its peer reviewer for Project hydrology, Philip Williams and Associates, Ltd. (PWA), concurrence on how to use the 25 acre feet of detention capacity to reduce existing stormflows downstream from the Project site by meeting the following minimum standards, using parameters recommended by PWA in its reports dated November 20, 2002, and June 10, 2003, including modeling Ponds 1 and 2 as initially empty. The minimum standards are: post-project, 25-year, 24-hour peak flows from the site not to exceed 172 cfs; and post-project, 100-year, 24-hour peak flows from the site to be equal to or less than the existing peak flows from the site. The Project Applicant will implement the recommendations from PWA regarding use of the 25 acre feet of detention capacity, and the City will have PWA determine whether these PWA recommendations have been implemented. Upon completion of the

stormwater management system, the City will obtain a letter from PWA confirming that the system has been completed in substantial conformance with these PWA recommendations. Promptly after its receipt thereof, the City will provide copies of the PWA letter to Petitioners in the *Dorsey v. Oakland* proceeding and to the Project Applicant. This modified basin includes three acre-feet of water quality treatment capacity in addition to the 25 acre feet of detention capacity. This modification supersedes the portions of Condition of Approval 23a, Mitigation Measure F.1a and Alternate Mitigation Measure F.1a that (a) specify a 15.6 acre-foot detention capacity, (b) pertain to use of Ridgemont Pond for detention, and (c) that specify a 20.3 acre-foot detention capacity basin, to the extent this Resolution supersedes the Re-approval resolution.

Modification 2 Substitution Of Cash Contribution For Gateway Senior Housing Component; Unit Limitation.

(a) The Gateway Senior Housing component of the Project is excluded, and the area on which that component was to be constructed will be landscaped for passive uses and improved for ride-sharing activities as shown on the attached Gateway Area Exhibit, GW- 1. This area will not be utilized for housing or commercial uses. This modification makes Condition of Approval No. 42 and all other Conditions of Approval relating to the Gateway Senior Housing component moot, and the Project Applicant shall not be required to comply with those conditions.

(b) The number of residential units on the Lower Development Area (as that term is used in the FEIR) of the site is limited to the remaining 404 residential units included in the Lower Development Area. This provision shall not limit the ability to remodel or replace structures on the Project site.

(c) The Project Applicant will contribute Five Hundred Thousand Dollars (\$500,000.00) to support alternate senior affordable housing project(s) selected and approved by the City Council. The Project Applicant will fund the \$500,000.00 at the time the City has approved an alternate project consistent with this paragraph. Initially, for a period not to exceed one (1) year from the date this Resolution becomes effective, the \$500,000 will be set aside for an affordable senior housing project at the Eastmont Town Center, if such a project is approved by the City and pursued by the applicant. Thereafter, if an affordable senior housing project at the Eastmont Town Center does not move forward, the City Council shall review and consider other, similar projects and shall redesignate the funds to a specific project.

Modification 3 Emergency Vehicle Access (EVA) Improvements.

(a) Altura Place EVA: 1) The constructed EVA to Altura Place will be designed as a maintenance road for the development in order to discourage pedestrian and bicycle access to and from the Project and Altura Place. 2) The EVA roadway will be 12' wide following the alignment, configuration and details depicted in the attached EVA Exhibits: Altura Place, Exhibit EVA-1; Gate Detail, Exhibit EVA-2; Altura Photographs, Exhibit EVA-3; and Legal Description, Exhibit EVA-4. 3) The 12' wide gate will be 6' tall, and locked with a chain and padlock. 4) An Oakland Fire Department approved "Knox Box" will be attached to the gate. 5) The gate will abut the retaining wall as depicted in Exhibits EVA-1 and EVA-2 and will be designed to discourage pedestrian and bicycle access between the gate and the wall. 6) The gate

will be connected to the existing fence on the common property line to discourage pedestrian and bicycle access. 7) The limits of construction will be per Exhibit EVA-1. 8) All constructed improvements outside of the Leona Quarry will occur within the existing 50' City Right of Way of Altura Place. 9) Signage will be placed on both sides of the gate prohibiting access except in an emergency. 10) For all modifications on Altura Place, all vehicles, trucks and equipment will use the quarry entry and exit located on Mountain Blvd only. 11) No Project vehicles will use Altura Place or Leona Street to access or exit the project site during grading or construction.

(b) Northwestern EVA: 1) Within the Easement area on the Suchan property a 12' wide scored concrete road way will be constructed. 2) The roadway will follow the existing EVA alignment between the existing 6' fence and the existing drainage ditch all within the 20' existing easement. 3) A 6' sturdy cyclone fence will be erected to separate the Suchan property from the easement being used as the EVA, the length of the EVA between the gate at Leona Street, and the lower gate to the development. The dead apricot tree and the large rosebush that are in line with where the fence will go, will be cut down, and all such debris removed from the property. 4) All live trees will remain and be protected during construction. 5) Signage will be placed on the gates at the top and bottom of the easement area prohibiting access except in an emergency. 6) An Oakland Fire Department approved "Knox Box" will be attached to each gate. 7) For all modifications for the Northwestern EVA, all vehicles, trucks and equipment will use the Leona Quarry entry and exit located on Mountain Blvd only.

(c) For all modifications on Altura Place, and Leona Street, necessary to create secondary EVAs, all vehicles, trucks and equipment must use the quarry entry and exit located on Mountain Blvd.

(d) The Project Applicant will not allow vehicles to use Altura Place, or Leona Street, to enter or exit the Project site during grading or construction.

(e) The EVA Improvements will be maintained by the HOA or other similar entity.

Modification 4 Geology.

The City will obtain from its peer reviewer for geologic and geotechnical issues at the Project, Lowney Associates, concurrence on the appropriate steps to be taken to respond to the specific, numbered and itemized recommendations 1 and 2 made by Nicholas Sitar in a report dated November 15, 2003. The Project Applicant will implement the recommendations from Lowney Associates regarding the appropriate steps to be taken to respond to these recommendations of Sitar, and the City will have Lowney Associates determine whether these Lowney Associates' recommendations have been implemented. The Project Applicant will implement the recommendations of Sitar (Items 3-5 of the November 15, 2003, report) and Seidelman (November 16, 2003, email and December 30, 2002, report), as directed by Lowney Associates. The November 15, 2003, Sitar report, the November 16, 2003, Seidelman email and the December 30, 2002, Seidelman report are attached as Geology Exhibits, GEO 1-3 for reference purposes only. Upon substantial completion of grading for the Project, the City will obtain a letter from Lowney Associates confirming that the Project has been developed in substantial conformance with these Lowney Associates recommendations. Promptly after its

receipt thereof, the City will provide copies of the Lowney Associates letter to Petitioners in the *Dorsey v. Oakland* proceeding and to the Project Applicant.

Modification 5 Traffic Improvements.

(a) The Project Applicant will leave with the City any “credits” due the Project Applicant from the implementation of the Traffic Improvement Program related to the improvement work at intersections 1, 2, 4 and 8 (as numbered in the FEIR) rather than receiving said refunds. City will earmark, set aside and use such credits for the traffic mitigations at the three (3) intersections listed in (b) immediately below. Upon completion of the improvements related to the (b) intersections, the Project Applicant shall be entitled to return of any remaining “credits”.

(b) Regarding Intersections #9 (Keller@Fontaine), #7 (Keller@Mountain), and #27 (Mountain@I580 West bound), the Project Applicant will obtain traffic studies of these intersections after the 200th unit has been occupied and after the 423rd unit has been occupied. In the event either of those traffic studies reveals that the traffic existing at the time of the study has caused the LOS levels at any of the above intersections to fall to Level of Service “E” (“LOS E”) or worse, the Project Applicant will pay for and construct all of the traffic mitigations contained in the DEIR and FEIR for any of the three (3) intersections at LOS E or worse (i.e., #9, #7 and/or #27). The Project Applicant shall be entitled to utilize the credits it left with the City under subdivision (a) for this construction work.

(c) At the time of occupancy of the 150th unit, the Project Applicant will provide to the HOA a Van Pool vehicle in new condition with seating capacity of at least twelve (12) and with at least standard features.

(d) Signage at the Coliseum and Airport: The Project Applicant and City will cause signage to be placed in the area of the Oakland Airport and the Coliseum directing through traffic to use Seminary and 98th Ave. The City will require that the signage located at or near the Airport and Coliseum be placed in locations recommended by the City traffic engineer.

(e) The Project Applicant and Petitioners in the *Dorsey v. Oakland* proceeding will make a good faith effort to obtain permission from CALTRANS, and if approved, the Project Applicant will fund both installation of new signage on I580 and Highway 13 indicating that Seminary and 98th Ave are the exits for the Airport and the Coliseum, and removal of inconsistent existing signage on I580 and Highway 13.

Modification 6 Dedication of Open Space.

Condition of Approval No. 32, which requires dedication of an open space and conservation easement to the City concurrent with submittal of the last final map for the Project, is modified to add the requirement that the easement shall be perpetual in nature and shall constitute an interest in real property pursuant to Civil Code section 815.2. The HOA will be a co-grantee on the open space and conservation easement.

FURTHER RESOLVED: That this Resolution will not take effect until the court in the *Dorsey v. Oakland* proceeding lifts the stay of the force and effect of Ordinance 12457.

FURTHER RESOLVED: This Resolution shall supersede the Re-approval Resolution only for so long as this Resolution is not invalidated, vacated or set aside in whole or in part, and for only so long as the Settlement Agreement has not been terminated.

FURTHER RESOLVED: The City will not waive or modify the requirements of the project modifications specified in Modification 1 through Modification 6 above unless, upon a duly noticed public hearing, the City Council has made a finding that the waiver or modification is necessary due to overriding concerns of public health, safety or welfare.

FURTHER RESOLVED: That the Council finds and directs City staff to implement the project modifications specified in Modification 1 through Modification 6 as Conditions of Approval, and to incorporate, monitor and administer them as part of the documentation and requirements for the project.

FURTHER RESOLVED: That the Council finds and determines that this Resolution complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies.

FURTHER RESOLVED: That the recitals contained in this Resolution are true and correct and are an integral part of the City Council's decision.

In Council, Oakland, California, February 17, 2004

PASSED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTENTION:

ATTEST: _____

CEDA FLOYD

City Clerk and Clerk of the Council of the
City of Oakland, California

Attachments (4)

Exhibit "A", CEQA Findings;

Exhibit "B", CEQA Mitigation Monitoring and Reporting Program;

Exhibit "C", Conditions of Approval;

Exhibit "D", General Findings.

14.1-1
ORA/COUNCIL
FEB 17 2004

EXHIBIT A
CEQA FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS
RELATED TO APPROVAL OF LEONA QUARRY BY THE
OAKLAND CITY COUNCIL

I. INTRODUCTION

1. These CEQA findings are adopted by the City of Oakland (the "City"), as lead agency for the Leona Quarry project. These findings pertain to the original EIR prepared for that project, as that original EIR has been revised and supplemented by the Subsequent EIR for that project. Both the EIR and the SEIR have SCH #1999042052. These findings refer to four documents comprising the EIR: the Draft EIR (DEIR), the Final EIR (FEIR), the Draft Subsequent EIR (DSEIR) and the Final Subsequent EIR (FSEIR). The "EIR" referenced in these findings includes the DEIR and FEIR, as revised and supplemented by the DSEIR and FSEIR.

2. These CEQA findings are attached as Exhibit A and incorporated by reference into the Resolution Approving The Applications Of The DeSilva Group To Close The Leona Quarry, Reclaim It And Redevelop The Site For 477 Residential Units At 7100 Mountain Boulevard adopted on February 17, 2004 by the City Council. That resolution also includes Exhibit B that contains the Mitigation Monitoring and Reporting Program ("MMRP"), which references impacts, mitigation measures, and resulting levels of significance. Also attached to that same resolution is an Exhibit C that contains the conditions of approval, as revised and amended by the City Council, and an Exhibit D that contains findings regarding other matters, including compliance with the City planning and subdivision codes and General Plan consistency. All Exhibits are incorporated by reference into each other, and into the resolution. Some of these findings are based especially upon specific references, as noted below. However, all findings are based upon the entire record, described below. References to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the finding. These findings use capitalized terms (including "Lower Development Area") as they are used in the EIR.

II. THE PROJECT

3. The Leona Quarry project would terminate the operation of an active rock quarry and develop a residential neighborhood on 128 acres of land located at 7100 Mountain Boulevard, just northeast of Interstate 580 and immediately adjacent to the Edwards Avenue on-ramp. The project would regrade the existing slopes to less steep slopes, provide appropriate drainage for slope stabilization, and return a substantial portion of the site to seminatural conditions.

4. The project described in the EIR includes 564 residential units, consisting of 19 single-family homes in the upper portion of the site along Campus Drive, and 545 townhomes, condominiums and potential live-work units and/or senior housing in the lower portion of the site. The project described in the EIR also includes 10,000 square feet of neighborhood commercial space combined with 72 living units in a

Gateway Residential Center, and 6,000 square feet of community center space combined with 144 living units in a Village Center. The project also includes park and a pedestrian trail system.

5. The DEIR proposed numerous mitigation measures, and the project sponsors incorporated the design-level mitigation measures into a revised project design. The project sponsor also proposed modifications in response to issues raised at the commencement of design review proceedings. The result is the Modified Plan described in Chapter III of the FEIR. Additional or changed mitigation measures for the Modified Plan were referenced in the SEIR. These findings pertain to the Modified Plan as mitigated in the SEIR, and all references in these findings to "Project" are references to the Modified Plan as mitigated in the SEIR unless the context clearly indicates otherwise.

6. The Modified Plan proposes 477 residential units, a community center of approximately 2,300 square feet, a 2-acre park, 3 additional recreational areas, an improved Village Green area, and pedestrian trails. Of the 128 acres at the project site, more than 70 acres will be dedicated to permanent open space. Nineteen single-family detached units are proposed along Campus Drive. The remaining 458 attached units, consisting of 404 townhomes and condominiums and 54 senior affordable housing units, are proposed for approximately 45 acres of the Lower Development Area (as defined in the EIR) of the project site.

7. The Modified Plan is a reduction in the scope and intensity of development proposed by the 564-unit project studied in the DEIR, and its impacts fall within the range of impacts studied in the EIR. The Modified Plan is designed in response to increasing residential demand in Oakland, and is intended to fulfill the City of Oakland's goals of creating a range of housing types and providing uses on the project site that are more compatible with nearby residential neighborhoods than the existing quarry.

III. ENVIRONMENTAL REVIEW OF THE PROJECT

8. Pursuant to the California Environmental Quality Act, Public Resources Code section 21000 *et seq.* and the CEQA Guidelines, Cal. Code Regs., tit. 14, sections 15,000 *et seq.* (collectively, "CEQA"), the City determined that an EIR would be prepared. The City issued a Notice of Preparation (NOP), which was circulated to responsible agencies and interested groups and individuals for review and comment.

9. The DEIR was prepared for the 564-unit Leona Quarry project to analyze its environmental effects. The DEIR was circulated for a 49-day public review period, from June 10, 2002 to July 29, 2002. The Planning Commission held a public hearing on the DEIR on July 17, 2002.

10. The City received written and oral comments on the DEIR. The City prepared responses to comments on environmental issues, and made changes to the

DEIR. The responses to comments, changes to the DEIR and additional information were published in the FEIR on September 23, 2002.

11. The Planning Commission held two additional public hearings on the Modified Plan and on the DEIR and FEIR on October 2, 2002, and October 23, 2002. At their October 23, 2002 meeting, the Planning Commission took action to approve the project by certifying that original EIR, and approving the Planned Unit Development (PUD), Design Review, Variances and a Vesting Tentative Map. The Council subsequently affirmed the Planning Commission's actions and denied an appeal of the Planning Commission decisions, in Resolution 77544.

12. A litigation proceeding was initiated in the Alameda County Superior Court, entitled *Dorsey v. City of Oakland*, Action No. RG-03077607. In that proceeding, the court issued an Amended Judgment and Second Amended Writ ordering the City to set aside certification of the original EIR and set aside the approvals issued pursuant to Resolution 77544 until a subsequent EIR was prepared with regard to only that portion of the original EIR dealing with hydrological issues; and providing that, as to the Geology segment of the original EIR, additional review was ordered only if changes arising out of matters related to hydrology resulted in changes to the geology analysis in accord with standards set forth in CEQA Guideline 15162

13. On August 18, 2003, City staff issued an NOP indicating an intent to prepare a Subsequent Environmental Impact Report to comply with the Second Amended Writ.

14. On October 23, 2003, City staff issued a Notice of Availability of a Draft Subsequent Environmental Impact Report For The Leona Quarry Project (DSEIR). The City solicited public comment on the DSEIR during a comment period initially scheduled to conclude on December 8, 2003, and later extended to conclude on December 22, 2003.

15. On November 19, 2003, the Planning Commission conducted a public hearing to provide the public with an additional opportunity to comment on the DSEIR.

16. The City received written and oral comments on the DSEIR. The City prepared responses to comments on environmental issues, and made changes to the DSEIR. The responses to comments, changes to the DSEIR and additional information were published in the FSEIR on January 14, 2004.

17. On January 21, 2004, the Planning Commission conducted another public hearing on and took testimony regarding the Leona Quarry Modified Plan, and the EIR. The Planning Commission recommended to the Council that it certify the EIR, and that it re-approve the PUD permit, VTM, Design Review and Variance applications for the Modified Plan, all as revised by the mitigation measures in the EIR.

18. On February 17, 2004, the City Council conducted another public hearing on and took testimony regarding the Leona Quarry Modified Plan and the EIR.

19. At all public hearings, the City staff and its engineering and environmental consultants provided information about the Modified Plan, the potential environmental impacts, and the CEQA review process. At each meeting/hearing, members of the public had the opportunity to ask questions and express their concerns and interests for the Project.

IV. THE RECORD

20. 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 staff to the Planning Commission and the City Council relating to the EIR, the proposed Approvals and Entitlements, the Project or its alternatives.

c. All information (including written evidence and testimony) presented to the Planning Commission and the City Council by the environmental consultant and subconsultants who prepared the EIR, or incorporated into reports presented to the Commission and the Council.

d. All information (including written evidence and testimony) presented to the City from other public agencies relating to the Project or the EIR.

e. All applications, letters, testimony and presentations presented by the project sponsor and its consultants to the City in connection with the Project.

f. All information (including written evidence and testimony) presented at any public hearing or workshop 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 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 (“MMRP”) for the Project.

i. All other documents comprising the record pursuant to Public Resources Code section 21167.6(e).

21. The custodian of the documents and other materials that constitute the record of proceedings upon which the Council’s decision is based is Claudia Cappio, Development Director, Planning Department, Community and Economic Development

Agency, or designee. Such documents and other materials are located at 250 Frank H. Ogawa Plaza, Suite 3330, Oakland, California 94612.

22. These findings are based upon substantial evidence in the entire record before the Council. The references 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.

V. CERTIFICATION OF THE EIR

23. In accordance with CEQA, the Council, as lead agency, certifies that the EIR has been completed in compliance with CEQA. The Council further certifies that it has reviewed and considered the information in the EIR prior to approving the Modified Plan. Similarly, the Council finds that it has reviewed the record and the EIR prior to approving the project. By these findings, the Council confirms, ratifies and adopts the findings and conclusions of the EIR, as supplemented and modified by these findings. The EIR and these findings represent the independent judgment and analysis of the City and the Council.

24. The Council recognizes that the EIR addresses and evaluates impacts of the existing environment on the Modified Plan. Examples include all or some of the analyses and discussions of geological issues, seismic issues, soil issues and the like. These impacts are referred to as environmental impacts, and measures designed to reduce risks related to these impacts are referred to as mitigation measures, for ease of reference and because of common conventions. However, these impacts are impacts of the environment on the Modified Plan, and not of the Modified Plan on the environment. The Council nonetheless finds that the EIR's discussion of these impacts is adequate even if the impacts were considered to be environmental impacts, and it adopts the EIR's conclusions regarding mitigation measures and levels of significance for these impacts, as modified and clarified in these findings.

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

26. The Council certifies that the EIR is adequate to support the approval of the Modified Plan and of each entitlement or approval that is the subject of resolution to which these CEQA findings are attached. The Council certifies that the EIR is also adequate to support approval of the 564-unit project described in the EIR, each component of the 564-unit project described in the EIR, any project within the range of alternatives described and evaluated in the EIR, each component of any of those alternatives, any minor modifications to the Modified Plan described in the EIR or the alternatives, and the oversized basin described in the SEIR.

VI. ABSENCE OF SIGNIFICANT NEW INFORMATION

27. The City prepared and circulated the DEIR. Some additional information was circulated for a second round of comment with the publication of the

DSEIR. The Council recognizes that the FEIR and FSEIR incorporate information obtained and produced after circulation of the DEIR and DSEIR, respectively, and that the FEIR and FSEIR contain additions, clarifications, and modifications, including the Modified Plan. The Council further recognizes that additional modifications have been made to conditions of approval. The Council has reviewed and considered all of this information. There is no significant new information, which was not included in the DEIR or DSEIR, which would require recirculation under CEQA. There is no new, uncirculated information that would 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 Modified Plan. No information indicates that the DEIR, as revised and supplemented by the DSEIR prepared in response to the court order, was inadequate or conclusory.

28. The original EIR was challenged in the *Dorsey v. City of Oakland* proceeding, and the deficiencies the court identified in that proceeding were limited to those referenced in the Second Amended Writ. The remainder of the original EIR has therefore survived a court challenge and the time to bring any additional challenges to that EIR has passed. As documented in the staff report for the January 21, 2004 Planning Commission meeting and the February 17, 2004 Council meeting, the information discovered or produced since the original EIR was certified do not indicate any need for revision or updating except to the extent already addressed in the DSEIR and FSEIR.

29. The Modified Plan incorporates mitigation measures recommended in the DEIR and DSEIR, and accommodations made by the project sponsor. The Modified Plan would result in the same, or fewer and less severe significant impacts than those identified for the 564-unit project, and the impacts of the Modified Plan fall within the range of impacts of the range of alternatives studied in the DEIR.

30. Accordingly, no uncirculated information has revealed the existence of (1) a significant new environmental impact that would result from the Modified Plan 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 Modified Plan; or (4) information that indicates that the public was deprived of a meaningful opportunity to review and comment on the DEIR. The Council finds that the changes and modifications made to the EIR after the DEIR and DSEIR were 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 or CEQA Guidelines section 15088.5.

VII. MITIGATION MEASURES, CONDITIONS OF APPROVAL, AND MMRP

31. Public Resources Code section 21081.6 and CEQA Guidelines section 15097 require the City to adopt a monitoring or reporting program to ensure that

the mitigation measures and revisions to the Modified Plan identified in the EIR are implemented. The Mitigation Monitoring and Reporting Program (“MMRP”) is included in Exhibit B, and is adopted by the Council. The MMRP satisfies CEQA’s requirements.

32. The mitigation measures recommended by the EIR and incorporated into the Modified Plan are specific and enforceable. 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 Modified Plan complies with the adopted mitigation measures. The MMRP ensures that the mitigation measures are in place, as appropriate, throughout the life of the Modified Plan.

33. The mitigation measures set forth in Exhibit B and corresponding conditions of approval in Exhibit C are derived from the mitigation measures set forth in the EIR. The City has modified the language of some of the mitigation measures and 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 measures more precise and effective, all without making any substantive changes to the mitigation measures. The Council also recognizes that some mitigation measures have already been implemented through the redesign accomplished in the Modified Plan.

34. The DSEIR proposes alternate mitigation measures for hydrology impacts. These consist of alternate stormwater management systems: a two-basin system and a single-basin system. Each stormwater management system will achieve the performance standard of reducing peak flows for the 25-year storm to pre-project levels, and not failing structurally during a 100-year storm. The analysis in the EIR further demonstrates that each stormwater management system will reduce peak flows from the 100-year storm to pre-project levels. Accordingly, either stormwater system will provide adequate mitigation for the hydrology impact, and either system may be implemented at the project applicant’s election. These alternate stormwater management systems result from the consensus approach described in the SEIR. There were initially some differences of expert opinions among Phillip Williams Associates (the City’s independent peer-reviewer), Environmental Science Associates (the City’s independent environmental consultant, which prepared the EIR and which includes engineers and hydrologists on its staff), Balance Hydrologics (the applicant’s expert consultant), and Alameda County Flood Control and Water Conservation District. However, after the City determined to use the more conservative parameters recommended by PWA, those experts met and conferred extensively over the methodology and parameters to use in evaluating hydrology impacts of the Mitigated Plan and designing a stormwater management system to mitigate those impacts. The result was the most comprehensive, detailed and extensive hydrology analysis performed for an Oakland project. The analysis in the SEIR, and the stormwater management systems it recommends, reflect this extensive, comprehensive, duplicative analysis and consensus approach.

35. Mitigation Measure A.2a as stated in the DEIR (page IV.A-10) requires the project sponsors to reduce NOx emissions through implementation of BAAQMD mitigation measures pertaining to vehicle emissions, and by reducing unit counts to the extent necessary to achieve no more than 80 pounds per day of NOx emissions. The reduction in unit count accomplished by the Modified Plan already reduces impact A.2 (mobile source air quality impacts) to a level less than significant. The BAAQMD measures will, however, help reduce cumulative air quality impacts (impact A.4) and therefore are retained. Mitigation Measure A.2a is accordingly modified to require the project sponsor only to implement one or more of the BAAQMD mitigation measures for motor vehicle emissions, and not to reduce unit count further.

36. The EIR proposes in Mitigation Measures K.2d, K.2e, K.2g, K.2h and K.2i that the project sponsor pay fair share costs of certain traffic improvements that will be needed because of cumulative development that includes projects other than the Modified Plan. The EIR notes that these mitigation measures will feasibly reduce impacts only if the City establishes a Traffic Improvement Fund (TIF) and Traffic Improvement Program (TIP). The City has been actively engaged in forming the TIF and TIP. A traffic engineer has been engaged to prepare a TIF and TIP, and a review of the work scope has been completed. The Council accordingly finds that the TIF and TIP will likely be established before occupancy of the project site. Nonetheless, there is a possibility the TIF and TIP will not be in place in time to fund improvements as they are needed. The Council accordingly modifies Mitigation Measures K.2d, K.2e, K.2g, K.2h and K.2i to require the following:

The City shall use its best, good faith efforts, to prepare and implement a Traffic Improvement Program ("TIP") and a Traffic Improvement Fee ("TIF") for the Edwards Avenue Corridor, which may include the improvements listed below. If the City has adopted a TIP and TIF prior to the issuance of a building permit for the 351st unit excluding the Gateway Senior Residential and Lots 1-19 (the "Trigger Date"), the project applicant shall pay a fair share of the cost for the following traffic improvements in the amounts set forth in Attachment A to these Conditions of Approval. If the TIP and TIF have not been implemented as of the Trigger Date and other future projects that cumulatively trigger the need for the traffic improvements listed below have been approved, then the project applicant shall provide an acceptably rated bond or other security acceptable to the City Attorney to ensure funding of the entire cost of such traffic improvements, subject to an agreement with the City to reimburse the project applicant with funds raised from these future projects for amounts in excess of the Project's fair share. If as of the Trigger Date a TIP and TIF has not been adopted and the project applicant does not agree that the other approved projects have triggered cumulatively the need for such improvements, the project applicant may request that the City conduct a traffic study to determine whether the traffic improvements listed below are required. The project applicant shall pay for the cost of the traffic study, as established by the City with regard to scope of work and selection of a qualified traffic engineer. The City agrees to perform the traffic study and agrees to reasonably consider amending the list of improvements to implement the conclusions of the traffic study. If the study determines that certain of the

improvements are not required, then upon this determination, the project applicant shall pay the City only the Project's fair share of the cost for such improvements, based upon the lower of the amounts set forth in the conditions of approval or a revised cost for such improvements approved by the City in its sole discretion. In the event the project applicant installs or otherwise pays for the entirety of any of the traffic improvements listed below, the project applicant shall receive a credit or reimbursement for such work or costs that exceed its fair share.

No other feasible mitigation measures are available under CEQA Guidelines section 15041(a). These modified mitigation measures will provide greater assurance of feasibility than did the measures set forth in the EIR.

37. The Council adopts and imposes the mitigation measures recommended in the EIR, as modified, as enforceable conditions of the Modified Plan. These mitigation measures comprise the measures necessary to reduce significant impacts to a level less than significant whenever it is feasible to do so. The City has substantially lessened or eliminated all significant environmental effects where feasible. As required by Public Resources Code section 21085 and CEQA Guidelines section 15092(c), the City is approving the unit reductions proposed by the project sponsor, but is not requiring a reduction in the proposed number of housing units as a mitigation measure when there are other feasible specific mitigation measures available that will provide a comparable level of mitigation.

38. The mitigation measures incorporated into and imposed upon the Modified Plan will not have new significant environmental impacts that were not analyzed in the EIR. 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.

VIII. FINDINGS REGARDING IMPACTS

39. In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091 and 15092, the Council adopts the findings and conclusions regarding impacts and mitigation measures that are set forth in the EIR, and summarized in Exhibit B. These findings do not repeat the full discussions of environmental impacts contained in the EIR. The Council ratifies, adopts and incorporates the analysis, explanation, findings, responses to comments and conclusions of the EIR. The Council adopts the reasoning of the EIR, of staff reports, and of staff and the presentations provided by the project sponsor.

40. The Council recognizes that the environmental analysis of the Modified Plan raises several controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The Council acknowledges that there are differing and conflicting expert and other opinions regarding the Modified Plan. The Council 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 Modified Plan. In turn, this understanding has enabled the Council to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues and reviewing the record of the Planning Commission action concerning the project. 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 Modified Plan.

41. Under Public Resources Code section 21081(a)(1) and CEQA Guidelines sections 15091(a)(1) and 15092(b)(2)(A), and to the extent reflected in the EIR and in Exhibit B, the Council finds that changes or alterations have been required in, or incorporated into, the Modified Plan which mitigate or avoid the significant effects on the environment. The Council finds that, even with the modifications to Mitigation Measures K.2d, K.2e, K.2g, K.2h and K.2i adopted by this Council, there remains a possibility that the traffic improvements referenced in impacts K.2d, K.2e, K.2g, K.2h and K.2i would not be built before they are needed. This would occur if the TIF and TIP are not established in time, and if other, cumulative development projects do not proceed so there is no feasible source for reimbursement in excess of the Modified Plan's fair share. Although the Modified Plan will fund its fair share in any event, and although the TIF and TIP will likely be in place, and although the project applicant has agreed to bond for any improvements that are triggered as of the 351st building permit if the TIF and TIP are not in place, the Council concludes that the impacts should be considered significant, and finds them overridden as noted below. The Council also finds that because of the unit count reduction of the Modified Plan, impact A.2 (mobile source air quality emissions) is less than significant. The Council further finds that its modification to Mitigation Measure A.2a will help reduce cumulative impact A.4, but the cumulative impact will remain significant.

42. Under Public Resources Code section 21081(a)(2) and CEQA Guidelines section 15091(a)(2) and 15092(b)(2)(A), the Council recognizes that some mitigation measures require action by, or cooperation from, other agencies. Similarly, mitigation measures requiring the project applicant to contribute towards improvements planned by other agencies will require the relevant agencies to receive the funds and spend them appropriately. The Council 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, the Council 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.

43. Under Public Resources Code section 21081(a)(3) and (b), and CEQA Guidelines sections 15091(a)(3), 15092(b)(2)(B) and 15093, the Council 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.

IX. FINDINGS REGARDING ALTERNATIVES

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

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

46. The EIR evaluated a reasonable range of alternatives to the original project that was described in the DEIR. These alternatives include the (1) three variants of a No Project Alternative; (2) a Lower Density Alternative; (3) a Clustered Development Alternative; and (4) a Solar Power Plant Alternative. The analysis examined the feasibility of each alternative, the environmental impacts of each alternative, and the ability of each alternative to meet the project objectives.

47. The Council certifies that it has independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the Council's and the City's independent judgment as to alternatives. The Council finds that the Modified Plan provides the best balance between satisfaction of the project objectives and mitigation of environmental impacts to the extent feasible, as described and analyzed in the EIR. The project as proposed in the DEIR and all the remaining alternatives are rejected as infeasible, for the reasons stated in the EIR and for the following reasons.

48. The Council also bases its determinations regarding alternatives on Public Resources Code section 21085 and CEQA Guidelines section 15092(c). These sections preclude a public agency from reducing the proposed number of housing units as a mitigation measure or project alternative for a particular significant effect on the environment if the agency determines that there is another feasible specific mitigation measure or project alternative that would provide a comparable level of mitigation.

49. The Council notes that the only significant impacts remaining after mitigation of the Modified Plan are construction dust (impact A.1), cumulative air quality (impact A.4), temporary construction noise (impact H.1), and the traffic impacts that would remain significant if the TIF and TIP are not established, and if cumulative development does not materialize to provide a source for reimbursement in excess of the Modified Plan's fair share (impacts K.2d, K.2e, K.2g, K.2h and K.2i). CEQA requires the City to consider only those alternatives that would attain most of the project objectives while avoiding or substantially lessening any of the significant effects of the project. No such alternatives would avoid the remaining significant impacts.

50. As the EIR explains at pages IV.A-13 and IV.A-14, cumulative development is projected to result in 797 additional dwelling units in the project area, and

project emissions would contribute towards the adverse cumulative impacts resulting from cumulative development. Only drastic reductions in unit counts, which would not fulfill most of the project goals, would reduce the project's contribution towards this cumulative impact to a de minimus amount. Construction dust likewise remains a significant impact so long as any substantial development is proposed, because of the amount of grading needed to prepare the site. The need for traffic improvements would likely be triggered by the other, cumulative projects with or without development of the Modified Plan. As for noise, the EIR explains (at page III-3 of the FEIR) that while construction of fewer units would generate slightly less noise, the temporary, significant noise impacts that flow from the required grading and construction activities would not be substantially affected by reductions in unit counts. Accordingly, any alternative that achieves most of the project goals is likely to result in these significant impacts, and there is thus no feasible alternative available that would reduce or avoid these impacts. The Council addresses particular alternatives below.

51. Under the No Project Alternative, the proposed project and the revised reclamation plan would not be implemented. Several variants of this alternative were examined. The No Project Alternative, Variant One describes a heightened operation of the quarry as entitled under the existing approved reclamation plan. This alternative is not consistent with project objectives of providing a mix of housing types and sizes that will be available to a wide range of income levels and reclaiming the site for uses more compatible with surrounding residential neighborhoods. Moreover, given the increased intensity of the quarry activities and equipment associated with quarry activities as well as the proximity of the project site to nearby residences, significant and unavoidable air quality and noise impacts would occur. Operational noise of the quarry would also be introduced that would not occur under the proposed project. Significant impacts to biological resources may result from quarry operations and potential significant flooding impacts and water quality impacts would occur. Similarly, cultural resources impacts could be significant since mitigation measures identified to lessen potential finds of pale ontological, archaeological, and Native American cultural resources are not required for the quarry operation.

52. Another variant of the No Project Alternative was examined, which would have the quarry operations continue at levels similar to the level of activity in the past five years. This alternative is not consistent with project objectives of providing project objectives of providing a mix of housing types and sizes that will be available to a wide range of income levels and reclaiming the site for uses more compatible with surrounding residential neighborhoods. Impacts of such a scenario would result in different environmental effects than the proposed project. Cumulative air quality impacts would be significant and unavoidable, and significant operational noise impacts would be significant similar to Variant One. Flooding, water quality, and other associated impacts would be significant since the quarry is not tied to mitigation measures, similar to Variant One. This variant also could result in impacts to special-status species, if present, and it would not result in any beneficial impacts to biological habitats. Like Variant One, potential impacts to cultural resources would also continue due to the lack of mitigation measures to address this existing potential impact.

53. The third variant of the No Project alternative proposes 1,519 units of the maximum 3,840 units permitted under the density calculations of the General Plan. This variant would permit more development than the Modified Plan and thus would result in more significant impacts and more severe significant impacts.

54. Alternative 2 proposed lower density. It would allow 236 units instead of the 477 units proposed under the Modified Plan. The EIR explains that this alternative would generate air quality and noise impacts similar to those of the 564-unit project studied in the EIR. While this alternative would decrease the proportionate contribution to air quality impacts, it would not avoid the significant impacts. (DEIR, p. V-33) This alternative also would not achieve project objectives of alleviating a regional housing shortage, in that it would provide fewer houses while still causing significant cumulative air quality and construction noise impacts. This alternative also would not provide as much proportionate funding to the TIF and TIP as would the Modified Plan.

44. Alternative 3 proposes clustered development of 373 units. The cumulative air quality and construction noise impacts would remain significant. Like Alternative 2, this alternative would not achieve project objectives of alleviating a regional housing shortage, in that it would provide fewer houses while still causing significant cumulative air quality and construction noise impacts. This alternative also would not provide as much proportionate funding to the TIF and TIP as would the Modified Plan.

55. Alternative 4 proposes a solar power plant, as suggested by the neighbors during scoping sessions. This alternative would not achieve any of the project objectives, and would be inconsistent with the General Plan. This alternative would not be compatible with the surrounding neighborhood. This alternative would avoid the cumulative air quality impact, but would have significant construction noise impacts. This alternative would preclude implementation of the amended reclamation plan, thereby eliminating the long-term beneficial impacts on potential Alameda whipsnake habitat, and the wildlife corridors, that are provided for with the Modified Plan. This alternative would remove all on-site trees and provide no opportunities for revegetation.

56. The SEIR analyzes an oversized detention basin proposal. This oversized detention basin proposal explored ways to alleviate existing drainage deficiencies, and was not proposed to address any impacts of the Project. Because this proposal does not address impacts of the Project, it is not an alternative to the Project under CEQA. Also, as the SEIR notes, because there is no nexus between an oversized basin and the Project, project approval could not be conditioned upon such a basin.

X. STATEMENT OF OVERRIDING CONSIDERATIONS

57. The Council finds that each of the following specific economic, legal, social, technological, environmental and other considerations and the benefits of the Modified Plan independently outweigh the remaining significant, adverse impacts and is an overriding consideration independently warranting approval. The remaining significant, adverse impacts of the Modified Plan are acceptable in light of each of these overriding considerations.

58. The Modified Plan will provide much-needed housing near an existing major freeway, promoting smart growth principles.

59. The Modified Plan will implement and fulfill the objectives of the Land Use and Transportation Element of the General Plan.

60. The Modified Plan will promote reclamation of the site in a comprehensive way that promotes site development standards consistent with the existing General Plan, alleviating an eyesore that is highly visible from many parts of Oakland, and promote health, safety and welfare interests by repairing landslide-prone areas.

61. The Modified Plan includes an amended reclamation plan, which provides for a more geologically stable and useable site.

62. The Modified Plan would result in significant benefits with regard to the closure of the quarry, including eliminating an incompatible existing land use, improving the surrounding visual, noise and air quality environments once the Modified Plan is built out, adding to habitat value in the area by restoring and revegetating damaged hillside areas and the reestablishing a connection of habitat for the Alameda County Whipsnake. These actions are fully consistent with the objectives of creating and preserving habitat and enhancing the natural environment in the Open Space, Conservation and Recreation Element of the General Plan (OSCAR).

63. The Modified Plan would replace 18.3 acres of low quality potential Alameda County Whipsnake habitat with 37 acres of higher quality potential habitat. The revegetation plan included in the Modified Plan would restore denuded and unstable slopes with revegetated and stabilized slopes that will be maintained by the GHAD that has already been formed for the Modified Plan.

64. The Modified Plan will improve the City's Jobs/Housing balance and help alleviate a regional housing shortage. The Modified Plan will provide a mix of housing types and sizes that will be available to a wide range of income levels.

65. The Modified Plan will provide a significant amount of open space, and contribute trails that will provide opportunities for connections with major parks and open spaces nearby.

EXHIBIT B

CEQA MITIGATION MONITORING AND REPORTING PROGRAM

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
A. Air Quality					
<p>A.1: Fugitive dust generated by construction activities, while temporary, would be substantial and would contribute to intermittent ambient respirable particulate concentrations that would violate state standards.</p>	<p>A.1a: The project sponsor shall implement a construction dust abatement program.</p> <ul style="list-style-type: none"> • Water all active construction areas at least twice daily, as required to control dust. Active construction areas would be considered to be those under excavation at a given time, storage piles, and internal roadways. Watering methods may include water trucks for roadways and hoses or sprinklers for storage piles and active excavation. • Cover trucks hauling soil, sand, and other loose materials offsite. • Pave, apply water three times daily, or apply nontoxic soil stabilizers on all unpaved access roads, parking areas, and construction staging areas as required to control dust. 	16	Significant and Unavoidable	City of Oakland Building Inspectors and/or Special Air Quality Monitor as set forth in the Dust Abatement Program.	During reclamation and construction.

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¹ 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" 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)" 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" 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.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<ul style="list-style-type: none"> • Sweep daily with water sweepers if visible soil material is carried onto adjacent public streets. • Hydroseed or apply nontoxic soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more). • Enclose, cover, water twice daily, or apply nontoxic soil stabilizers to exposed stockpiles (direct, sand, etc.), as required to control dust. • Limit traffic speeds on unpaved roads, including the EVA if unpaved, to 15 miles per hour. • Limit the area subject to excavation, grading, and other construction activity at any one time, where possible. • Install sandbags or other erosion control measures to prevent silt runoff to public roadways. • Replant vegetation in disturbed areas as quickly as possible. • Install wheel washers for all existing trucks or wash off the tires or tracks of all trucks and equipment leaving the site. • Install wind breaks, or plant trees/vegetative wind breaks at the predominant windward side of construction areas. 				

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<ul style="list-style-type: none"> • Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 miles per hour. • Monitor particulate concentrations at site fencelines during peak earthmoving activities to assess the adequacy of the frequency of the on-site watering program. This could be performed by the City or an independent consultant using a handheld particulate monitor capable of real time and time-averaged concentrations. Monitoring should be performed at the nearest fenceline in the downwind direction. If time-weighted averages exceed the 24-hour PM-10 standard, then increased watering frequency or other mitigation measures should be implemented. • Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent offsite transport of dust. Duties will include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons will be provided to BAAQMD prior to the start of construction. • The person designated to monitor the dust control program shall be fully qualified and shall be acceptable to the City and paid for by the project sponsor. The monitor shall inspect the site as required based on field observation, during periods of construction activity, with particular emphasis on times when the combination of construction activities, wind, and other relevant factors are likely to cause impacts 				

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>A.2: The project would result in increased emissions of criteria pollutants due to vehicular traffic to and from the project site as well as natural gas combustion, woodburning, consumer products, and lawn and garden equipment. The increase in emissions would exceed BAAQMD significance criteria for daily emissions of NO_x.</p>	<p>to be more severe.</p> <p>A special inspection deposit shall be required to ensure the project sponsor's compliance with the City approved construction dust abatement program. The amount of the deposit shall be determined by the Building Official and shall be submitted by the project sponsor concurrent with submittal of the construction dust abatement plan.</p> <p>A.2a: The project applicant shall reduce NO_x emissions to no more than 80 pounds per day by reducing motor vehicle emissions. The project applicant will further reduce motor vehicle emissions by implementing one or more of the following BAAQMD mitigation measures for motor vehicle emissions.</p> <ul style="list-style-type: none"> • On-site transit facilities with amenities such as bus stops, benches, shelters, etc. (estimated trip reduction effectiveness of 0.2 to 2 percent of all trips); • Providing shuttle service to a regional transit system (such as BART) and to employment centers, schools or shopping areas (estimated trip reduction effectiveness of 0.1 to 0.3 percent of all trips); • Providing bicycle paths or lanes (estimated trip reduction effectiveness of 0.1 to 2 percent of all trips); • Providing neighborhood serving shops (estimated trip reduction effectiveness of 1 to 4 percent of all trips); and • Providing electrical power in garages/driveways or on-site for electric vehicle charging and providing preferential parking for electric vehicles (estimated trip 	16	Mitigated to Less than Significant (Other Agency)	<p>Project applicant shall submit the final compliance plan to the Planning Director prior to the issuance of the first building permit, and will be reviewed and approved by the Planning Director concurrent with the issuance of the first building permit.</p> <p>Compliance will be monitored as each measure is implemented throughout the course of project build-out; final check prior to occupancy permit for the 350th unit.</p>	During course of project build-out.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
A.3: Mobile emissions generated by project traffic would contribute to an increase in CO concentrations at intersections most affected by project traffic.	<p>reduction effectiveness of 0.5 to 1.5 percent of all trips).</p> <ul style="list-style-type: none"> The City shall work with AC Transit on ways to improve bus service to the project site and the surrounding developments. The City shall encourage the project sponsor to link the site's proposed trail system with the regional bicycle and trail networks. 	Not Applicable	Less than Significant	Not Applicable	Not Applicable
A.4: The proposed project, together with anticipated future development in the downtown area as well as the City of Oakland in general, could result in long-term traffic increases and would cumulatively increase regional air pollutant emissions.	Implementation of Mitigation Measure A.2a.		Significant and Unavoidable	See Mitigation Measure A.2a	See Mitigation Measure A.2a
<p>B. Biological Resources</p> <p>B.1: Construction activities could result in the harm or direct mortality of Alameda whipsnakes .</p>	<p>B.1a: The project applicant shall ensure that construction-related impacts to individual Alameda whipsnakes are avoided through the development and implementation of a Special-Status Species Mitigation and Monitoring Plan.</p> <ul style="list-style-type: none"> A description of the species habitat requirements and movement patterns applicable to the project area; A procedure for conducting preconstruction surveys before the onset of either initial ground-disturbing activity or restoration of the disturbed slopes each day that these activities will occur. The plan shall require a qualified wildlife biologist to conduct pre-construction surveys by carefully probing 	17	Mitigated to Less than Significant (Other Agency)	City of Oakland Building Department and Planning Department, special biological monitors as set forth in the Plan and on-site project management personnel and other City Staff people as assigned	The Special Status Species Mitigation and Monitoring Plan shall be developed and approved before issuance of a grading permit; monitoring for compliance with the plan shall continue during reclamation and construction, as set forth in the Plan. Compliance with measures shall be checked at each phase of construction.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>and hand-excavating all burrows and rock outcrops in the construction footprint/Restored Slope Area that are shown as potential “low quality habitat.” In addition, the biologist will supervise the hand removal of all vegetation in the construction footprint. After the area has been searched for snakes, a barrier fence or “herp fence” will be installed between the areas of potential habitat and the construction zone, to ensure that any AWS do not stray into the area during the course of development. Specifically, the area along the northern portion of the Lower Development Area that will abut the Undeveloped Area will be fenced. The fence will be installed to prevent snake movement (if any are present) under or over the fencing;</p> <ul style="list-style-type: none"> • A protocol for the selection of qualified wildlife biologist² staff the project for the duration of construction; • Up to 3 full-time construction “monitors” will be on-site to perform regular inspections of potential AWS habitat and ensure that the “herp” exclusion fence is maintained appropriately. These monitors will also expedite species identification should construction personnel observe snake species within the development area. Construction monitors will be on-site during all times that grading is occurring in low potential habitat areas. After the grading is completed, monitors will make regular inspections on a weekly basis and as needed for specific work near potential habitat; 				

² The term “qualified wildlife biologist” as used in this document indicates a person with at least an undergraduate degree in wildlife biology or a related field, and either professionally certified as a wildlife biologist by The Wildlife Society, or working under the direct supervision of a certified wildlife biologist.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
B.2: Post-construction conditions at the project site could result in impacts to the Alameda whipsnake.	<ul style="list-style-type: none"> • Worker education materials and procedures for informing construction crews about the potential presence of Alameda whipsnake, responsibilities of project personnel, and authority of the monitoring staff; and • Clear direction and other procedures as required to (1) identify a potential threat to an individual Alameda whipsnake; and (2) eliminate threatening activities in the vicinity of the snake, including notification of the USFWS within 24 hours. Monitors shall have the authority to halt construction activities, but will not be allowed to relocate whipsnakes. <p>The project applicant shall develop and distribute educational materials for all new homeowners describing the sensitive natural resources of the site and urging control of domestic pets. The Covenants, Conditions & Restrictions (CC&R) will stipulate that there will be no feeding of feral cats. Signage will be installed along the perimeter of open space area at intervals of not more than 300 feet describing the open space as natural habitat to be protected and prohibiting destruction of vegetation, wheeled vehicles, and uncontrolled animals.</p>	17	Mitigated to Less than Significant	City of Oakland Planning Department	Draft of materials due for review prior to issuance of building permits for construction Phase B distribution of materials before issuance of certificates of occupancy for any unit.
B.3: The proposed project would remove 18.3 acres of potential low-quality habitat and create 37 acres of suitable habitat.	<p>B.3: As part of the project, 37 acres of suitable habitat will be created.</p> <p>In addition, Restored Slope areas and any undeveloped areas mapped as "Alameda Whipsnake Potential Habitat" in Figure IV.B-4 of the EIR will not be used for recreational trails and will be fenced with split-rail, post-and-cable or other symbolic fencing. Permanent signs will be placed at 100-foot intervals along the fence specifically excluding wheeled vehicles and off-leash dogs.</p>	17	Mitigated to Less than Significant	City of Oakland Building Department and Planning Department	A conservation easement protecting the approximately 70 acres of open space, which includes the 37 acres of newly created habitat shall be recorded with or concurrently to the recording of the last final map; other mitigation will be completed as part of trail construction.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
B.4: The proposed project's revegetation plan would maintain potentially suitable habitat for the Alameda whipsnake.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
B.5: Construction activities could adversely affect nonlisted special-status nesting raptors and other nesting birds during the breeding season. Removal of trees and shrubs that provide nesting habitat for special-status birds could result in direct mortality of birds. Construction noise and human disturbance could cause nest abandonment, death of young, or loss of reproductive potential at active nests located near the project site.	B.5a: The project applicant shall ensure that construction activities avoid disturbing nests of raptors or other special-status birds through implementation of the Special-Status Species Mitigation and Monitoring Plan.	17	Mitigated to Less than Significant	See Mitigation Measure B. 1a	See Mitigation Measure B. 1a
B.6: Construction activities that accidentally or otherwise exceed the boundaries of the Lower Development Area, Campus Drive Area, Restored Slope Area, or revegetation areas within the Undeveloped Area have the potential to disturb or result in mortality of special-status plant species (if they are present).	B.6a: The project applicant shall confine construction activities to the Lower Development Area, Campus Drive Area, Restored Slope Area, and revegetation areas of the Undeveloped Area through fencing, markers, signs, or other means as approved prior to construction activity.	17	Mitigated to Less than Significant	City of Oakland Planning and Building Departments	During reclamation and construction, as set forth in the construction phasing and management plan.
B.7: The project would result in disturbance to, or direct mortality of, common wildlife species.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
B.8: Removal of trees and other proposed construction activities during the breeding season could result in direct mortality of special-status bats. In addition, construction noise and human disturbance could	B.8a: The project applicant shall avoid disturbance to the roosts of special-status bats during the breeding season through the implementation of the Special-Status Species Mitigation and Monitoring Plan.	17	Mitigated to Less than Significant	See Mitigation Measure B. 1a	See Mitigation Measure B. 1a

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
cause roost abandonment and death of young.	None required.	17, 18	Not Applicable	City of Oakland Planning Department	The Plan shall be submitted prior to issuance of a grading permit; revegetation shall be implemented during reclamation and construction and monitored annually after planting during the 5-year establishment period which may be extended until a 1:1 ratio is achieved or if the plan is not successful. (See Mitigation Measure B.10a)
B.10: Project construction and grading activities, including those needed for the Altura EVA, would remove trees protected by Title 12, Chapter 12.36 of the City of Oakland's municipal code.	Implementation of Mitigation Measures B.10a, B.10b and B.10c, below.	17, 18, 21	Mitigated to Less than Significant	See Mitigation Measures B.10a, B.10b and B.10c, below.	See Mitigation Measures B.10a, B.10b and B.10c, below.
	B.10a: The project applicant shall implement a revegetation plan approved by the City and consistent with the City Tree Protection Ordinance. Implementation of this plan will mitigate for the removal of protected trees.				See Mitigation Measure B.9
	<ul style="list-style-type: none"> • A diverse planting of coast live oak, valley oak, blue elderberry, California buckeye, and California bay; • Installation of trees from pot containers that are 4 inches wide by 14 inches long that are grown from propagules of local origin, collected from the project site and 				

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	immediately adjacent areas;				
	<ul style="list-style-type: none"> • Replacement of protected trees either on-site in a planting regime that allows for post-planting mortality and assures an eventual replacement at a ratio of at least 1:1, or the substitution of an in lieu fee if replacement trees cannot be planted on-site due to site constraints, as indicated by the City Tree Protection Ordinance; • Installation of foliage protectors (cages and tree shelters) to protect the planted trees from wildlife browse; • Regular maintenance of the planted trees during a minimum five-year establishment period, after which time the native tree plantings are typically capable of survival and growth without supplemental irrigation, and weed control (maintenance during the plant establishment period will include irrigation, as needed, and weed control); • Annual monitoring one, two, three, and five years after installation by a qualified restoration ecologist/botanist.³ Plant survival shall be evaluated with field surveys. Individual trees shall be tagged during the first year of implementation, catalogued in a data base, and surveyed for survival, growth, and vigor. Monitoring reports will be prepared annually and submitted to the City of Oakland. If at any point during the five-year monitoring period, the mitigation plan is judged to have not been successful, the mitigation action shall be re-initiated, after modification as necessary, and monitored for a succeeding 	18			

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³ The term “qualified botanist” as used in this document indicates a person with at least an undergraduate degree in botany, plant ecology, or a related field, and with a minimum of three years of professional field experience within the region or working under the direct supervision of a professional botanist with at least six years of field experience in the region.

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	five-year period; and				
	<ul style="list-style-type: none"> Additional revegetation measures consistent with the City Tree Protection Ordinance. 				
	<p>B.10b: The project applicant shall implement the landscape plan prepared by Bradanini & Associates and ensure the following standards are incorporated into the landscape plan.</p>	17, 19, 20, 21		City of Oakland Planning Director	<p>A master landscape plan shall be submitted prior to issuance of the first successive building permit; final detention plans consistent with the master landscape plan may be submitted thereafter. Implementation of the plan will be monitored during reclamation and construction and annually up to 3 years following planting. Landscape Maintenance Agreement also required to guarantee establishment.</p>
	<ul style="list-style-type: none"> The plantings must be comprised of a mix of oaks, cedars, poplars, and acacia. 				
	<ul style="list-style-type: none"> The trees must be planted from various sized containers, from 15-gallon cans to 24-inch boxes. Trees planted from smaller containers should be massed to form dense plant groupings that will more easily adapt to the site and that will facilitate natural root development. 				
	<ul style="list-style-type: none"> Plantings along major arterial roads should be large-scale trees, no smaller than 25 feet, and densely clustered with no fewer than one tree per 150 square feet of planting area. 				
	<ul style="list-style-type: none"> The plantings should be monitored by a qualified botanist for two years to assess the rate of survival and vigor. If there is a less than 95 percent survival rate, dead trees will be replaced with vigorous species. 				
	<ul style="list-style-type: none"> Native rocks and boulders from the quarry should be used to compliment the natural drainage features, landforms, and new plantings. 				
	<ul style="list-style-type: none"> Native and naturalized trees and shrubs such as oaks, toyon, manzanita, coyote brush, and redbuds planted within native grass and 				

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	<p>wildflowers ground plans should be planted.</p> <ul style="list-style-type: none"> • Planting must be installed in clusters between buildings, but no taller than 15 feet to preserve views from the buildings. • The fire department should be consulted about the proposed plantings to ensure they do not pose a fire hazard. • Plantings should be monitored by a qualified botanist for three years to assess the rate of survival and vigor. If there is a less than 85 percent survival rate, dead plants will be replaced with vigorous species. • Trees will be from a medium-scale plant palette, such as a flowering pear, cherry, crabapple, loquat, and laurel. • Trees should be no larger than 25 feet and no smaller than 12 feet. • Trees should be planted from 24-inch boxes where space permits and from 15-gallon containers in smaller spaces. • Plantings should be monitored by a qualified botanist for two years to assess the rate of survival and vigor. If there is a less than 95 percent survival rate, dead trees will be replaced with vigorous species. • Plants along the edge of the project site will be fast-growing evergreens from a Mediterranean plant palette, such as olive, carob, oleander, and acacia. • Plants should be planted in tight groupings of one tree per 100 square feet of planting 				

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	<p>area.</p> <ul style="list-style-type: none"> To encourage optimum adaptation to this area and facilitate natural root development, smaller plantings from containers of no greater than 15-gallon cans should be used. Plantings should be monitored by a qualified botanist for three years to assess the rate of survival and vigor. If there is a less than 85 percent survival rate, dead trees and shrubs will be replaced with vigorous species. 	17, 21		See Mitigation Measure B.10b	Prior to issuance of a grading permit, the applicant shall secure a tree removal permit; the tree protection plan shall be made a part of and implemented with the revegetation plan (see Mitigation Measure B.10b for further monitoring).
	<p>B.10c: The project applicant shall develop and implement a tree protection plan consistent with the City of Oakland Tree Protection Ordinance that will ensure construction-related impacts to protected trees outside of the construction area are avoided.</p> <ul style="list-style-type: none"> If proposed construction activities will encroach upon the dripline (approximately equal to the area covered by the tree's canopy) of a protected coast live oak tree, the following measures will be implemented for these trees: (1) a 4-foot-tall temporary fence will be placed around the dripline of the tree prior to beginning the work; (2) no grade changes will occur within the dripline of the tree, unless specifically indicated in the plans; (3) no trenching will be allowed within the dripline of the tree (if it is necessary to install underground utilities within the temporary fence, the utility trench will be hand-dug so as not to cut any roots over 2 inches in diameter, or a line may be bored or drilled); and (4) only dead, weakened, diseased, or dangerous branches will be removed, and only by a licensed arborist (any branches 2 inches in diameter or larger that must be cut will be cleanly cut 				

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	<p>with pruning rather than excavation equipment).</p> <ul style="list-style-type: none"> • Silt fences will be installed around the dripline of trees to be retained within the development envelope prior to any construction-related activities in order to prevent accidental damage. These fences will remain in place until all construction-related activities have ceased. • Initial grading and other construction activities around protected trees will be monitored by a qualified arborist (selected by the City) on a monthly basis or as necessary to ensure that trees are not damaged or removed <i>unnecessarily</i>. The results of the monitoring will be documented in writing. • A certified arborist will survey coast live oak and California bay trees for evidence of Sudden Oak Death Syndrome (SOD) prior to removal. If trees suspected of infection by the SOD pathogen are found on the project site, the Alameda County Agricultural Commissioner will be contacted for further action. Removal of oak trees will follow <i>Guidelines for Prevention of Spread of SOD</i> (http://www.suddenoakdeath.org). These <i>guidelines recommend either chipping tree material and spreading the chips on-site or burning slash material on-site</i>. Wood chips should not be transported off site. Material too large to chip should be left in place to the greatest extent possible. If wood is removed from the property for disposal, it should be disposed of locally and not transported to an area that is free of the disease. 				

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	<ul style="list-style-type: none"> Tree removal will not occur during March through June without a bird survey to determine that the tree is unused during the breeding season by avian species that are protected under Fish and Game Codes 3503, 3503.5, and 3511. Adherence to this mitigation measure would reduce the impacts to protected bird species to a less-than-significant level. 				
C. Cultural Resources					
C.1: Excavation at the proposed project site and Altura EVA could unearth and damage important paleontological resources.	C.1a: If a paleontological resource is unearthed at the project site or along Altura Place, either during excavation or construction activities, the project sponsor shall halt all excavation and/or construction activities within a 25-foot radius of the find. A qualified cultural resource consultant or archaeologist shall evaluate the potential resource, as well as assess the significance of the find if the resource is found to be significant under the criteria set forth in Section 15064.5 of the CEQA Guidelines. The project sponsor shall not alter any of the uncovered materials or their context. If the City determines that avoidance is not feasible, a qualified cultural resource consultant shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important. The plan shall be prepared in accordance with provisions of Public Resources Code Section 21083.2 and shall be submitted to the City for review and approval.	15, 41	Mitigated to Less than Significant	City of Oakland Planning and Building Departments	During reclamation and construction as part of construction phasing and management plan.
C.2: The proposed project could result in discovery of and/or inadvertent damage to Native American cultural resources.	Implementation of Mitigation Measures C.2a and C.2b, below.		Mitigated to Less than Significant (Other Agency)	See Mitigation Measures C.2a and C.2b, below.	See Mitigation Measures C.2a and C.2b, below.
	C.2a: If a potential Native American cultural resource is discovered at the project site or along Altura Place, either during excavation or	15, 41		City of Oakland with recommendation	During reclamation and construction.

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	<p>construction activities, the project sponsor shall immediately halt all excavation and/or construction activities within 25 feet of the find. The City of Oakland shall also require that a qualified archaeologist evaluate the find, assess the significance of the find, and recommend appropriate actions. Potential Native American resources include, but are not limited to, obsidian and chert flakes and chipped stone tools, arrowheads, ornaments, pottery fragments, grinding and mashing implements (such as slabs and handstones, and mortars and pestles), and locally darkened midden soils containing some of the previously listed items plus fragments of bone or fire-affected stones. Potential actions include, but are not limited to, significance evaluation, collection, recordation, and analysis. The City of Oakland will assure implementation of appropriate mitigation measures recommended by the cultural resource consultant.</p>			<p>by a cultural resource consultant</p>	
	<p>C.2b: In the event that human skeletal remains are uncovered during construction activities for the proposed project, the project sponsor shall immediately halt work and contact the Alameda County Coroner to evaluate the remains. If the County Coroner determines that the remains are Native American, the City will contact the California Native Heritage Commission, pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities will cease until appropriate arrangements are made.</p>	<p>15, 41</p>		<p>City of Oakland with Alameda County Coroner</p>	<p>During reclamation and construction; please refer to C.1a for detainment and monitoring.</p>
<p>C.3: Development proposed as part of the project could unearth and damage an important archaeological resource.</p>	<p>C.3a: In the event an archaeological resource is unearthed, either during excavation or construction activities, the project sponsor shall immediately halt all excavation and/or construction activities within 25 feet of the find. A qualified archaeologist shall evaluate the find, assess the significance of the find, and recommend actions. Potential archaeological resources include, but are not limited to,</p>	<p>15, 41</p>	<p>Mitigated to Less than Significant</p>	<p>City of Oakland</p>	<p>During reclamation and construction.</p>

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<p>C.4: The proposed project would be located adjacent to or near historic buildings, as defined by the Oakland General Plan Historic Preservation Element and/or by the CEQA Guidelines.</p>	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
<p>D. Geology, Seismicity, and Mineral Resources</p>					
<p>D.1: In the event of a major earthquake, especially on the Hayward fault, shear zones or other areas on or near the proposed project site could be susceptible to minor, sympathetic rupture due to excessive seismic ground motion. Such an event could expose people and property to the hazards associated with lateral and/or vertical ground offset.</p>	<p>D.1a: The site-specific, design-level geotechnical investigation, which is typical for any residential development and required as part of this project, shall include recommendations for structural design parameters for residential foundations that are sufficient to resist sympathetic movement within shear zones on the project site. For those planned structures underlain by thin, engineered fill or bedrock, the geotechnical engineer shall identify appropriate structural mitigation and incorporate the mitigation into the final design-level geotechnical recommendations. The final recommendations shall comply with UBC design standards and be approved by the City of Oakland Building Services Division. Once approved, these recommendations shall become part of the project and be incorporated into the final design.</p>	22	Mitigated to Less than Significant	City of Oakland, Building Services Division and Planning Department	Before issuance of the first building permit.
<p>D.2: In the event of a major earthquake in the region, seismic ground shaking could potentially</p>	<p>D.2a: The site-specific, design-level geotechnical investigation, which is typical for any residential development and required as part</p>	22	Mitigated to Less than Significant	City of Oakland, Building Services	Before issuance of the first building permit.

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injure people and cause collapse or structural damage to existing and proposed structures. Ground shaking could potentially expose people and property to seismic-related hazards, including liquefaction and earthquake-induced settlement.	of this project, shall include an analysis of expected ground motions along the Hayward fault. This analysis shall be in accordance with the 1997 UBC, which requires structural design that incorporates ground accelerations expected from known active faults. Expected ground motions determined by a registered geotechnical engineer shall be incorporated into the final structural design as part of the project. The final seismic considerations for the site shall be submitted to and approved by the City of Oakland Building Services Division.			Division	
D.3: Development at the project site could subject people and property to slope instability hazards, including landslides, debris flows, and rockfalls caused by seismic and nonseismic mechanisms.	See Measures D.3a, D.3b, D.3c and D.3d, below.		Mitigated to Less than Significant	See Mitigation Measures D.3a, D.3b, D.3c and D.3d, below.	See Mitigation Measures D.3a, D.3b, D.3c and D.3d, below.
	D.3a: During slope cut-and-fill operations, especially on the high slope in the Restored Slope Area where landslide materials have been identified, incompetent bedrock materials or landslide debris exposed in the design cut slope shall be completely removed and replaced with drained, engineered fill. Inspection of these materials shall be completed by a registered civil or geotechnical engineer or certified engineering geologist with knowledge of the Leona Quarry geology and past landslide conditions. Upon identification of incompetent materials, the engineer or geologist shall oversee the removal of the suspected material and placement of the drained, engineered fill.	22		City of Oakland, Building Services Division, Public Works Agency and Planning Department	Prior to the issuance of the grading permit.
	D.3b: In the Undeveloped Area, residential or commercial buildings shall not be sited between the street and the edge of the sloped area. To avoid potential debris flow or rockfall, or other unstable slope condition, residential and commercial building shall be placed on the	22		City of Oakland, Building Services Division and Planning Department	Final building and site plans shall incorporate recommendations and requirements pertaining to slope stabilization measure; implementation

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	opposite side of the street, away from slopes of the western portion of the Undeveloped Area.				during construction Phase A; review and approved by qualified geotechnical engineer hired by the City.
	D.3c: In order to reduce potential slope instability hazards, the applicant shall implement measures to improve slope stability and reduce the potential for rockfall hazards in areas of the proposed site with unstable slope conditions. These measures could include but are not limited to the construction of debris fences, diversion walls, drainage/debris catchment benches fence barriers at the base of slopes, installation of rock bolts (or equivalent technology) within the slope face, or mechanical removal of unstable or potentially unstable rock masses in the disturbed, Undeveloped Area on the slope above "B" Street (also referred to as "H" Street (see Chapter III of the DEIR)), as recommended in the Final Grading and Geotechnical Report.	22		See Mitigation Measure D.3	Before the issuance of a grading permit and during reclamation.
	D.3d: Geotechnical engineer recommendations regarding the investigation, mitigation, and reduction of earthquake-induced landslide hazards shall be prepared in accordance with <i>California Division of Mines and Geology Guidelines for Evaluating and Mitigating Seismic Hazards</i> (CDMG Special Publication 117, 1997).	22			Before the issuance of a grading permit and during reclamation.
D.4: Development at the project site could be subjected to settlement, differential settlement, and related geologic hazards.	D.4a: The applicant shall incorporate into the project grading plan and construction specifications the recommendations provided by the project geotechnical engineer regarding settlement, presented in Berloger's May, 2003 report, as amended.	22	Mitigated to Less than Significant		Before the issuance of a grading permit and during reclamation and construction.
	<ul style="list-style-type: none"> All fill materials on the project site, with the exception of the fill material in the lower 				

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<p>D.5: Soil erosion of exposed cut or fill slopes, native slopes with removed vegetation, and soil stockpiles could result in damage to structures and temporary disruption to rough and final grading operations and construction as well as exacerbate the potential for landslide or debris flow.</p>	<p>portion of the Lower Development Area, shall be removed and replaced as engineered fill. Fill in the lower portion of the Lower Development Area can remain in its current condition because of its compacted state.</p> <ul style="list-style-type: none"> • Given the configuration of the proposed grading, it is recommended that the lower portion of the Lower Development Area be filled to design grade and settlement plates installed to monitor the settlement of the existing fill from the increased loading of the proposed fill. • Settlement plates shall be surveyed on a bimonthly basis (every two weeks) for the first three months and then monthly thereafter for the following 18 months. • Construction of buildings shall proceed once settlement plate readings indicate that the rate of settlement has decreased to a level that structures can tolerate. • New fill shall be compacted to a minimum of 98 percent relative compaction where placed more than 90 feet below finished grade; 95 percent relative compaction where placed up 40 feet below finished grade and 90 percent relative compaction where placed above 40 feet to finished grade. <p>D.5a: The project applicant shall incorporate into the grading and construction specifications provisions requiring that all phases of construction implement best management practices (BMPs) to reduce and eliminate soil erosion. The contractor shall implement these BMPs, and the contractor shall be responsible for the inspection and maintenance of the BMPs through all phases of construction.</p>	22, 41	Mitigated to Less than Significant	City of Oakland Building Services Division, on-site inspectors and monitors	Before the issuance of a grading permit and during reclamation and construction.

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<p>D.6: Shallow groundwater levels on the project site and the proposed detention basin could alter groundwater flow patterns, cause groundwater mounding, increase groundwater flow gradients, and ultimately result in increased groundwater seepage rates downgradient of the project site.</p>	<p>Implementation of Mitigation Measures D.6a and D.6b, below.</p>	23	Mitigated to Less than Significant	See Mitigation Measures D.6a and D.6b, below.	See Mitigation Measures D.6a and D.6b, below.
	<p>D.6a: The applicant shall incorporate the geotechnical recommendation for 10-foot-deep, trenched subdrains in areas where groundwater would be shallow and potentially seep to the surface after final grading (i.e., the southeast corner of the Lower Development Area). As recommended, the subdrains would be installed along the inboard edges of "I," "J," and "K" Streets.</p>	23		City of Oakland Building Services Division	The geotechnical recommendations shall be incorporated into the final grading and construction specifications; prior to issuance of a grading plan or the first building permit; further monitoring thereafter during reclamation.
<p>D.7: Development of a residential community at the Leona Quarry site would permanently restrict the ability to quarry the Leona Rhyolite aggregate source, which is considered of prime importance because it is a known economic mineral deposit.</p>	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
<p>D.8: Development of a residential community at the Leona Quarry site could result in exposing sulfur-bearing mineral ores to oxygen and water, potentially causing stormwater runoff quality issues.</p>	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
<p>E. Hazards and Hazardous Materials</p>					
<p>E.1: Naturally occurring levels of metals such as arsenic in soil could</p>	None required.	Not	Less than	Not Applicable	Not Applicable

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expose construction workers or future residents to hazards.		Applicable	Significant		
E.2: Hazardous materials used on-site during construction activities (i.e., petroleum products) could be spilled through improper handling or storage.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
E.3: Development at the project site would expose future residents to hazards associated with wildland fires.	E.3a: The project sponsor shall follow the policies and guidelines set forth in the Oakland Municipal Code and the Vegetation Management Almanac for the East Bay Hills (prepared by the Hills Emergency Forum, 2001) to minimize the use of highly flammable building materials and landscaping.	18, 19	Mitigated to Less than Significant	See Mitigation Measures B.9, B.10a, B.10b and B.10c.	During construction and implementation of the revegetation plan and landscape plan. (See Mitigation Measures B.9, B.10a, B.10b and B.10c.)
F. Hydrology and Water Quality					
F.1: Development of the project site could create localized flooding and contribute to a cumulative flooding downstream.	Implementation of Mitigation Measures F.1a and F.1b, or Alternate Mitigation Measure F.1a, and Alternate Mitigation Measure F.1b:		Mitigated to Less than Significant	City of Oakland Public Works Agency and Building Services Division	Prior to issuance of any building permits for Phase I.
	Mitigation Measure F.1a: The Project sponsor shall be required to construct a stormwater management system, that includes a detention basin and outlet works capable of maintaining peak flows from the 24-hour, 25-year design storm at or below pre-project levels, and that will not fail structurally during a 100-year storm, as determined using the parameters resulting from the consensus process discussed in the SEIR. The basin shall be lined with an impermeable material to minimize leakage and contribution to local groundwater flow. A surface drainage swale shall be constructed along the base of the western-most external berm slope of the detention basin to capture surface water runoff from the berm and convey it to appropriate stormwater outlets. The stormwater management system reviewed in the SEIR, with the 15.6 acre-foot lower detention				

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	<p>basin, meets these performance standards.</p> <p>Mitigation Measure F.1b: The Project sponsor shall modify the existing Ridgemont Sub-watershed pond (Pond 4). Improvements to the pond outflow structure shall include the following elements (or design elements that achieve an equivalent discharge rating curve using the parameters resulting from the consensus process discussed in this SEIR equivalent to that achieved by the following elements): replacing the existing 30-inch outlet pipe with a 42-inch outlet pipe, adding a single drop box with one rectangular orifice, and construction an emergency spillway. The perimeter of the drop box would be comparable to a 36-inch rise and the rectangular orifice would be 2.75 feet by 2.0 feet in size. The replacement of the outlet pipe shall be consistent with standard engineering practice. A geotechnical evaluation of the existing detention basin levees and proposed modifications shall be completed to assess the overall integrity of the pond and recommendations from the evaluation shall become part of the Project design and be implemented as directed by a registered geotechnical engineer.</p> <p>Alternate Mitigation Measure F.1a: The Project sponsor shall be required to construct a stormwater management system, that includes a detention basin and outlet works capable of maintaining peak flows from the 24-hour, 25-year design storm at or below pre-project levels, and that will not fail structurally during a 100-year storm, as determined using the parameters resulting from the consensus process discussed in the SEIR. The basin shall be lined with an impermeable material to minimize leakage and contribution to local groundwater flow. A surface drainage swale shall be constructed along the base of the western-most external</p>				

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<p>F.2: Construction activities could result in soil erosion and increase levels of suspended sediments and contaminants in stormwater flows, resulting in adverse impacts to downstream water quality.</p>	<p>berm slope of the detention basin to capture surface water runoff from the berm and convey it to appropriate stormwater outlets. The stormwater management system reviewed in the SEIR, with a single basin with 20.5 acre-feet of detention capacity, meets these performance standards.</p>	23	Mitigated to Less than Significant (Other Agency)	See Mitigation Measures F.2a and F.2b, below.	See Mitigation Measures F.2a and F.2b, below.
	<p>Alternate Mitigation Measure F.1b: The Project sponsor shall modify the existing Ridgemont Sub-watershed pond (Pond 4) by installing a 42" flow-through pipe system to minimize the detention capabilities of that existing pond.</p>				
	<p>F.2a: The project applicant shall comply with all National Pollutant Discharge Elimination System (NPDES) requirements, including the preparation of a SWPPP prior to construction activities, as required by the State Water Resource Control Board's (SWRCB) General Permit for Construction Activities. Implementation of the plan starts with the commencement of construction and continues through the completion of the project. Upon completion of the project, the sponsor must submit a Notice of Termination to the SWRCB to indicate that construction is completed. The SWPPP shall include at a minimum:</p> <ul style="list-style-type: none"> Excavation and grading activities will be scheduled for the dry season only (April 15 to October 15), to the extent possible. This will reduce the chance of severe erosion from intense rainfall and surface runoff, as 				

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	<p>well as the potential for soil saturation in swale areas.</p> <ul style="list-style-type: none"> If excavation occurs during the rainy season, <i>storm runoff from the construction area</i> will be regulated through a stormwater management/erosion control plan that may include temporary on-site silt traps and/or basins with multiple discharge points to natural drainages and energy dissipaters. Stockpiles of loose material will be covered and runoff diverted away from exposed soil material. If work is stopped due to rain, a positive grading away from slopes will be provided to carry the surface runoff to areas where flow can be controlled, such as the temporary silt basins. Sediment basin/traps will be located and operated to minimize the amount of offsite sediment transport. Any trapped sediment will be removed from the basin or trap and placed at a suitable location on-site, away from concentrated flows, or removed to an approved disposal site. Temporary erosion control measures will be provided until perennial revegetation or landscaping is established and can minimize discharge of sediment into nearby waterways. For construction within 500 feet of a water body, straw bales will be placed upstream adjacent to the water body. After completion of grading, erosion protection will be provide on all cut-and-fill slopes. Revegetation will be facilitated by mulching, hydroseeding, or other methods and should be initiated as soon as possible after completion of grading and prior to the onset of the rainy season (by November 1). Permanent revegetation/landscaping will 				

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	<p>emphasize drought-tolerant perennial ground coverings, shrubs, and trees to improve the probability of slope and soil stabilization without adverse impacts to slope stability due to irrigation infiltration and long-term root development.</p> <ul style="list-style-type: none"> BMPs selected and implemented for the project will be in place and operational prior to the onset of major earthwork on the site. The construction phase facilities will be maintained regularly and cleared of accumulated sediment as necessary. Hazardous materials such as fuels and solvents used on the construction sites will be stored in covered containers and protected from rainfall, runoff, and vandalism. A stockpile of spill cleanup materials will be readily available at all construction sites. Employees will be trained in spill prevention and cleanup, and individuals will be designated as responsible for prevention and cleanup activities. 	23, 41		See Mitigation Measure F.2a	See Mitigation Measure F.2a
<p>F.3: Construction dewatering could result in discharge of sediment-laden groundwater or impacts to local groundwater gradients and flow.</p>	<p>F.3a: The project sponsor shall comply with all applicable regulatory agency requirements set forth by the City of Oakland Public Works, San Francisco Bay RWQCB, or EBMUD regarding disposal of groundwater generated during site dewatering activities. Prior to discharge, the applicant will be required to obtain a discharge permit from ACFC or the RWQCB. In addition, these agency requirements will be incorporated into a construction dewatering plan that will provide contractors and future site operators</p>	23	Mitigated to Less than Significant (Other Agency)	RWQCB, EBMUD, ACFC, City of Oakland Public Works Agency, on-site inspectors and Building Services Division.	During reclamation and construction.

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<p>F.4: Upon completion of construction activities, the proposed project could result in a long-term increase in stormwater runoff contaminant levels, degrading downstream receiving water quality.</p>	<p>with guidance on groundwater and surface water disposal during construction activities. The dewatering plan shall become part of the project.</p>	23	<p>Mitigated to Less than Significant (Other Agency)</p>	<p>See Mitigation Measures F.4a and F.4b, below.</p>	<p>See Mitigation Measures F.4a and F.4b, below.</p>
	<p>F.4a: To comply with provisions of the Clean Water Act, the project shall incorporate BMPs, including preparation of a stormwater discharge plan to minimize stormwater runoff and associated offsite migration of stormwater pollutants.</p> <ul style="list-style-type: none"> • Grass strips, high-infiltration substrates, and grassy swales will be used where feasible throughout the development to reduce runoff and provide initial stormwater treatment. • Roof drains will drain to natural surfaces or swales where feasible to avoid excessive concentration and channelization of stormwater. • Permanent energy dissipaters will be included for drainage outlets. • The water quality detention basins will be designed to provide effective water quality control measures, including the following: <ul style="list-style-type: none"> - Maximize detention time for settling of fine particles, within basin draw down requirements as set by the ACFC or City of Oakland. - Establish maintenance schedules for 				

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>periodic removal of sedimentation, excessive vegetation, and debris that may clog basin inlets and outlets.</p>	23		<p>City of Oakland Building Services and Public Works Agency</p>	<p>See Mitigation Measure F.4a</p>
<p>F.5: Increased sediment and pollutant loads from site development in surface runoff and storm water could decrease habitat quality for central California coastal steelhead and winter-run Chinook salmon in drainage courses downstream from the project site and in the San Francisco Bay.</p>	<p>F.5a: The project sponsor shall prepare and implement a SWPPP for the project as required by the San Francisco Bay RWQCB under its NPDES General Permit. The SWPPP will be updated as needed to reflect changes in the project design and site conditions.</p> <ul style="list-style-type: none"> • Berms will be constructed in the project area with sediment catchment basins in depressions and stormwater collection areas in the construction zone, using hay bales or other structures suitable to minimize sediment from being transported and deposited outside of the construction zone. Catchment basins and berms will be incorporated into the final project design. 	22, 23	<p>Mitigated to Less than Significant (Other Agency)</p>	<p>RWQCB</p>	<p>See Mitigation Measure F.4a</p>
<ul style="list-style-type: none"> • The SWPPP will outline interim and permanent stabilization practices, including a schedule for implementation; to ensure that disturbed portions of the project site are stabilized as quickly as practicable. • The use of sediment control basins, sediment traps, silt fences, vegetative buffer strips, or equivalent control measures will be taken to rescue sediment and pollutant loads into sensitive riparian and wetland habitats. 					

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ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
No impacts or mitigation measures.					
H. Noise					
H.1: Construction activities would intermittently and temporarily generate noise levels above existing ambient levels in the project vicinity.	Implementation of Mitigation Measures H.1a, H.1b and H.1c, below.	41	Significant and Unavoidable	City of Oakland Building Services and Planning Division and Police Department	Measures incorporated into the construction phasing and management plan; monitored for compliance during reclamation and construction.
	H.1a: The project sponsor shall ensure that standard construction activities be limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday. No construction activities shall be allowed on weekends, until the buildings are enclosed, without prior authorization of the Building Services and Planning Divisions of the Community and Economic Development Agency.			See Mitigation Measure H.1	See Mitigation Measure H.1
	H.1b: To reduce daytime noise impacts due to construction, the City shall require construction contractors to implement the following measures:	41		See Mitigation Measure H.1	See Mitigation Measure H.1
	<ul style="list-style-type: none"> • Signs will 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 in the event of problems. 				Prior to issuance of the first building permit and on-going throughout the course of construction.
	<ul style="list-style-type: none"> • An on-site complaint and enforcement manager will be posted to respond to and track complaints. 				
	<ul style="list-style-type: none"> • A preconstruction meeting will be held with the job inspectors and the general contractor/on-site project manager to confirm 				Prior to issuance of the first building permit for each phase of

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>that noise mitigation and practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc.).</p>				<p>construction as set forth in Condition of Approval No 13.</p>
	<ul style="list-style-type: none"> Equipment and trucks used for project construction will utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible). 				<p>During construction as established in Mitigation Measure H.1, on-going until construction completed.</p>
	<ul style="list-style-type: none"> Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction will be hydraulically or electrically powered, wherever possible, to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust will be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves will be used, where feasible, which could achieve a reduction of 5 dBA. Quieter procedures will be used, such as drills rather than impact equipment, whenever feasible. 				
	<ul style="list-style-type: none"> Stationary noise sources will be located as far from sensitive receptors as possible and will be muffled and enclosed within temporary sheds, or insulation barriers or other measures will be incorporated to the extent feasible. 				
	<ul style="list-style-type: none"> For noise over 90 dBA, a third-party peer review, paid for by the applicant, shall be required to assist the City in evaluating the feasibility and effectiveness of a noise 				<p>Plan submitted for review and approval prior to issuance of the grading</p>

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>reduction plan submitted by the applicant.</p> <ul style="list-style-type: none"> For noise over 90 dBA, a special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of deposit shall be determined by the Building Official and the deposit shall be submitted by the project sponsor concurrent with submittal of the noise reduction plan. 			City of Oakland Building Services Division	Prior to issuance of the grading permit, plan implementation and monitoring on-going as required throughout the course of construction.
	<p>H.1c: If subterranean blasting were to occur at the project site, the project applicant shall prepare an operational control and detonation plan. The plan shall be submitted to the City for review and approval prior to the issuance of grading permits. The plan shall include the following: (1) be prepared by a licensed geophysicist; (2) assure that ground acceleration will not effect neighboring structures; (3) monitor such ground acceleration with a minimum of three seismographs; and (4) designate hours of blasting and techniques to reduce noise levels to the extent feasible. Such techniques may include the use of non-electric caps and covering of shots with fill material or blankets. The blasting contractor shall notify building occupants within 500 feet of the project site of the blasting schedule at least one week in advance.</p> <p>The construction specifications for the project shall incorporate standards for vibration thresholds published by the U.S. Bureau of Mines or Caltrans to avoid significant impacts to humans and structures. The construction specifications will require monitoring of vibration during detonation events, which will then be compared to the adopted standards. Monitored exceedance of the standards would result in suspension of detonations and an adjustment in design of subsequent blasts.</p>	41		City of Oakland Building Services Division, Planning Department and Police Department	Prior to the onset of subterranean blasting, the plan shall be submitted to the City for review and approval. Compliance shall be monitored throughout the period of subterranean blasting and during reclamation and construction.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
H.2: Project-related traffic would generate noise that would affect nearby sensitive receptors.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
H.3: The project would expose persons to noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
H.4: The proposed project, together with anticipated future development in Oakland, could result in long-term traffic increases and could cumulatively increase noise levels.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
I. Population and Housing					
I.1: The proposed project would result in an increase in the residential population of the South Hills Planning Area, the City of Oakland, and Alameda County.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
I.2: When considered with other development in the area, including development proposed for the Oak Knoll Naval Medical Center site, the project would cumulatively increase the population in the vicinity of the project site.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
J. Public Services					
J.1: The proposed project could result in an increase in calls for police protection services.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
J.2: The proposed project would increase the number of calls for fire	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
protection services and emergency medical assistance.		Applicable	Significant		
J.3: The proposed project would result in new students for local schools.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
J.4: Development proposed as part of the project would increase the demand for library services.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
J.5: Development proposed as part of the project could increase the demand for parks and recreational facilities.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
J.6: Development proposed as part of the project, when combined with development proposed at the former Oak Knoll Naval Medical Hospital, would result in cumulative impacts to Oakland's public schools.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
K. Transportation, Circulation, and Parking					
K.1: Traffic generated by Phase 1 of the project would affect traffic levels of service at local intersections in the project vicinity in 2005.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>K.2: Traffic generated by the project (under full buildout) would affect traffic levels of service at local intersections in the project vicinity in 2020.</p>	<p>Implementation of Mitigation Measures K.2a, K.2b, K.2c, K.2d, K.2e, K.2f, K.2g, K.2h, and K.2i.</p> <p>Note: Mitigation Measures K.2d, K.2e, K.2g, K.2h and K.2i include the following:</p> <p>The City shall use its best, good faith efforts, to prepare and implement a Traffic Improvement Program ("TIP") and a Traffic Improvement Fee ("TIF") for the Edwards Avenue Corridor, which may include the improvements listed below. If the City has adopted a TIP and TIF prior to the issuance of a building permit for the 351st unit excluding the Gateway Senior Residential and Lots 1-19 (the "Trigger Date"), the Project Applicant shall pay a fair share of the cost for the following traffic improvements in the amounts set forth in Attachment A to these Conditions of Approval. If the TIP and TIF have not been implemented as of the Trigger Date and other future projects that cumulatively trigger the need for the traffic improvements listed below have been approved, then the Project Applicant shall provide an acceptably rated bond or other security satisfactory to the City Attorney to ensure funding of the entire cost of such traffic improvements, subject to an agreement with the City to reimburse the Project Applicant with funds raised from these future projects for amounts in excess of the Project's fair share. If as of the Trigger Date a TIP and TIF have not been adopted and the Project Applicant does not agree that the other approved projects have triggered cumulatively the need for such improvements, the Project Applicant may request that the City conduct a traffic study to determine whether the traffic improvements listed below are required. The Project Applicant shall pay for the cost of the traffic study, as established by the City with regard to scope of work and selection of a qualified traffic</p>	<p>25, 26</p>	<p>Mitigated to Less than Significant (Other Agency); However K.2d, K.2e, K.2g, K.2h and K.2i are Significant and Unavoidable if no TIP/TIF and no reimbursement so project is simply funding its fair share.</p>	<p>See Mitigation Measures K.2a, K.2b, K.2c, K.2d, K.2e, K.2f, K.2g, K.2h, and K.2i.</p>	<p>See Mitigation Measures K.2a, K.2b, K.2c, K.2d, K.2e, K.2f, K.2g, K.2h, and K.2i.</p>

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>K.2a: Addition of project-generated traffic at the modified unsignalized intersection of <i>Edwards Avenue / I-580 westbound on-ramp - Mountain Boulevard [1]</i>, reconfigured to contain a fourth leg (project site access), would cause traffic signal warrants, not satisfied without the project, to be satisfied during the a.m. and p.m. peak hours (a significant impact).</p>	<p>engineer. The City agrees to perform the traffic study and agrees to reasonably consider amending the list of improvements to implement the conclusions of the traffic study. If the study determines that certain of the improvements are not required, then upon this determination, the Project Applicant shall pay the City only the Project's fair share of the cost for each such improvement, based upon the lower of the amounts set forth in Attachment A to the conditions of approval for the project or a revised cost for such improvements approved by the City in its sole discretion. In the event the Project Applicant installs or otherwise pays for the entirety of any of the traffic improvements listed in Mitigation Measures K.2c, K.2d, K.2e, K.2.f, K.2.g, K.2h, K.2i, the Project Applicant shall receive a credit or reimbursement for such work or costs that exceed its fair share. This Condition of Approval applies to the following traffic improvements:</p>	25, 26		<p>City of Oakland Traffic Engineering Department and Planning Department</p>	<p>Submit plan prior to initiation of construction Phase B; reviewed, approved and implemented to the extent required of applicant prior to occupancy of 150th unit for remainder of project applicant's responsibility.</p>
<p>K.2a: The project applicant shall work with the City of Oakland and Caltrans to install traffic signals at the unsignalized intersection of <i>Edwards Avenue / I-580 westbound on-ramp - Mountain Boulevard [1]</i>, to reconfigure traffic lanes on Edwards Avenue between the I-580 eastbound off-ramp and Mountain Boulevard, and to widen the freeway on-ramp to provide two lanes. The project applicant shall pay for this measure. Prior to commencing construction of the project, the project applicant shall prepare and submit to the City for its approval a traffic improvement plan for all traffic improvements that are to be funded solely by the project applicant and that require Caltrans' approval. The plan shall include a schedule for obtaining Caltrans' approval and constructing such improvements prior to the construction of project elements that create the need for such improvements.</p>					

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>K.2b: Volumes at the side-street stop-controlled unsignalized intersection of <i>Edwards Avenue / I-580 eastbound off-ramp [2]</i> would satisfy traffic signal warrants with or without the project, and addition of project traffic would degrade the overall level of service from LOS B to LOS F during the p. m. peak hour.</p>	<p>K.2b: The project applicant shall work with Caltrans and coordinate with the City of Oakland to install traffic signals at the unsignalized intersection of <i>Edwards Avenue / I-580 eastbound off-ramp [2]</i>, and to relocate the driveway of the Burckhalter Park to better align with the off-ramp, eliminating the current offset separation of these two approaches to Edwards Avenue and creating a four-leg intersection. The project applicant shall pay for this measure. Prior to commencing construction of the project, the project applicant shall prepare and submit to the City for its approval a traffic improvement plan for all traffic improvements that are to be funded solely by the project applicant and that require Caltrans' approval. The plan shall include a schedule for obtaining Caltrans' approval and constructing such improvements prior to the construction of project elements that create the need for such improvements.</p>	25, 26		See Mitigation Measure K.2a	See Mitigation Measure K.2a
<p>K.2c: The LOS F conditions at the signalized intersection of <i>Edwards Avenue / Greenly Drive [4]</i>, which would prevail during the p.m. peak hour under 2020 Baseline conditions, would worsen with the addition of project traffic. The project-generated increases in vehicle delay would exceed the two-second threshold of significance.</p>	<p>K.2c: The project applicant shall work with the City of Oakland to restripe Edwards Avenue to provide a separate westbound left-turn lane at <i>Edwards Avenue / Greenly Drive [4]</i>. The project applicant shall be responsible for this measure.</p>	25, 26		See Mitigation Measure K.2a	See Mitigation Measure K.2a
<p>K.2d: The signalized intersection of <i>73rd Avenue / MacArthur Boulevard [6]</i> would degrade from LOS D to LOS E during the a.m. peak hour with the addition of project traffic. In addition, the project-generated increase in vehicle delay under LOS E conditions during the p.m. peak hour would</p>	<p>K.2d: The project applicant shall pay a fair share of the cost to modify the west leg of the signalized intersection of <i>73rd Avenue / MacArthur Boulevard [6]</i> to add a second left-turn lane on eastbound 73rd Avenue.</p>	25, 26		See Mitigation Measure K.2a	See Mitigation Measure K.2a

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>exceed the six-second threshold of significance.</p>	<p>K.2e: The LOS F conditions at the all-way stop-controlled unsignalized intersection of <i>Mountain Boulevard / Keller Avenue [7]</i>, which would prevail during the p.m. peak hour under 2020 Baseline conditions, would worsen with the addition of project traffic. The project-generated increase in vehicle delay would exceed the two-second threshold of significance.</p>	25		See Mitigation Measure K.2a	See Mitigation Measure K.2a
<p>K.2f: The side-street stop-controlled unsignalized intersection of <i>Mountain Boulevard / I-580 westbound off-ramp – Sanford Avenue [8]</i> would degrade from LOS C to LOS E during the p.m. peak hour with the addition of project traffic. Traffic volumes at the intersection would not satisfy traffic signal warrants, but the increase in vehicle delay on the off-ramp approach due to the addition of project traffic (from LOS D to F) would be high enough to substantially increase the potential for traffic hazards.</p>	<p>K.2f: The project applicant shall work with Caltrans and coordinate with the City of Oakland to install traffic signals at the unsignalized intersection of <i>Mountain Boulevard / I-580 westbound off-ramp – Sanford Avenue [8]</i>, and convert the right lane of the two-lane freeway off-ramp from an exclusive right-turn lane to a shared left-turn/right-turn lane. The project applicant shall pay for this measure. Prior to commencing construction of the project, the project applicant shall prepare and submit to the City for its approval a traffic improvement plan for all traffic improvements that are to be funded solely by the project applicant and that require Caltrans' approval. The plan shall include a schedule for obtaining Caltrans' approval and constructing such improvements prior to the construction of project elements that create the need for such improvements.</p>	25		See Mitigation Measure K.2a	See Mitigation Measure K.2a
<p>K.2g: The LOS E conditions at the all-way stop-controlled unsignalized intersection of <i>Keller Avenue / I-580 eastbound off-ramp [9]</i>, which would prevail during the p.m. peak hour under 2020 Baseline</p>	<p>K.2g: The project applicant shall work with Caltrans and coordinate with the City of Oakland to install traffic signals at the unsignalized intersection of <i>Keller Avenue / I-580 eastbound off-ramp [9]</i>. The project applicant shall pay a fair share of the cost for</p>	25		See Mitigation Measure K.2a	See Mitigation Measure K.2a

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
conditions, would worsen with the addition of project traffic. The project-generated increase in vehicle delay would exceed the six-second threshold of significance.	this measure.				
K.2h: The side-street stop-controlled unsignalized intersection of <i>I-580 westbound off-ramp / Mountain Boulevard – Kuhnle Avenue [16]</i> would degrade from LOS D to LOS E during the a.m. peak hour, and from LOS E to F during the p.m. peak hour, with the addition of project traffic.	K.2h: The project applicant shall work with Caltrans and coordinate with the City of Oakland to install traffic signals and to add a second eastbound left-turn lane at the unsignalized intersection of <i>I-580 westbound off-ramp / Mountain Boulevard – Kuhnle Avenue [16]</i> . The project applicant shall pay a fair share of the cost for this measure.	25		See Mitigation Measure K.2a	See Mitigation Measure K.2a
K.2i: The unacceptable LOS F conditions at the side-street stop-controlled unsignalized intersection of <i>Seminary Avenue / I-580 eastbound off-ramp – Overdale Avenue [18]</i> , which would prevail during the p.m. peak hour under the 2020 Baseline scenario, would worsen with the addition of project traffic. The project-generated increase in vehicle delay would exceed the two-second threshold of significance.	K.2i: The project applicant shall work with the City of Oakland to install traffic signals at the unsignalized intersection of <i>Seminary Avenue / I-580 eastbound off-ramp – Overdale Avenue [18]</i> . The project applicant shall pay a fair share of the cost for this measure.	25		See Mitigation Measure K.2a	See Mitigation Measure K.2a
K.3: The project would increase traffic on regional roadways in the project vicinity.	None required.	Not Applicable	Less than Significant		
K.4: The project would generate demand for parking spaces.	None required.	Not Applicable	Less than Significant		
K.5: The project would increase transit ridership.	None required.		Less than Significant		
K.6: The proposed project access (for general and emergency	K.6a: The project applicant shall coordinate with the City of Oakland Public Works Agency,	13, 25	Mitigated to Less Significant	City of Oakland Public Works	Part of Construction Phase A, complies prior

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vehicles) and internal circulation system would need to accommodate traffic flows generated by motor vehicles, pedestrians, and bicyclists.	<p>and providers of emergency services (e.g., the Oakland Fire Department) to construct the "Gateway EVA", which would connect the project site's new roadway network at "A" Street to Mountain Boulevard. The Gateway EVA will be a 25-foot wide paved road that is capable of supporting 65,000 pounds. Access will be restricted to emergency vehicles and buses only; no public access or parking will be allowed. In addition, two supplemental emergency accesses will be provided to Altura Place (Altura access) and to Leona Street (Northwestern access).</p> <p>The Altura access will be a 12-foot wide paved road that is capable of supporting 65,000 pounds. It will connect "I" Street with Altura place within the City's existing right of way. No other improvements or widening is required on Altura Place. The Northwestern access will be a 12-foot wide road that is capable of supporting 65,000 pounds. The alignment will follow the existing fire access easement along the I-580 right of way (located on the project site), across the City's right of way on Edan Place, back on to the project site and connect with Leona Street via an existing easement over the Suchan property. The Altura and Northwestern accesses will be locked or gated at or near the property line of the project site. Pedestrian and/or bicycle access to and from Altura Place may be provided; no pedestrian or bicycle access will be permitted to Leona Street. No public vehicular access will be permitted on Altura Lane or Leona Street to or from the project site except in an emergency.</p>		than Significant	Agency, City of Oakland Fire Department and Planning Department	to Construction Phase B.
K.7: The project would increase traffic and pedestrian/bicycle activity in the project vicinity.	None required.		Less than Significant		
K.8: Project construction could	K.8a: Prior to construction activity, the project	41	Mitigated to Less	City of Oakland	Plan shall be submitted,

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<p>result in temporary circulation and safety impacts in the project vicinity.</p>	<p>applicant shall submit a construction management plan for review and approval by the City's Traffic Engineering Division. This plan shall include, but is not limited to, the following items:</p> <ul style="list-style-type: none"> • Identification of routes (in a Haul Route Plan) for the movements of construction vehicles that would minimize the impacts on vehicular traffic circulation and safety in the area. • Staging of the movements of construction materials and equipment so as not to hinder the general flow of traffic in the immediate vicinity of the project site. • Identification of areas required for encroachment within the public right-of-way. • Accommodation of on-site placement of construction equipment and construction vehicles. • Posting of signs 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 of Oakland in the event of problems. • Designation of an on-site complaint and enforcement manager to respond to and track complaints. • Provision of adequate notification procedures for any road closures. 		<p>than Significant</p>	<p>Traffic Engineering Department, Public Works Department and Planning Department</p>	<p>reviewed and approved prior to issuance of a grading permit. Compliance with plan requirements shall be continuous throughout the course of grading and construction.</p>

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L. Utility Service Systems					
L.1: Construction of the proposed Leona Quarry project could impede the ability of the City of Oakland to meet the waste diversion requirements of the California Integrated Waste Management Act (AB 939).	L.1a: Prior to issuance of building permits, the City of Oakland shall require the project applicant to comply with the City's Construction and Demolition Debris Waste Reduction and Recycling Plan, which requires submittal of a plan to divert at least 50 percent of the construction waste generated by the project from landfill disposal. This shall be submitted to the City of Oakland's Public Works Agency for review and approval.	41	Mitigated to Less than Significant	City of Oakland Public Works Agency	Prior to issuance of the first building permit.
L.2: The proposed project would increase the demand for water services and could potentially impact EBMUD's limited water supply.	L.2a: The project applicant shall implement Mitigation Measures A.1a, C.1a, C.2a, C.2b, C.3a, F.3a, H.1a, and H.1b.	16, 23, 41	Mitigated to Less than Significant (Other Agency)	See Mitigation Measures A.1a, C.1a, C.2a, C.2b, C.3a, F.3a, H.1a, and H.1b.	See Mitigation Measures A.1a, C.1a, C.2a, C.2b, C.3a, F.3a, H.1a, and H.1b.
L.3: The proposed project would increase the demand for sanitary sewer services.	L.3a: The project applicant shall implement Mitigation Measures A.1a, C.1a, C.2a, C.2b, C.3a, F.3a, H.1a, and H.1b.	16, 23, 41	Mitigated to Less than Significant (Other Agency)	See Mitigation Measures A.1a, C.1a, C.2a, C.2b, C.3a, F.3a, H.1a, and H.1b.	See Mitigation Measures A.1a, C.1a, C.2a, C.2b, C.3a, F.3a, H.1a, and H.1b.
L.4: The proposed project would increase the amount of impervious surface on the site and could affect the ability of the City of Oakland and the Alameda County Flood Control and Water Conservation District to adequately treat and drain stormwater runoff.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
L.5: Operation of the project and its components would increase the demand for electrical services and natural gas.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
L.6: The proposed project would increase the amount of solid waste	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
disposed of by the City of Oakland at the Altamont Landfill and Recycling Facility (Altamont Landfill).	<p>L.7a: The City of Oakland shall require the project applicant to comply with its Recycling/Space Allocation Requirements, which requires submittal of building plans that specify adequate storage space for recyclable and compostable materials for each proposed unit to the City for review and approval.</p>	Mitigated to Less than Significant	City of Oakland	Prior to issuance of the first building permit.	
<p>L.8: Construction and operation of the proposed project, when combined with the construction and operation of the proposed Naval Medical Center Oakland (Oak Knoll) project, would result in cumulative impacts on the provision of water and sanitary sewer services.</p>	None required.	Not Applicable	Not Applicable	Not Applicable	
M. Visual Quality					
<p>M.1: The project would result in a change to the scenic vistas of which the proposed project site is a part.</p>	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
<p>M.2: The proposed project would alter the existing visual character of the site and its surroundings.</p>	<p>M.2a: The City shall require that the local homeowners association or similar entity maintain the landscaping proposed as part of the project in the Lower Development, Restored Slope, and Campus Drive Areas.</p>	Mitigated to Less than Significant	City of Oakland	Prior to issuance of a certificate of occupancy for the first unit and ongoing as part of MOA.	
<p>M.3: The proposed project would result in an increase in development that would generate some light and glare at the project site.</p>	Implementation of Mitigation Measures M.3a and M.3b, below.	14	Mitigated to Less than Significant	See Mitigation Measures M.3a and M.3b, below.	See Mitigation Measures M.3a and M.3b, below.

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	<p>M.3a: To minimize project-related spill light, the project sponsor shall install low-level street and pedestrian-scale light fixtures in outside areas. Light standards in these areas should be less than 16 feet above ground, with the lights aimed downward to illuminate the area around the fixture. Such light standards should be designed to provide pedestrian illumination levels of about 3 foot-candles. Additional lighting near loading areas should be greater for safety, but shielded to minimize the project-related spill light to offsite receptors.</p>	14, 15			<p>Design of light fixtures to be approved by City as part of designation requirements in the PUD design and specification documentation in Condition of Approval No. 4.</p>
	<p>M.3b: To minimize both spill light and glare, the project sponsor shall include timing devices that would minimize the amount of time that project lighting, including street lighting, would be utilized, where appropriate and feasible.</p>	14, 15			<p>See Mitigation Measure M.3a</p>

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General Conditions and Compliance with Approved Plans

1. The project shall comply with the following plans and exhibits entitled "Leona Quarry," as prepared by the following consultants ("the Project Plans"):

Architect

KTGY Group Inc.
17992 Mitchell South
Irvine
CA 92614
(949) 851-2133
(949) 851-5156 (Fax)

Civil Engineer

Carlson, Barbee & Gibson, Inc.
2603 Camino Ramon, Suite 100

14.1-1
ORA/COUNCIL
FEB 17 2004

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San Ramon
 CA 94583
 (925) 866-0322
 (925) 866-8575 (Fax)

Landscape Architect
 Bradanini & Associates
 Landscape Architecture
 90 Throckmorton Avenue
 Mill Valley, CA
 (415) 383-9780

I. Site Plan and Landscape Plans

- S-1 Site Plan
- K-1 Key Plan
- L-1 Landscape Site Plan
- L-2 Street/Landscape Uphill Townhome Product 2
Downhill Condo Product 1
- L-3 Street/Landscape Village Green Product 4
Downhill Condo Product 2
- L-4 Street/Landscape Village Green Product 4
- L-5 Street/Landscape Downhill Townhome Product 5
- L-6 Street/Landscape Uphill Townhome Product 7
Downhill Townhome Product 6
- L-7 Street/Landscape Terrace Product 8
- L-8 Phase 1 Landscape Site Sections Uphill Townhome Product 2
Downhill Townhome Product 5
Downhill Condo Product 1
- L-9 Phase 1 Landscape Site Sections Village Green Product 4
Downhill Condo Product 2
- L-10 Phase 2 Landscape Site Sections Uphill Townhome Product 7
Downhill Townhome Product 6
Terrace Product 8
- L-11 Landscape Village Green Product 4
- L-12 Landscape Plan at Park
- L-13 Landscape Entry Feature

II. Architecture: Plans and Elevations

- 1-1 Perspective Phase 1 Product 1&2
- 1-2 Phase 1 Product 1: 6-Plex Downhill Condo Floor Plans

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1-3	Phase 1	Product 1: 7-Plex Downhill Condo Floor Plans
1-4	Phase 1	Product 1: 6 & 7-Plex Downhill Condo Floor Plans
1-5	Phase 1	Sections
1-6	Phase 1	Product 1: Roof Plans
2-1	Phase 1	Product 2: 5-Plex Uphill Townhome Floor Plans
2-2	Phase 1	Product 2: 5-Plex Uphill Townhome Elevations
3-1	Phase 1	Product 3: Duet Downhill Townhome Floor Plans and Elevations
4-1	Perspective Village Green	
4-2	Phase 1	Product 4: Village Green 8-Plex Floor Plans
4-3	Phase 1	Product 4: Village Green 8-Plex Elevations
4-4	Phase 1	Product 4: Village Green 10-Plex Floor Plans
4-5	Phase 1	Product 4: Village Green 10-Plex Floor Plans
4-6	Phase 1	Product 4: Village Green 10-Plex Elevations
4-7	Phase 1	Product 4: Village Green 8 & 10-Plex Roof Plans
4-8	Phase 1	Product 4: Village Green 8 & 10-Plex Sections
5-1	Phase 1	Product 5: 4-Plex Downhill Townhome Floor Plans
5-2	Phase 1	Product 5: 4-Plex Downhill Townhome Elevations
5-3	Phase 1	Product 5: 4-Plex Downhill Townhome Elevations
6-1	Perspective Phase 2	Product 6 & 7
6-2	Perspective Phase 2	Product 6 & 7
6-3	Phase 2	Product 6: 4-Plex 6A Downhill Townhome Roof Plans
6-4	Phase 2	Product 6: 4-Plex 6B Downhill Townhome Roof Plans
6-5	Phase 2	Product 6: 4-Plex 6B-1 Downhill Townhome Elevations
6-6	Phase 2	Product 6: 4-Plex Downhill Townhome Elevations
6-7	Phase 2	Product 6: Uphill/Downhill Townhome Sections
7-1	Phase 2	Product 7: 4-Plex 2A Uphill Townhome Floor Plans
7-2	Phase 2	Product 7: 4-Plex 2B Uphill Townhome Floor Plans
7-3	Phase 2	Product 7: 4-Plex 2C Uphill Townhome Floor Plans
7-4	Phase 2	Product 7: 4-Plex 2D Uphill Townhome Floor Plans
7-5	Phase 2	Product 7: 4-Plex 2C Uphill Townhome Elevations
7-6	Phase 2	Roof Plans
8-1	Perspective Terrace Building Product 8	
8-2	Phase 2	Product 8: 6-Plex Terrace Building Floor Plans
8-3	Phase 2	Product 8: 6-Plex Terrace Building Elevations

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8-4	Phase 2	Product 8: 6-Plex Terrace Building Sections
8-5	Phase 2	Product 8: 12-Plex Terrace Building Floor Plans
8-6	Phase 2	Product 8: 12-Plex Terrace Building Floor Plans
8-7	Phase 2	Product 8: 12-Plex Terrace Building Floor Plans
8-8	Phase 2	Product 8: 12-Plex Terrace Building Floor Plans
8-9	Phase 2	Product 8: Roof Plans
8-10	Phase 2	Product 8: 12-Plex Terrace Building Elevations
8-11	Phase 2	Product 8: 12-Plex Terrace Building Elevations

- 9-1 Gateway Senior Apartments
- 9-2 Gateway Senior Apartments
- 9-3 Perspective Senior Apartments & Gateway

- 10-1 Phase 1 Site Sections
- 10-2 Phase 2 Site Sections
- 10-3 Perspective from MacArthur Freeway
- 10-4 Perspective from MacArthur Freeway

CC Community Center

III. Vesting Tentative Tract Map

Vesting Tentative Tract Map -Tract 7351 Sheets 1 through 5 (September 25, 2002)

2. The Project Applicant and its agents, heirs, successors and assigns (collectively, the "Project Applicant") shall be bound by these Conditions of Approval and by any other terms and condition of "this Approval" (as defined in Condition No. 3, below). The Project Applicant shall be responsible for assuring that any such successive owner or any of the Project Applicant's agents, heirs, successors and assigns is fully informed of the terms and conditions of this Approval.
3. This action by the City Council ("this Approval") includes the approvals set forth in this Condition of Approval No. 3. Each of these individual approvals shall become effective when the court in the *Dorsey v. Oakland* proceeding lifts the stay of the force and effect of Ordinance 12457 (the "Effective Date"). This Approval includes:
 - a. Approval of a Planned Unit Development ("PUD") including a preliminary development plan and final development plan under Oakland Municipal Code Section 17.140, for phased construction of 477 residential

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units, including 54 affordable senior units, as set forth in the Project Plans, as modified by these Conditions of Approval.

- b. Approval of Residential Design Review under 17.136 of the Oakland Municipal Code in accordance with Condition of Approval No. 14.
 - c. Approval of a Vesting Tentative Map (“VTM”) under Oakland Municipal Code 16.08.040 and the State Subdivision Map Act (Government Code Sections 66410 - 66499.37). The VTM approval shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and the applicable provisions of the Oakland Municipal Code. The VTM may employ multiple (phased) final maps, subject to the phasing program illustrated on the VTM and in these Conditions of Approval. The VTM is approved as a vesting tentative map for the entire site (approximately 128 acres) within the City. Therefore, the City shall have final map approval authority and shall have the authority, within its sole discretion, to amend the VTM.
 - d. Three variances to residential design review standards pursuant to special design requirements and residential design review standards (Oakland Municipal Code 17.108) as follows: retaining wall height; maximum garage width and percentage of front yard paving.
4. The plans approved as part of the PUD shall be amended to be consistent with the Conditions of Approval and shall be submitted to the City Planning Department in the form of a “PUD Design and Specification Document for the Leona Quarry Project” within ninety (90) days of this Approval. This Design and Specification Document shall include but not be limited to all detailed plans and specifications pertaining to Condition of Approval No. 14 and all other information and details deemed necessary by the Development Director or the Development Director’s designee.
 5. The work described in “Construction Phase B (Site Preparation)” in Condition of Approval No. 13 below, shall commence within two (2) years following the Effective Date. Thereafter, such construction shall be governed by Condition of Approval No. 13, and this Approval. The above referenced time period shall exclude any and all time involved with administrative appeals, third-party lawsuits, and other similar delays challenging the Project Approvals not caused by the Project Applicant. Once construction is commenced, the Project Applicant shall use its good faith and diligence to continue until construction is completed.
 6. Notice of Exactions:

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- a. This Approval includes certain dedication requirements, reservation requirements and non-monetary exactions as set forth in these Conditions of Approval. Pursuant to Government Code 66020(d)(1), this Approval constitutes written notice of a description of the dedications, reservations and other exactions. The Project Applicant is hereby further notified that the ninety (90) day period in which these dedications, reservations and other exactions may be protested, pursuant to Government Code 66020(a), shall commence on the Effective Date. If the Project Applicant fails to file a protest within this ninety (90) day period complying with all of the requirements of Section 66020, Project Applicant will be legally barred from challenging such exactions.
 - b. This Approval includes certain fees, which shall be set forth in a Leona Quarry Fee Schedule to be provided by the Development Director to the Project Applicant. Delivery of the Leona Quarry Fee Schedule by the Development Director to the Project Applicant shall constitute written notice, pursuant to Government Code 66020(d)(1), of a statement of the amount of such fees. The Project Applicant is hereby further notified that the ninety (90) day period in which these fees may be protested, pursuant to Government Code 66020(a), shall commence on delivery by the Development Director of the Leona Quarry Fee Schedule to the Project Applicant. If the Project Applicant fails to file a protest within this ninety (90) day period complying with all of the requirements of Section 66020, the Project Applicant will be legally barred from challenging such fees.
7. Final inspection and a certificate of occupancy for any unit or other structure within a phase, as set forth in Condition of Approval No. 13, shall not be issued until (a) all landscaping and on and off-site improvements for that phase are completed in accordance with this Approval, or (b) until cash, an acceptably rated bond, a certificate of deposit, an irrevocable standby letter of credit or other form of security (collectively "security"), acceptable to the City Attorney, has been posted to cover all costs of any unfinished work related to landscaping and public improvements plus 25 percent within that phase, unless already secured by a subdivision improvement agreement approved by the City., except that such security shall not be a substitute for completion of the Reclamation Work in accordance with Condition No. 12. For purposes of these Conditions of Approval, a certificate of occupancy shall mean a final certificate of occupancy, not temporary or conditional, except as the City determines may be necessary to test utilities and services prior to issuance of the final certificate of occupancy.
8. Except as otherwise provided below in this Condition of Approval No. 8 with respect to City's issuance of a certificate of occupancy for a unit, each of the

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Conditions of Approval shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law, including without limitation, Civil Code Section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the property that is subject to this Approval (the "Property"), as appropriate, runs with the Property and is binding upon the owner of all or a portion of the Property and each successive owner. Within ninety (90) days of the Effective Date, the Project Applicant shall cause these Conditions of Approval to be recorded in the Official Records of the County of Alameda, California against all of the Property. These Conditions of Approval also shall be attached to each grading permit and each building permit for infrastructure work issued for each phase of construction. Upon City's issuance of a certificate of occupancy for a unit, these Conditions of Approval shall be released from the exceptions to title of the parcel upon which the unit is located. Upon completion of the Project, as determined by the City, these Conditions of Approval shall be released from the all of the Property.

Indemnification Requirements

9. To the maximum extent permitted by law, the Project Applicant shall defend, hold harmless, and indemnify the City, the GHAD and their 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. 9. The Indemnified Parties shall take all reasonable steps to promptly notify the Project Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these Conditions of Approval.

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10. Not in limitation of the foregoing Condition of Approval No. 9, Project Applicant shall defend, hold harmless and indemnify the Indemnified Parties and their insurers against any and all liability, damages, claims, demands, judgments, losses (“Indemnified Claims”) or other forms of legal or equitable relief related to implementation of the Project, including, without limitation, the formation and operation of the GHAD and in the case of the City Council members, actions taken by said members while acting as the GHAD Board of Directors, design, construction or maintenance of the Project and any private or public improvements. Notwithstanding the last sentence of Condition of Approval No. 8, the foregoing indemnity shall not be released upon completion of the Project. A Project Applicant may be released from this indemnity obligation, including the Indemnification Agreement referred to in Condition of Approval 11, 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 Applicant gives 30 days’ written notice of such proposed assignment to the City Manager, and the City Manager approves such assignment in writing, which approval may be withheld 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 Applicant, 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 Applicant, 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 Applicant’s expense, in the defense of any action specified in this Condition of Approval No. 10. The Indemnified Parties shall take all reasonable steps to promptly notify the Project Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these Conditions of Approval.
11. Within 90 (*this time period also being required for the submittal of the PUD doc. in COA 4*) days following the Effective Date, the Project Applicant shall enter into an Indemnification Agreement in a form acceptable to the City Attorney to

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establish in more specific detail terms and conditions of the Project Applicant's indemnification obligations set forth in Conditions of Approval Nos. 9 and 10. Any failure of any party to timely execute such Indemnification Agreement shall not be construed to limit any right or obligation otherwise specified in these Conditions of Approval, including, without limitation, Conditions of Approval Nos. 9 and 10, except that it shall not limit Development Director authority as set forth in Condition of Approval No. 37.

Compliance with SMARA - Implementation, Security, and Phasing of Project

12. Prior to issuance of a grading permit, the Project Applicant shall obtain an amendment to the current Reclamation Plan that is consistent with the PUD, VTM, these Conditions of Approval and all requirements of the State Mining and Reclamation Act ("SMARA"). This amendment may be obtained from the City.

Also prior to issuance of a grading permit, the Project Applicant shall provide the City with an acceptably rated bond or bonds, or other form of security acceptable to the City Attorney that will cover all costs of implementing and completing all of the work necessary to fulfill the requirements of the Reclamation Plan, as amended and otherwise to safely provide for residential development. ("the Reclamation Work"). The Reclamation Work includes without limitation the work described in Conditions of Approval Nos. 17, 18, 21, 22, 23, 37, 41 in accordance with all of these Conditions of Approval and the Mitigation Measures described in the Mitigation Monitoring and Reporting Program ("MMRP") which is attached as Exhibit B to the Resolution to which these conditions are attached. The MMRP is hereby incorporated into and made a part of these Conditions of Approval.

Prior to the issuance of a certificate of occupancy for any unit within the Project (except for model homes) all of the Reclamation Work must be completed; provided, however, that the revegetation work (described in Condition of Approval No. 18) must be commenced at the earliest feasible time in accordance with season planting requirements and may be completed after the first certificate of occupancy is issued, so long as the Project Applicant continues to diligently complete such work in accordance with seasonal planting requirements.

Project Phasing

13. Project Phasing Plan. As used in this Condition of Approval, the term phase or phases refers to phases associated with grading and construction activities, not to the phases identified on the VTM, which are referred to as "VTM Phase." This Approval is contingent upon the grading, construction and other improvements

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being completed in accordance with the specific phasing plan established in this Condition of Approval and the City shall retain the full and sole authority to withhold further approvals at any juncture if all the requirements for each phase have not been completed as specified in this Condition of Approval. Further, any modifications in the phasing plan shall require prior written approval by the City Development Director and the City Engineer.

Pre-Construction Phase A (Review and Approval of Detailed Plans) – The first phase of the project shall require the applicant to submit all required plans, information, analysis, and other specifications as required for the Reclamation Work, the grading plan, and other related work in accordance with the Conditions of Approval and the MMRP. This work includes:

- a. The geotechnical work as set forth in Condition of Approval No. 22.
- b. The hydrology plans, information and analysis as set forth in Condition of Approval No. 23.
- c. The master public improvement plan as set forth in Condition of Approval No. 35.
- d. The Revegetation Plan and specifications as set forth in Condition of Approval No. 18.
- e. Implementation of the Construction Management and Phasing Plan as set forth in Condition of Approval No. 41, including payment of fees, hiring of independent technical consultants and coordination of project management and monitoring activities as set forth in Condition of Approval No. 40.
- f. Submittal of the Traffic Improvement Program as set forth in Condition of Approval No. 25.
- g. Establishment of the special deposit fund as set forth in Condition of Approval No. 40.
- h. Funding of the GHAD as specified in Condition of Approval No. 24.

Upon successful completion of this phase and approval by the Development Director, the City Engineer and the Building Official (or their designees), the grading permit shall be issued for Construction Phase B (Site Preparation).

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Construction Phase B (Site Preparation) – The first physical phase of the Project shall be the grading, earthwork and implementation of the Reclamation Plan Amendment or Site Closure to prepare the site for residential development. Work under this phase includes completion of:

- i. Commencement of Reclamation Work, as defined in Condition No. 12, including, without limitation, grading, slope drainage, and other requirements to ensure the quarry is in a safe and stable condition for residential construction activities.
- j. Completion of slope stability measures for Parcels C-C and the initiation of reconstruction of the slopes in D-D in accordance with subsection g, below.
- k. Site preparation for residential construction on Lots 1-19 on Campus Drive in compliance with the approved grading and improvement plans set forth in Pre-construction Phase A
- l. Rough roadway improvements and utilities for A Street (entirety) and all of the streets where residential construction is proposed during the first phase of residential construction (Construction Phase C).
- m. Construction of the Gateway Emergency Vehicle Access (“EVA”) (Parcel F-F).
- n. Construction of the detention basin (Parcel A-A).

Prior to the issuance of building permits for any unit within the VTM Phase I Area and Lots 1-19, the Project Applicant shall submit a geotechnical and engineering report that confirms that all slope stability measures for the western slope (Parcel C-C) and the restored slope (Parcel D-D) have been implemented to the degree necessary to assure site and construction worker safety. This report shall be reviewed by an independent geotechnical engineer hired by the City at the Project Applicant’s expense and approved by the City. Further, implementation of a construction management and site security plan for the VTM Phase I Area shall also be required, as set forth in Condition of Approval No. 41.

Upon successful completion of this phase and approval by the Development Director and the Building Official (or their designees), building permits for up to 150 units within the VTM Phase I Area and additional building permits for Lots 1-19 may be issued. Because completion of the specific improvements identified for this phase is critical for public health and safety considerations, provision of

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security, such as bonds or letters of credit shall not be acceptable as a substitute for completion of such improvements.

Construction Phase C (Initial Residential Construction). Work in Construction Phase C shall include construction of up to 150 housing units within the VTM Phase I Area, construction on Lots 1-19 and completion of grading and implementation of Reclamation Plan Amendment (excluding completion of the revegetation plan) as described in Condition of Approval No. 12, as well as:

- o. Completion of the Revegetation/restoration work according to Condition of Approval No. 18 for Parcel C-C, completion of grading and slope stabilization for Parcel D-D, and, to the greatest extent feasible, the initiation and continuation of revegetation of Parcel D-D in accordance with seasonal planting requirements and Condition of Approval No. 18.
- p. Completion of final street improvements, excluding landscaping, for the entirety of any street adjacent to or providing access to the first 150 units that will be occupied within the VTM Phase I Area. Landscaping associated with such street improvements, including common area, will be completed concurrently with completion of the adjacent residential units; the security for such work is further set forth in Condition of Approval No. 7, with the exception that all landscaping shall be complete for any phase prior to the issuance of the certificate of occupancy for the last two units of that phase.
- q. Landscaping of front entrance (Parcels G-G and H-H) and detention basin (Parcel A), as further set forth in Conditions of Approval Nos. 19 and 23.c, respectively.
- r. Northwestern supplemental EVA improvements.
- s. Village Green landscaping and improvements (Parcel E).
- t. EVA connection from H to C Streets.
- u. Landscaping of Parcels B, C D and J.
- v. When VTM Phase ID is completed, the landscaping and improvements for Parcels G, H and I shall be completed prior to the issuance of certificates of occupancy for the last two units in Phase 1D.
- w. Prior to the issuance of any occupancy permits for the first 150 units in the VTM Phase I Area, as well as any of the units on Lots 1-19, the City shall

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confirm that the Project Applicant has successfully completed all required work under Construction Phase C, including confirmation by the independent geotechnical engineer hired by the City at the Project Applicant's expense that all Reclamation Plan Amendment measures (exclusive of completing the revegetation plan) have been completed as required.

Construction Phase D (Continued Residential Construction). Work in this Construction Phase D includes continued residential construction in the VTM Phase I Area and Lots 1-19, construction in the VTM Phase II Area, construction of the Gateway Senior Housing Project (Parcel Z) and construction of Greenly Drive/Edwards Avenue Improvements.

Prior to the issuance of any building permits for VTM Phase II Area, the Project Applicant shall have complied with Condition of Approval 41.

Prior to the issuance of an occupancy permit for the 151st unit and prior to the issuance of a building permit for the 350th unit (excluding Lots 1-19 on Campus Drive and the Gateway Senior Housing Project), the Project Applicant shall have (i) completed to a standard acceptable to the City and (ii) offered to the City, and the City shall have accepted, the Greenly Drive/Edwards Avenue improvements described in Condition of Approval No. 25 and the MMRP.

Prior to the issuance of a certificate occupancy for any unit in the VTM Phase II Area, the following shall be completed:

- x. the Altura supplemental EVA connection and improvements.
- y. EVA connection from I to A Streets.

Because completion of the specific improvements identified in subparagraphs 25a and 25b above for this phase is critical for public health and safety considerations, provision of security, such as an acceptably rated bond, or letters of credit shall not be acceptable as a substitute for completing such improvements.

Construction Phase E (Completion of Residential Construction up and to the 351st Unit). Work in this Construction Phase E shall include completion of residential construction and site work in VTM Phase I Area and Phase II Area, the Gateway Senior Project and Lots 1-19, except that the Project Applicant shall complete and the City shall have accepted the following work prior to the issuance of a certificate of occupancy for the 351st unit (excluding Lots 1-19 and the Gateway Senior Project):

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- z. Interior park improvements (Parcel Y).
- aa. All Project trail connections and improvements.
- bb. All remaining street landscaping, revegetation and other open space improvements associated with any of the first 350 units that have received occupancy permits; and specifically excluding improvements adjacent to the remaining 53 units (excluding Lots 1-19 and the Gateway Senior Project).

Construction Phase F (Completion of the Approved Project) – All remaining improvements shall be completed and compliance with Conditions of Approval Nos. 25 and 26 shall be demonstrated to the satisfaction of the City Development Director prior to the issuance of a certificate of occupancy permit for the remaining 53 units.

Project Design Requirements

- 14. The following design refinements, standards and requirements shall be incorporated into the final design plans for the project:
 - a. The design of the Gateway Senior Housing Project shall be revised to be more of a signature gateway design, with high quality materials and detailing appropriate to its tall height and prominent location close to the freeway. The design shall incorporate a greater degree of articulation and detailing, including a combination of window recess and trim that creates at least three inches of shadow and articulation. The other major elements of the design to be revised include the roof forms, entry, and overall proportions. The revised design shall be reviewed and approved by the Design Review Committee of the Planning Commission as part of the design submittal required for compliance with Condition of Approval No. 4.
 - b. Four of the retaining walls proposed shall be revised to be closer in compliance with zoning standards for height and distance separation. The following four areas of retaining walls shall be revised such that the maximum height of the walls is eight feet, with at least four feet of horizontal separation between walls
 - Retaining wall at the uppermost portion of “A” Street, near the roundabout
 - Retaining Wall near the south property line abutting Altura Place
 - Retaining Wall along the EVA in Parcel Y, near the cul-de-sac end of “P” Street
 - Retaining Wall behind the Gateway Senior Housing on Parcel Z

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- b. The design of the Community Center shall be revised to be more consistent with the overall design theme and design elements used in other portions of the project. The size of the proposed facility shall not be required to be reduced. The final design shall be reviewed and approved by the Design Review Committee of the Planning Commission as part of the submittal required to comply with Condition of Approval No. 4.
- c. The design of the Terrace Buildings, 6-plex buildings, Product 8A, shall be revised. The roof forms and design of the west-facing, downhill side shall be revised to reduce the repetitiveness of the roof forms, and to introduce some degree of asymmetry. It will be acceptable to have the lower three stories of these buildings in one plane to create a more prominent central element that reduces the repetition of roof forms and is differentiated from the roof forms of the fourth and fifth floors above. A gable roof rather than a hip in this area of the façade could be incorporated. The revised design shall be approved by the Development Director; if there are issues that cannot be resolved between the applicant and the Director the matter shall be referred for decision to the Design Review Committee of the Planning Commission. The revised design shall be incorporated into the submittal required as part of Condition of Approval 4.
- d. The massing of the Product 6A buildings shall be revised such that at least one unit within these four unit buildings is pushed forward or back in plan so that the garages are not lined up in a row, as follows:
- For lots 231 and 136, push these corner units forward towards the street at least 6 feet.
 - For the buildings with lots 212-215, 160-163, and 148-151, push at least one unit in each of these three buildings downhill at least 4 feet.
 - This requirement shall not apply to the building on lots 204-207.
- e. Product 7 shall be revised and refined to add more design variety in the following manner, to a level of design variety comparable to that of Product 6:
- Vary the siding material for different units
 - Vary the roof lines for different units and/or different buildings
 - Vary the porch railing designs
 - Vary the design of the entry roof forms
 - Vary the design of the arched design elements at the garage entrances

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- f. The siding materials of Products 6 and 7 on “I” and “J” Streets shall be revised and refined to include more of a mix of stucco and siding within each building, rather than alternating buildings of stucco and siding.
- g. For Products 1, 2, 5, 6, and 7, the end units of the buildings at the ends of the blocks (both downhill and uphill units) shall be revised to include more windows, and a significantly greater degree of articulation through the use of elements such as bay windows, entry porches, etc.
- h. A special inspector shall be hired at the applicant’s expense to verify compliance with all building heights shown in the approved plans for all building types. The inspection shall occur at the completion of the framing stage of construction, prior to installation of building siding. The inspector shall be a surveyor or other licensed professional, and shall verify in writing to the City that the buildings constructed do not exceed the heights shown on the approved plans referenced in Condition of Approval 1. This special inspector shall be identified in the Construction Phasing and Management Plan required by Condition of Approval 41.
- i. The height of the Product 5 buildings shall not exceed 40 feet, as measured per the zoning code standard method from finished grade to top of roof.
- j. The height of Product 1, Phase I Downhill Condos, shall be revised and reduced to conform to the drawings submitted on October 14, 2002, entitled 6/7 – Plex Condos, Product, Section.
- k. The final site plan shall provide for a minimum of 10 feet from the back of the sidewalk to the face of the buildings of the Product 4 Village Green units, in all conditions where the buildings front on streets.
- l. Product 4B of the Village Green units shall be revised as follows:
 - On the left side of the buildings (as viewed in the elevations), a planter box shall be added in front of the garage wall to add articulation to the façade, such planter box to be a minimum of three feet tall and 2.5 feet deep.
 - On the right side of the buildings (as viewed in the elevations), a planter box shall be added in front of the garage wall to add articulation to the façade, such planter box to be a minimum of three feet tall and 2.5 feet deep; and a bay window shall be added in the first floor living room projecting forward of the main façade at least 2.5 feet.

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- m. For Products 1 and 2, Phase I uphill and downhill units, the entry stoops and steps of the units shall be revised such that they project forward of the front plane of the garage structure two to four feet, and such that the entry arch or awning also extends forward of the main plane of the façade, covering the stoop.
- n. The following detailed requirements and specifications for all of the following features shall be incorporated into the “PUD Design and Specification Document for the Leona Quarry Project”. This document shall be reviewed and approved by the Design Review Committee of the Planning Commission, with the benefit of the recommendations of the Development Director:
- *Retaining Walls:* The design of all the retaining walls shall be constructed of attractive quality materials, and shall have landscaping planted at the base to minimize the visibility and height of the retaining walls when they are located in a location visible from public streets. Basic concrete block will not be an acceptable material. The retaining wall at the top of “A” Street shall be of the highest quality material because there is no landscaping immediately in front of the wall.
 - *Garage Doors and Entry Doors:* The design and color of the garage doors and entry doors shall be varied throughout the project, and there shall be a variety of designs and colors within each Product Type.
 - *Driveway Surfaces:* All driveways shall be colored to be in the darker tone range, to reduce the prominence of the paved surfaces within the streetscape area. The use of stamped concrete is strongly encouraged.
 - *Uphill Driveways:* For all driveways serving townhouses on uphill lots (specifically on “I”, “J” and “B” streets, where such driveways are on-grade driveways, twenty percent of the 16 foot by 20 foot driveway area shall be pervious surface.
 - *Exterior Material for all Product Types using Siding:* Hardiplank or equivalent siding, in 4, 6, and 8 inch sizes. Hardiplank or equivalent should have a maximum of 8 inches of exposure.
 - *Exterior Siding Finishes for Stucco:* Stucco finishes shall be specified for all product types.
 - *Window Types:* Milgard vinyl windows or equivalent as a minimum standard of quality throughout the project. Wood widows or vinyl-clad wood windows may also be used.
 - *Window Recess and Trim Details:* For all windows in Products 1,2, 3, 4, 5, 6, and 7, dimensions of window recess and trim shall be at least of the minimum dimensions specified in the drawing dated 10.14.02

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and entitled "Alt. Window Head/Sill Trim Siding (Single Hung Typ.) The general parameter established in this drawing which shall be a requirement is that there shall be a minimum of 3 inches of articulation created by a combination of window recess (face of window to face of siding), and trim projection (face of trim to face of siding). The same parameter shall apply to the stucco buildings of Product 8 (Terrace Units). However the details shall be developed specific to that Product Type, and may include recessed surrounds in lieu of trim.

- *Roof Materials:* Specified as composition shingle, of a quality and depth equivalent to Landmark TL by Certaineed. Concrete tiles may also be acceptable, to be reviewed and approved by the Design Review Committee of the Planning Commission.
- *Railings:* Minimum dimension of 2 inches by 4 inches (nominal dimensions) for the main members and 2 inches by 2 inches (nominal dimensions) for pickets. Specify wood railings for stucco buildings. Metal railings can be used in some of the shingled buildings or shingled parts of buildings.
- *Exterior Colors:* Windows shall be a sand or beige color, not white. Colors shall be as shown in the colored renderings shown in the Plans described in Condition #1, and as shown in the Primary and Secondary colors submitted in the color board. The tertiary colors shown on the color board are not approved for use.
- *Master Sign Program:* A master sign program for the site shall be submitted, including all project identification and directional signs, temporary real estate sales signs and/or banners and street signs, and other signs for the site.
- *Lighting Plan:* The Project Applicant shall implement Mitigation Measure 3a as set forth in the MMRP by submission of a lighting plan for each phase of development to the Department of Building Services for review and approval, prior to issuance of the first building permit for each phase of the project. **(MM#M.3a)**

Mitigation Measures Part of Conditions of Approval

15. All Mitigation Measures in the EIR as deemed to be required in the Environmental Findings shall be considered conditions of approval for the project, as may be further refined and/or clarified by this Approval, including the refinements and clarifications set forth in these Conditions of Approval. Implementation of the Mitigation Measures shall be adhered to in accordance with the MMRP. The MMRP identifies the time frame and responsible party for implementation and monitoring of each measure, as modified by this Approval. Overall monitoring compliance with the mitigation measures will be the

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responsibility of the Development Director or his or her designee. Each of the improvements identified in the MMRP shall be implemented at the Project Applicant's sole cost and expense (except where only a fair share contribution is required as set forth in the MMRP or these Conditions of Approval) or secured with a subdivision improvement agreement, or similar financial assurance, acceptable to the City.

Air Quality Measures

16. The Project Applicant shall implement all of the mitigation measures described in "Section A. Air Quality" of the MMRP. The Project Applicant shall reduce NO_x emissions to no more than 80 pounds per day by reducing motor vehicle emissions. Implementation of the Project pursuant to this Approval reduces the NO_x emissions to less than 80 pounds per day and therefore satisfies Draft EIR Mitigation Measure A.2. No further reduction in units to reduce emissions is required. However, the Project Applicant will further reduce motor vehicle emissions by developing a plan that incorporates one or more of the BAAQMD mitigation measures for motor vehicle emissions set forth in Mitigation Measure A.2a as set forth in the MMRP in order to reduce cumulative air quality impacts identified in Draft EIR Impact A.4 (MM #A.2), which shall include funding the furnishing, installation, maintenance, repair and replacement of a new bus shelter to be located on a public sidewalk within the development in a location approved by AC Transit prior to the issuance of a certificate of occupancy for the first residential unit. This condition shall be coordinated with the City Public Works Agency.

Biological Resources Protection Measures

17. The Project Applicant shall implement all of the mitigation measures described in "Section B. Biology" of the MMRP. The Project design includes the creation of 37 acres of suitable Alameda Whipsnake ("AWS") habitat (MM #B.3a). Condition of Approval Nos. 18 and 19 pertain to the specific requirements of the required revegetation and landscaping plans and Condition of Approval No. 32 pertains to the required conservation easement for the open space areas, which includes the approximately 37 acres of newly created AWS habitat. The conservation easement shall be recorded prior to or concurrently with recordation of the last Final Map for the Project.
18. The Project Applicant shall prepare and implement a Revegetation Plan approved by the City, substantially consistent with the plan prepared by H.T. Harvey and Associates entitled "Conceptual Revegetation Plan for Reconstructed Slope", dated August 23, 2001 and consistent with the City's Tree Protection Ordinance.

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As required, the plan shall include the portions of the slopes along the western side of the Project that are presently denuded (Parcels C-C and D-D). Implementation of this plan must comply with the MMRP (**MM #B.10a and E.3a**). This plan shall be implemented within the time provided in Condition of Approval No. 13.

Landscape Plan Requirements

19. The Project Applicant shall prepare and implement a Landscape Plan substantially consistent with the Landscape Plan prepared by Bradanini & Associates, plans dated October 8, 2002 sheets L-1 through L-13 and ensure the standards set forth in the MMRP (**MM #B.10b and MM E.3a**) are met. A schematic master landscape plan shall be prepared for VTM Phase I and II Areas and adjacent areas, as applicable (excluding the Senior Gateway Housing and Lots 1-19), and shall be submitted to the Development Director for review and approval prior to the issuance of the building permits for the models. This plan shall include:
- a. Complete soils information, including soil preparation and amendment specifications, soil particle size for existing site soils and imported soils, representative soils and water table tests confirming the suitability of the site for the plant materials selected.
 - b. Detailed plans for the corner of Mountain Boulevard and "A" Street to assure adequate buffering and screening of the parking area or Gateway Senior Project.
 - c. Retaining wall design and details, based on the requirements in Condition of Approval 14.
 - d. Details for transitions between natural and more cultivated areas.
 - e. Details and specifications for other landscaping features such as street furniture, rocks, and, in accordance with subsection h, any water feature along A Street.
 - f. Design and specifications for the public pathways throughout the site.
 - g. Design of the park, tot lots and other recreational features, as follows;
 - Leona Park: approximately 2 acres including a 15,000 square foot open lawn area providing play space for volleyball, Frisbee and a small soccer field; a 1,600 square foot active play area for 6 to 10 year olds. The play equipment will include climbing structures, slides and

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- tire swings. A tree shaded gathering place, including picnic tables will also be included near the tot lot.
- All play surfaces and play structures throughout the development will comply with ADA standards.
 - Village Green: This feature in the center of the Phase One Condominiums will include low, 30 inch stone walls that will form two, 10 foot wide terraces stepping up to "C" Street, planted with shaded trees. The stone terraces, along with an approximately 28,000 square foot open lawn area will provide an informal gathering place. Adjacent to the lawn area is an approximately 2,500 square foot tot play area for children 1-5 years old, including interactive play equipment promoting gross motor skills. A pathway will encircle the play area with a 5 foot stone wall along one edge; this feature will also include a built in fort-like structure with sculptural elements for climbing and play.
 - "J" Street Play Area: This approximately 2,800 square foot area is crescent shaped and will be cut into the uphill slope of the site. A rock climbing wall approximately 6 feet high will be included in the design, along with a bicycle or mini-skateboard ramp for active recreation for ages 10 – 18.
 - "K" Street Greenway Park: This feature is an approximately 1,050 foot lineal greenway along upper "K" Street. It will include a lawn and tree shaded area for passive activities, along with a series of par-course exercise stations along a 5 foot wide meandering pathway, with periodic bench seating areas.
 - "K" Street Open Space: This feature is an area of approximately 2,500 square feet within two level terrace spaces for passive recreation. An overhead shade trellis with bench stations will be included in the design.
 - Water Detention Basin Area: A 10 foot wide crushed granite pathway around the basin will be constructed around the water detention basin at the base of the site, including par-course stations that are linked with other stations in the development.
 - Par-course: A series of par-course stations will be located throughout the lower development area.
- h. At the option of the Project Applicant the water features shown on sheets S-1, L-1 and L-12 shall be implemented. A feasibility study for the water feature shall be prepared before the Project Applicant proceeds with such water feature.

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- i. Prior to the issuance of a building permit for any unit in a phase within the VTM Phase I and II Areas, a final landscape plan shall be submitted for that phase, based on the results, requirements, information and recommendations contained in the master schematic plan, and including but not limited to the following:
 - Detailed irrigation plans, consistent with Sustainability Measure Condition No. 38 b. Planting details such as location, number and sizes of the plant materials and the specifications for planting.
 - Street trees shown in all landscaped pockets between driveways as shown on the site plans dated October 8, 2002, sheets L-1 through L-7.
 - Specifications for driveway, motor court and other hard slope areas, paving and other surface treatments.
 - Detailed landscape and improvement plan for the Village Green area.
 - Landscape plan and other details for the sloped areas between the buildings that meet all City requirements for tree planting on downhill slopes below single family homes.
 - A detailed landscape maintenance plan for each phase, including short and long term plant and tree care, irrigation system maintenance and other information to assure that the landscape plan will be successfully established.

Both the master schematic plan and each successive final landscape plan shall be independently reviewed and approved by a qualified landscape architect and other professional consultant, as deemed required by the Development Director, at the Project Applicant's expense. These plans shall comply with Mitigation Measure B.10a as set forth in the MMRP.

20. Prior to the issuance of an occupancy permit for the units in each phase of the Project, the Project Applicant shall enter into a two year landscape maintenance agreement with the City, subject to the review and approval of the City Attorney, running from the date the landscaping is deemed complete and in compliance with the approved landscape plan for each phase as set forth in Condition of Approval 13. The security posted shall be in the form of an acceptably rated bond, cash, an irrevocable letter of credit or a certificate of deposit, and the amount shall be determined based on the contract costs of plants and installation plus 25 percent.
21. The Project Applicant shall prepare and implement a Tree Protection Plan consistent with the City's Tree Protection Ordinance that avoids construction-related impacts to protected trees outside of the construction in accordance with Mitigation Measure B.10c as set forth in the MMRP. **(MM #B10.c)** The Project Applicant may remove trees within the construction area provided that the Project Applicant has prepared a revegetation plan that is in compliance with the City's

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Tree Protection Ordinance and incorporates all of the mitigation measures that mitigate for the removal of protected trees as set forth in Mitigation Measure B.10a. **(MM #B.10a)** This plan shall be made a part of and implemented simultaneously with the Revegetation Plan required in Condition of Approval No. 18.

Geology, Seismicity, and Mineral Resources

22. The Project Applicant shall implement all of the mitigation measures described in "Section D. Geology, Seismicity, and Mineral Resources" of the MMRP. All geotechnical reports and recommendations submitted in accordance with final grading and construction specifications shall incorporate the information, standards, and requirements required in that section. **(MM # Measures D.1.a., D.2.a., D.3.a through d., D.4.a., D.5.a., D.6.a. and b.)**

In addition, the final grading plans and specifications submitted for the site shall include the following information, analysis, requirements and standards:

- a. For the areas along the western slope (Parcels C-C and D-D) potentially subject to wedge failures and debris slides, an estimate of the size of the storage area required, if applicable; mechanisms for accessing the storage area and/or cleaning debris or removal of debris, including a discussion as to whether off-haul or on-site storage is more appropriate.
- b. Information, design and specifications of a permanent drainage system for the western slope area (Parcels C-C and D-D).
- c. A specified performance standard that there be no overspill of debris from the western slope area (Parcels C-C and D-D) onto H Street unless unusual events occur (i.e. seismic activity).
- d. The completion and results of a perched water table study, along with recommendations pertaining to the findings of the study, as deemed necessary.
- e. Specifications that subdrains within the project site be surveyed and mapped utilizing a standard civil engineering method and employing site elevation and x-y ground coordinates under the California coordinate system.
- f. The specifications for the piping material for the subdrains to be used along with an analysis that the specifications used are rated for the degree of overburden material anticipated.

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- g. An evaluation of the chemical content within the water in the water table at the site to determine whether salt precipitation may be a long-term problem, along with the degree to which other substances may cause pipe corrosion such as carbonates, magnesium, silica, calcium or sulfates. This evaluation should include any recommendations for the specifications of the pipes used in the drainage system to avoid or mitigate potential corrosion.
- h. The design of the drainage system shall include redundancy so that each level of subdrains beneath the level of fill has multiple discharge points.
- i. An analysis of the structural requirements and design specifications to mount the solar panel system required by Condition of Approval 38.
- j. Provisions for an inspection, monitoring, and maintenance process throughout the course of grading, construction and post construction to assure that the geotechnical requirements, standards and recommendations are being implemented properly.

Prior to the issuance of a grading permit for the site, the plans, information and analysis required by this Condition of Approval shall be independently reviewed by a qualified geotechnical engineer hired by the City at the Project Applicant's expense and approved by the City Engineer.

Hydrology and Drainage Requirements

- 23. The Project Applicant shall implement all of the mitigation measures described in "Section F. Hydrology and Water Quality" of the MMRP. Final grading and improvement plans for the Project shall include the following information, analysis and requirements:
 - a. A master site drainage and grading plan that: (i) incorporates one of the following detention basin system, (ii) meets the published design criteria set forth in the Alameda County publication entitled "Hydrology and Hydraulics Criteria Summary for Western Alameda County" (1989), using the parameters recommended by PWA as set forth in the SEIR, including the parameter that existing ponds shall be considered empty at the onset of the design storm, and (iii) is consistent with the information, standards and requirements as set forth in the MMRP (**MM #s D.6a, D.6b, F.1a and 1b, F2.a and F2b, F.3a, F.4a and 4b, F5.a**).
 - Two-Basin Alternate A: The Project Applicant sponsor shall construct a stormwater management system, that includes a 15.6 acre-foot lower

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detention basin and outlet works, capable of maintaining peak flows from the 24-hour, 25-year design storm at or below pre-project levels, and not fail structurally during a 100-year storm, as determined using the parameters resulting from the consensus process discussed in the SEIR. The basin shall be lined with an impermeable material to minimize leakage and contributions to local groundwater flow. The stormwater management system reviewed in the SEIR, with the 15.6 acre-foot lower detention basin, meets these performance standards. A surface drainage swale shall be constructed along the base of the western-most external berm slope of the detention basin to capture surface water runoff from the berm and convey it to appropriate stormwater outlets.

The Project sponsor shall also modify the existing Ridgemont Sub-watershed pond (Pond 4) by installing an emergency spillway. Improvements to the Ridgemont pond outflow structure shall include the following, or design elements that achieve an equivalent discharge rating curve using the parameters resulting from the consensus process discussed in this SEIR equivalent to that achieved by the following elements: replacing the existing 30-inch outlet pipe with a 42-inch outlet pipe, adding a single drop box with one rectangular orifice, and constructing an appropriate emergency spillway. The perimeter of the drop box would be comparable to a 36-inch riser and the rectangular orifice would be 2.75 feet by 2.0 feet in size. The replacement of the outlet pipe shall be consistent with standard engineering practice. A geotechnical evaluation of the existing detention basin levees and proposed modifications shall be completed to assess the overall integrity of the pond and recommendations from the evaluation shall become part of the Project design and be implemented as directed by a registered geotechnical engineer.

- Single-Basin Alternate B: The Project sponsor shall be required to construct a stormwater management system that will maintain peak flows from the 24-hour, 25-year design storm at or below pre-project levels, and not fail structurally during a 100-year storm, as determined using the parameters resulting from the consensus process discussed in the SEIR. The basin shall be lined with an impermeable material to minimize leakage and contributions to local groundwater flow. The stormwater management system reviewed in the SEIR, with a single 20.3 acre-foot lower detention basin, meets these performance standards. A surface drainage swale shall be constructed along the base of the western-most external berm slope of the detention basin to

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capture surface water runoff from the berm and convey it to appropriate stormwater outlets. The Project sponsor shall also modify the existing Ridgemont Sub-watershed pond (Pond 4) by installing adequately sized, flow-through pipe system to minimize the detention capabilities of that existing pond.

- b. The Project Applicant shall meet the revised Clean Water Act requirements as established by the Regional Water Quality Control Board ("RWQCB") in the most recent version of such requirements or, if approved as of the date the grading permit application is filed, any final version of such requirements. The detention basin shall meet the new Alameda County NPDES permit provision C3 requirements.
- c. The final plan for the detention basin (Parcel A) shall incorporate: detailed landscaping and other specifications so that a water treatment area can be established within the basin including a planting plan based on the recommendations of a qualified hydrologist and biologist regarding contours that can support the proposed planting and not interfere with the design and detention capacity.
- d. Other specifications for the detention basin (Parcel A) shall also be provided, including measures for sediment storage, design of fencing, access, and clean out and maintenance specifications, liner monitoring specifications and repair procedures. The liner monitoring specifications and repair procedures shall be prepared by a registered geotechnical engineer with expertise in impermeable liner design, construction and maintenance.
- e. The site drainage plan shall include detailed measures to detain storm water run-off to the maximum feasible degree, given geotechnical and other constraints through infiltration opportunities, bio-swales or grassy swales, and creating a vegetated swale in the Village Green area.
- f. A hydrologic review and confirmation of seasonal wet weather conditions for conveyance of the storm water.
- g. A review and recommendations pertaining to the creation of a perennial creek through the site that drains into the lower detention basin, consistent with condition of Approval No. 19.
- h. A geotechnical investigation, including soil borings as necessary, of the stability of the detention basin (Parcel C-C). The investigation shall be

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prepared by a geotechnical engineer and shall evaluate the existing berms and consider the planned permanent use as a detention basin, the modified outlet works required for that function, and protection measures against overflows. The geotechnical review shall also analyze the permeability of the basin and make recommendations for modifications needed to meet stability, permeability and functional needs.

- i. Applicant shall fund the cost to prepare detailed construction documents and all construction costs to redirect existing storm drainage in Ridgemont Drive away from the Leona Street basin and to connect it to the Project's drainage system.
- j. Provisions for an inspection, monitoring, certification and maintenance process throughout the course of grading, construction and post construction to assure that the approved drainage plan and other measures are functioning properly.

Prior to the issuance of a grading permit for the site, the plans, information and analysis required by the preceding Condition of Approval shall be independently reviewed by a qualified hydrologist and/or engineer hired by the City at the Project Applicant's expense and approved by the City Engineer.

Geologic Hazard Abatement District Requirements

24. Prior to and at the time of recordation of the first final map for the project, a Geologic Hazard Abatement District (GHAD) shall be fully operational, and all assessments, reserve funding and/or other long-term financing and other requirements necessary to fully fund the GHAD shall be established and authorized. If at any time the GHAD is dissolved or is otherwise unable to adequately perform specified functions, the Development Director may exercise his or her authority under COA 37. The GHAD Plan of Control shall specify, without limitation, that:
 - a. The GHAD will assume responsibility for the long-term maintenance of the slopes, all drainage facilities (including the detention basin) and all other surface and sub-surface stormwater runoff and drainage system improvements and maintenance, including street cleaning, within the Property.
 - b. The GHAD shall also maintain the open space areas, which include newly created areas of potential AWS habitat; providing minimal disturbance to such areas. The GHAD's regular maintenance activities shall act as fire

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protection and control through vegetation management in the semi-natural, Restored Slope Area of the site, erosion control and trail maintenance.

- c. A reserve fund shall be established in the GHAD budget to provide for restoration, maintenance, repair or other work associated with a catastrophic event, such as a landslide or detention basin bank failure.
- d. The applicant shall provide start-up funds for the GHAD in an amount to be determined by the City Engineer in accordance with the approved plan of control for the GHAD, which shall be no later than recordation of the first final map for the Project. The Project Applicant shall also assume financial responsibility for all geotechnical related work for a period of time determined by the City Engineer, such as the implementation of an initial set of site monitoring measures for moisture, lateral movement and vertical movement, including installation of piezometer(s), settlement pins and inclinometer casings. The City Engineer shall determine the specific monitoring measures that will be installed, and such measures shall be installed, to the satisfaction of the City Engineer, by the Project Applicant for a time certain.
- e. The GHAD shall include both on going maintenance activities as well as a plan for unexpected maintenance and event, including events or damages that could occur off-site as the result of site improvements associated with geotechnical, drainage or related matters within the GHAD jurisdiction. This work shall be based on the results of the minimum monitoring period, the final grading and specifications for slope restoration and repair on Parcels C-C and D-D and the results of the geotechnical information and analysis set forth in Condition of Approval No. 22.
- f. The GHAD budget shall separately identify the projected costs associated with (1) geotechnical/slope stability maintenance work; (2) drainage facilities (including detention basin) operation and maintenance; (3) storm water quality maintenance and monitoring; and (4) reserve fund
- g. The Project Applicant shall fund an independent, qualified engineer to serve as the GHAD manager for the GHAD. The GHAD shall provide the name, phone number and mailing address of the GHAD manager to all residents within the property covered by the GHAD.
- h. The GHAD shall submit an annual report to the City Public Works Director and the Executive Director of the Community and Economic Development Agency detailing (1) its efforts to satisfy the monitoring and

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reporting requirements specified in the Plan of Control; (2) budgetary and other financial information relevant to the GHAD's operations.

- i. The GHAD shall defend, hold harmless and indemnify the Indemnified Parties (as that term is defined in Condition of Approval No. 9) and their insurers against any and all liability, damages, claims, demands, judgments, losses ("Indemnified GHAD Claims") or other forms of legal or equitable relief related to the formation and operation (including, without limitation, maintenance of GHAD-owned property) of a Geologic Hazard Abatement District ("GHAD") and in the case of the City Council members, actions taken by said members while acting as the GHAD Board of Directors. 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 GHAD's expense, in the defense of any action specified in this Condition of Approval No. 24(j). The Indemnified Parties shall take all reasonable steps to promptly notify the GHAD of any claim, demand, or legal actions that may create a claim for indemnification under these Conditions of Approval. Within 90 days of formation of the GHAD, the GHAD shall be required to enter into an Indemnification Agreement in a form acceptable to the City Attorney to establish in more specific detail the terms and conditions of the GHAD's indemnification obligations set forth herein. Any failure of any party to timely execute such Indemnification Agreement shall not be construed to limit any right or obligation otherwise specified in these Conditions of Approval except that it shall not limit Development Director authority as set forth in Condition of Approval No. 37.
- j. The GHAD shall obtain general liability insurance and directors' insurance for the GHAD Board of Directors to the extent that the GHAD Board determines in its sole discretion that such insurance is available at commercially reasonable rates. In the event subsidence insurance becomes available, the GHAD also shall obtain such insurance provided that the GHAD Board of Directors determines that the premiums for such insurance are a prudent expenditure of the GHAD's financial resources.
- k. The assessments authorized for the GHAD must be determined by the GHAD Board following a thorough financial analysis and must include adequate funding for the indemnity and insurance obligations set forth in this Condition of Approval No. 24. The GHAD's attorney and the City's attorney shall also review the adequacy of the funding for the indemnity and insurance and may make recommendations regarding such funding.

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1. The GHAD will be responsible for hiring its own staff (or contracting with non-City parties to perform such staff services), including all workers who will undertake operation, maintenance, replacement, repair and other activities of the GHAD, and no City employees, including employees of the City Attorney's office, shall perform such services for GHAD facilities and improvements. Further, the City shall not fund or otherwise administer any of the GHAD's operations, property or facilities.

Transportation, Circulation, and Parking

25. The Project Applicant shall implement all of the mitigation measures described in "Section K. Transportation, Circulation and Parking" of the MMRP. The Project Applicant shall prepare and submit to the City for its approval a Traffic Improvement Plan for all traffic improvements that are to be funded by the Project Applicant pursuant to Mitigation Measures K.2a, K.2b, K.2c, K.2f, K.6a as set forth in the MMRP. The plan shall be prepared in accordance with the MMRP and shall, among other items, include a schedule for obtaining Caltrans' approval, where needed, as well as a schedule for completing such improvements. For purposes of the schedule, the applicant shall comply with Condition of Approval 13 for the completion of these improvements.

As set forth in the MMRP and refined below, the plan shall include the following improvements:

- a. The Project Applicant shall install traffic signals at the unsignalized intersection of *Edwards Avenue / I-580 westbound on-ramp – Mountain Boulevard [1]*, to reconfigure traffic lanes on Edwards Avenue between the I-580 eastbound off-ramp and Mountain Boulevard, and to widen the freeway on-ramp to provide two lanes **(MM #K.2a)**, including the installation of traffic signals at the unsignalized intersection of *Edwards Avenue / I-580 eastbound off-ramp [2]* **(MM #K.2b)**. The Project Applicant shall be responsible for making necessary geometric changes on Edwards Avenue, improvements to the Burckhalter Park access driveway, (along with improvements to the parking lot and adjacent areas such as the existing pathway), Mountain Boulevard and the I-580 on and off-ramps to accommodate the projected traffic increases, along with incorporating an interconnection between the two new signals and the existing signal at the Edwards/Greenly intersection and providing lighting under the I-580 overpass. The Project Applicant shall work in good faith with both the City and Caltrans to maintain the existing sidewalk and on-street parking along the south side of Edwards by concurrently analyzing the feasibility of a three-lane rather than a four-lane configuration for this improvement,

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with a final confirmation through a traffic assessment performed by a traffic engineer hired by the City at the Project Applicant's expense that the three-lane configuration provides an equivalent level of mitigation pursuant to CEQA Guidelines Section 15126.4 (a)(1)(B).

- b. The Project Applicant shall restripe Edwards Avenue to provide a separate westbound left-turn lane at *Edwards Avenue / Greenly Drive [4]*. **(MM #K.2c)**. The left turn lane shall be 50 feet in length with a 60-foot bay taper. All above ground utilities, guardrails, signs and other objects shall maintain a minimum 2-foot clear from the face-of-curb within the widened section of Edwards Avenue and Greenly, as well as maintaining the width of the existing sidewalks. The changes shall be designed such that passenger cars can make the right turn maneuver from Greenly Avenue (northbound) to Edwards Avenue (eastbound) efficiently without encroaching into the opposing lane of travel. The final design shall also be such that buses may make the right turn maneuver from Edwards (eastbound) to Greenly (southbound) efficiently.
- c. The Project Applicant shall install traffic signals at the unsignalized intersection of *Mountain Boulevard / I-580 westbound off-ramp – Sanford Avenue [8]*, and convert the right lane of the two-lane freeway off-ramp from an exclusive right-turn lane to a shared left-turn/right-turn lane. **(MM #K.2f)**
- d. The Project Applicant shall construct the project site's main EVA via a 25-foot-wide, "Gateway EVA", connecting the Project site's new roadway network at "A" Street to Mountain Boulevard, and the supplemental emergency accesses to Altura Place and Leona Street pursuant to Mitigation Measure K.6a as set forth in the MMRP. **(MM #K.6a)**

Prior to implementation of these improvements, the Project Applicant shall submit final design plans and other specifications to the City and any other responsible agency, for their review and approval, including a traffic management and detour plan to be implemented during construction of the improvements. At the City's discretion, an independent traffic engineer shall be hired at the Project Applicant's expense to assist the City in their review process.

Implementation of Funding Mechanism for Traffic Improvements Required to Mitigate Cumulative Traffic Impacts

26. The City shall use its best, good faith efforts, to prepare and implement a Traffic Improvement Program ("TIP") and a Traffic Improvement Fee ("TIF") for the

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Edwards Avenue Corridor, which may include the improvements listed below. Prior to the issuance of a building permit for the 351st unit excluding the Gateway Senior Residential and Lots 1-19 (the "Trigger Date"), the Project Applicant shall pay a fair share of the cost for the following traffic improvements in the amounts set forth in the Leona Quarry Fee Schedule to be provided pursuant to Condition No. 6. If the TIP and TIF have not been implemented as of the Trigger Date and other future projects that cumulatively trigger the need for the traffic improvements listed below have been approved, then the Project Applicant shall provide an acceptably rated bond or other security satisfactory to the City Attorney to ensure funding of the entire cost of such traffic improvements. City shall use its best, good faith efforts to reimburse the Project Applicant with funds raised from these future projects for amounts in excess of the Project's fair share. If as of the Trigger Date a TIP and TIF have not been adopted and the Project Applicant does not agree that the other approved projects have triggered cumulatively the need for such improvements, the Project Applicant may request that the City conduct a traffic study to determine whether the traffic improvements listed below are required. The Project Applicant shall pay for the cost of the traffic study, as established by the City with regard to scope of work and selection of a qualified traffic engineer. The City agrees to perform the traffic study and agrees to reasonably consider amending the list of improvements to implement the conclusions of the traffic study. If the study determines that certain of the improvements are not required, then upon this determination, the Project Applicant shall pay the City only the Project's fair share of the cost for each such improvement, based upon the lower of the amounts set forth in Attachment A to these conditions of approval or a revised cost for such improvements approved by the City in its sole discretion. In the event the Project Applicant installs or otherwise pays for the entirety of any of the traffic improvements listed below, the Project Applicant shall receive a credit or reimbursement for such work or costs that exceed its fair share. This Condition of Approval applies to the following traffic improvements and studies:

- a. Modification at the west leg of the signalized intersection of *73rd Avenue / MacArthur Boulevard [6]* to add a second left-turn lane on eastbound 73rd Avenue. **(MM #K.2d)**
- b. Installation of traffic signals and restriping of the eastbound Keller Avenue approach to provide two through-lanes at the unsignalized intersection of *Mountain Boulevard / Keller Avenue [7]*. **(MM #K.2e)**
- c. Installation of traffic signals at the unsignalized intersection of *Keller Avenue / I-580 eastbound off-ramp [9]*. **(MM #K.2g)**

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- d. Installation of traffic signals and the addition of a second eastbound left-turn lane at the unsignalized intersection of *I-580 westbound off-ramp / Mountain Boulevard – Kuhnle Avenue [16]*. (MM #K.2h)
- e. installation of traffic signals at the unsignalized intersection of *Seminary Avenue / I-580 eastbound off-ramp – Overdale Avenue [18]*. (MM #K.2i)
- f. The improvements described in Conditions of Approval Nos. 25.b and 25.c.
- g. If a TIF and TIP are approved, the City as part of the TIF and TIP shall include and fund a study of other long-term operational traffic improvements along the Edwards Avenue/82nd and Seminary Avenue routes, particularly the Foothill-82nd Avenue segment and the MacArthur-Seminary segment.
- h. If a TIF and TIP are approved, the City as part of the TIF and TIP shall include and fund a study of any further intersection improvements in the Edwards Avenue corridor area, beyond those identified in the EIR, that should be included as part of the TIP.

Vesting Tentative Map Requirements

- 27. The maximum number of residential units for the approved project is 477. Any minor revision of the internal circulation plan or lot layout shall be subject to the review and approval of the Development Director at least 45 days prior to filing each final map.
- 28. As set forth in Condition of Approval No. 3.d., multiple final maps may be filed subject to the phasing plan set forth in Condition of Approval No. 13. Modifications to the phasing program are subject to the review and approval of the Development Director, and at his/her sole discretion, any modifications may be subject to review of the Planning Commission.
- 29. For lots 1-19, the development standards and requirements used shall be the R-30, - One Family Residential Zone Regulations (Chapter 17.16 of the Oakland Municipal Code) and Special design requirements for such lots contained in OMC Chapter 17.102.380. Each residential unit proposed for these lots shall be individually subject to the design review requirements set forth in the Design Review Chapter 17.160. For Lot 19, a written evaluation and confirmation of the areas of potential habitat for the Alameda Whipsnake shall be submitted prior to or concurrent with the design review application, along with recommended measures, as required to avoid disturbance of this area during construction and post construction activities.

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30. Prior to the approval of each Final Map, a site plan shall be submitted for the review and approval of the Development Director or his/her designee demonstrating substantial compliance with the approved VTM and the approved "PUD Design and Specification Document for the Leona Quarry Project."
31. Prior the submittal of the first Final Map for the project, the covenants, conditions and restrictions ("CC&Rs") for the attached units within the VTM Phase I and II Areas shall be submitted for review by the City. The CC&R's shall provide for the establishment of a homeowners association for the maintenance and operation of all sidewalks, common open space areas, the community center, all common area improvements and common structure improvements that are not within the purview of the GHAD. Similarly, prior to the issuance of the building permit for Parcel Z (Gateway Senior Housing), the Project Applicant shall provide assurances for maintenance and operation of the improvements within Parcel Z.
32. Concurrent with the submittal of the last Final Map for the approved project, an open space and conservation easement shall be submitted to the City for Parcels A-A, B-B, C-C, and D-D, providing that no grading or other development activity or removal of trees or other vegetation may occur in these areas except as necessary for maintenance and operation of the GHAD.
33. At least 45 days prior to recording each Final Map, plans shall be submitted for review by the City Building Services Department to obtain addresses and for street name approval. Alternate street names should be submitted in the event of duplication and to avoid similarity with existing street names. Final Maps shall not be certified as ready for approval without the approved street names.
34. 34. The Project Applicant shall revise the VTM prior to approval becoming effective, as follows:
 - a. Note 9 : Proposed Zoning – R-50 Planned Unit Development
 - b. Note 14: Roadways – All roadways shown on this plan are proposed to be public and offered for dedication to the City of Oakland
 - c. Note 17: Dimensions - Dimensions shown are minimum and may change during final design.
 - d. Note 20: Erosion Control: Erosion control measures shall be prepared as set forth in the Conditions of Approval and Mitigation Monitoring and Reporting Program for the PUD approved by the Oakland City Council on February 3, 2004

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- e. Note 21: Maps: Multiple Final Maps may be filed on the lands shown on this map subject to all the Conditions of Approval and Mitigation Monitoring Program as set forth in the PUD approved by the Oakland City Council on February 3, 2004
 - f. Note 22: Phasing: This project is proposed to be constructed in Phases as set forth in the Conditions of Approval and Mitigation Monitoring and Reporting Program as approved by the Oakland City Council on February 3, 2004. Phasing boundaries may be approved only upon written permission from the Development Director.
 - g. Note 23: Street Names: Final street names shall be approved as set forth in the Conditions of Approval for the PUD as approved by the Oakland City Council on February 3, 2004.
 - h. Note 25: Dedications, Easements and Right of Entry: Additional and specified dedication of property rights and rights of entry as necessary to accommodate all drainage facilities, sewer facilities, public utility easements and other easements as may be necessary to properly serve the lots created shall be dedicated as part of the filing of future final maps.
 - i. Note 26: All utilities shall be installed underground according to the standards and requirements of the City of Oakland and the applicable utility.
35. Prior to the issuance of a grading permit, as set forth in Condition of Approval 13, the applicant shall submit a detailed master improvement plan for the site prepared by a licensed Civil Engineer, with all conditions and requirements as set forth in these Conditions of Approval for the private property and the public rights of way, including but not limited to curbs, gutters, pedestrian ways, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design, specifications and locations of the water pumping facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking and accessibility improvements required to comply with all applicable City standards, including the approved landscape plans for the "I" and "J" Street landscaped pockets, the design of the pedestrian stairway paths and the street tree locations and planting specifications. This information shall include a capacity analysis in designated areas of the sub-basin from the point of discharge to MacArthur Blvd to confirm the improvements required to the downstream sewer system to meet Public Works Department requirements.

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- This plan shall be reviewed and approved by the City Engineer and used as the confirmation of compliance with subsequent phased final improvement plans submitted during the phased development requirements in Condition of Approval 13.
36. The final maps that are filed for the approved project shall include all easements necessary to provide access for public utility connections, the Ridgmont sub-basin connection, if required, public access easements for the park and pathways through the site and the emergency access routes (Gateway EVA, and the Altura and the Northwestern supplemental routes).
37. For the duration of the project, the City Development Director shall have the authority to determine whether the Project Applicant and the Project substantially comply with terms and conditions of this approval, including, without limitation, these Conditions of Approval, or any conditions or requirements of the GHAD. 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 and the SEIR, or as reasonably necessary to promote architectural integrity and the purpose of integrated development as set forth in the PUD. 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 Applicant of any request (including a request by City staff or by the public) that the City Development Director make a determination of noncompliance, and shall provide the Project Applicant with written notice of any non-compliance determination by the City Development Director. The City shall provide the Project Applicant a copy of all documents used or relied upon in making such determination. On or before October 15 of each year, the Project Applicant shall submit to the City Development Director a report demonstrating the Project Applicant's and the Project's compliance with the terms and conditions of the Approval, including, without limitation, these Conditions of Approval. This report may be used by the City Development Director to evaluate the Project Applicant's and the Project's compliance with the terms and conditions of this Approval. Project Applicant's obligation to submit this annual report shall terminate upon the City's written determination that the Project is complete.

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Project Sustainability Requirements

38. The applicant shall comply with all sustainability measures as proposed in the document submitted October 11, 2002, entitled "Leona Quarry Development Project; Sustainability Measures; Conditions for Approval", produced for The DeSilva Group by Adam Berman, Tilden Consulting, Inc., Geof Syphers, Xenergy Inc. and shall also incorporate the following additional sustainability measures:
- a. Install Hardwired Compact Fluorescent Fixtures in Bathrooms, Kitchens, and for Outdoor Lighting.
 - b. Specify Low-VOC (volatile organic compounds) paint for all interior applications.
 - c. Use Formaldehyde Free Fiberglass insulation in the walls and ceilings.
 - d. For all interior flooring materials, offer the buyer the choice of linoleum and tile in addition to other flooring materials, and prepare a brochure that highlights the environmental and maintenance issues of all the materials offered. The City of Oakland shall review and approve the brochure prior to publication.
 - e. For all framing timber, obtain a valid price quote and availability schedule for lumber certified by the Forest Stewardship Council (FSC), which certifies that wood has been grown using sustainable forestry practices. Obtain a price quote and availability schedule for the same products and at the same time as a price quote for other framing timber. Use FSC certified framing timber for at least 50 percent of the framing timber if the price quote for the FSC certified timber is no greater than the price quote for the other comparable framing timber and the availability is the same for both.
 - f. The Project Applicant shall install solar panels to be the primary source of energy for at least 15 percent of the living units within the total project. The solar panel arrays shall be installed on the hill area immediately behind the terrace units on "K" street. Stability and safety of the proposed installation shall be reviewed and confirmed as part of compliance with the geotechnical requirements as set forth in Condition of Approval 22. Other locations may be acceptable, but shall be reviewed and approved by the Development Director prior to installation. The landscape plan requirements as set forth in Condition of Approval shall incorporate trees and other planting such that the panels are screened from distant views to

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the maximum extent feasible while still allowing full sun access to the panels.

Fire and Life Safety Requirements

39. As part of the public improvement plans for the site as required by Condition of Approval 35, the Project Applicant shall provide detailed specifications and design information including but not limited to:
- a. The road surface and pathway surface design for the Northwestern and Altura supplemental access routes as well as the routes from "I" Street to "J" Street and from "H" Street to "B" Street, demonstrating that these routes meet Fire Department standards with reference to NFPA standards, 1998 CFC Article 9.
 - b. The design specifications for the gates at the Northwestern and Altura supplemental access routes, including provisions for the Knox Box lock system.
 - c. Schematic plans for providing adequate emergency access routes into and around the residential buildings on the site and other fire protection and fire fighting measures.
 - d. All final designs for buildings shall include safety locks on doors and windows, lighted house numbers, project street and directory signs and outdoor lighting.

Payment of Fees for Independent Technical Reviews and Project Coordination and Management

40. Within 90 days following the Effective Date, the Project Applicant shall enter into an agreement to establish the terms and conditions of this Condition of Approval. The City and the Project Applicant acknowledge that the large scale, complexity and phased schedule for the approved project require a level of expertise and monitoring that are beyond the standard practices of the City for a development project. Further, the MMRP requires a number of independent experts monitoring grading and construction activities including but not limited to biologists, geotechnical engineers, hydrologists, air quality and noise monitors, etc. The Project Applicant shall fund the full costs of all independent technical and other consultants the City deems is required to comply with the Conditions of Approval and the mitigation monitoring requirements as set forth in the MMRP. All work performed pursuant to this Condition of Approval shall be under the direct supervision of the City. Accordingly, the applicant shall establish an "evergreen"

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deposit fund with the City in order to cover the full costs of independent technical and other types of review, monitoring and inspection, including, without limitation, third party plan check fees. The payment of standard plan check fees, building permit fees, special inspection deposits and other required fees shall, to an extent determined by the City, be credited as part of this evergreen fund. The City shall provide the Project Applicant with quarterly detailed statements, including staff names, time entries and description of work performed, as to the amount of funds used and the amount of deposit required to sustain the fund. City retains the right to halt work on the project if Project Applicant fails to make requested payments to the fund within the time period specified. The Project Applicant may conduct an annual audit of the funds used. Any failure of any party to timely execute such Agreement shall not be construed to limit any right or obligation otherwise specified in these Conditions of Approval, including, without limitation, Conditions of Approval Nos. 9 and 10, except that it shall not limit Development Director authority as set forth in Condition of Approval 37.

Construction Management and Phasing

41. As a requirement of Pre-construction Phase A as set forth in Condition of Approval 13, the Project Applicant shall submit a Construction Phasing and Management Plan, incorporating all applicable mitigation measures in the MMRP including Air Quality (**MM A.1a**); Biological Resources (**MM B.1a, B.5a, B.6a, B.8a**); Cultural Resources (**MM C.1a, C.2a, 2b, 2C and 3.a**); Erosion Control and Storm Water Management (**MM F.2a, 2b**); Solid Waste Reduction and Recycling (**MM L.1a**); Noise (**MM H.1a and b**); Traffic, Circulation and Parking (**MM K.8**) The plan shall also include the following additional measures and standards:
 - a. A site security and safety plan to assure that grading and construction activities are adequately secured during off-work hours.
 - b. A fire safety management plan for all phases of work, including provisions for access, water, and other protection measures during grading and construction activities.
 - c. A plan to provide temporary access to the model units during active construction activities, including path of travel, securing the active construction areas and parking.

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Affordability Requirement for Gateway Senior Housing Project

42. Prior to the issuance of an occupancy permit for the Gateway Senior Housing Project, written documentation shall be submitted to the Development Director, for review and approval confirming that a deed restriction or other legal commitments have been secured to ensure the continued availability and use of the residential units for low income persons, as defined in Section 50079.5 of the California Health and Safety Code.

**EXHIBIT D
GENERAL FINDINGS
RELATED TO APPROVAL OF LEONA QUARRY
BY THE OAKLAND CITY COUNCIL**

I. INTRODUCTION

1. These general findings are adopted by the City of Oakland (the "City") for the Leona Quarry project. These findings refer to the original EIR prepared for that project, as revised and supplemented by the SEIR, SCH #1999042052 (collectively, the "EIR"), and are based upon that EIR. These findings are also based upon the staff reports presented for all hearings related to the project, and all materials contained in the record of proceedings, as identified in the CEQA findings for the Leona Quarry Modified Plan (described below). Some findings are based especially upon specific geotechnical and other scientific 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 the Resolution Approving the Applications of the Desilva Group to Close the Leona Quarry, Reclaim it and Redevelop the Site for 477 Residential Units at 7100 Mountain Boulevard in Compliance with Alameda Superior Court Order (Action No. RG-03077607), regarding re-approval of the Leona Quarry Modified Plan. Attached to that same resolution is an Exhibit A that contains CEQA findings. Also attached to that resolution 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 to that resolution is an Exhibit C that contains the conditions of approval. This Exhibit D contains findings regarding General Plan Consistency, zoning consistency, a Planned Unit Development permit, Preliminary and Final Development Plans, a Vesting Tentative Map, Design Review, and miscellaneous matters. All Exhibits are incorporated by reference into each other, and into the resolution.

3. These findings use capitalized terms (including "Lower Development Area") as they are used in the EIR. 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 exhibits attached to the resolution.

II. GENERAL PLAN AND ZONING CONSISTENCY

4. The consistency between the Modified Plan and the General Plan is discussed in the EIR, especially at Draft EIR pages IV.G-1 et seq., and Final EIR pages III-13 and V-16 to V-17. Consistency with the General Plan is also discussed in the October 2, and October 23, 2002 staff reports presented to the Planning Commission, which are part of the record for the project. These findings have been specifically reviewed by the City Council and the Council hereby adopts the conclusions, analysis and explanations contained in the EIR and staff reports, and finds the Modified Plan consistent with the General Plan. The various land uses authorized for the Modified Plan are compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The Modified Plan is compatible with and

conforms to the objectives, policies, general land uses and programs specified in the General Plan. The Modified Plan will further the objectives and policies of the General Plan and not obstruct their attainment. The Modified Plan is compatible with, and does not frustrate, General Plan goals and policies. The Modified Plan is in harmony with the policies of the General Plan. The Modified Plan is in harmony with surrounding neighborhoods, and the site is physically suitable for the development proposed.

5. The General Plan comprises many objectives, policies, principles, programs, standards, proposals and action plans (collectively “policies”), as well as performance standards. The Council finds and 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 resources that exist because land is undeveloped (such as open space and visual resources). The Council has considered all applicable General Plan policies and the extent to which the Modified Plan conforms to each of those policies.

6. The Council has fully evaluated the extent to which the Modified Plan 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, and protection of archeological and historical resources. The Council has also fully considered the Modified Plan’s compliance with all performance standards in the General Plan, and finds the Modified Plan in compliance with those standards.

7. The Council finds the Modified Plan compatible with neighboring development. The Council reaches this determination after full and careful review of public comments contending that the multi-family units are not compatible with the surrounding existing development. The Council bases this determination on the full Planning Commission record of the discussion of zoning and land use compatibility in the EIR and in staff reports, as well as the December 3, 200 City Council staff report pertaining to the appeal. The project site is already zoned R-50 to allow multi-family units, and the Zoning Boundary Adjustment enacted in Ordinance 12457 already moved the boundary between the R-30 zone into the R-50 zone in a manner that accommodates the Modified Plan. Multi-family housing already exists in the area, along Mountain and Keller. Also, the General Plan (including its Land Use and Transportation Element) already contemplates multi-family development. Accordingly, the Modified Plan does not introduce the concept of multi-family housing into this area, but rather is well within the permitted density for the mixed housing type residential general plan Land Use designation (30 units/gross maximum permitted; 10 units/gross acre proposed in the lower development area.) Further, the overall of the character and design of the project is consistent with the objectives of the mixed housing type residential of creating a mix of unit types and sizes.

8. The Modified Plan is compatible with and implements the zoning for the project site, including the ZBA enacted in Ordinance 12457. The Modified Plan implements a goals of the ZBA to promote local and regional welfare by allowing multi-family housing to be clustered on the portion of the site most suited for development. The Modified Plan promotes

the public welfare goals in that multi-family housing will help satisfy local and regional housing needs. Further, the attached townhome building type implements zoning and General Plan policies by allowing more efficient use of the site, and providing a variety of housing types serving a range of needs in the market, while still leaving a substantial buffer between the edge of the development envelope for the Modified Plan and existing development. The Modified Plan preserves approximately 70 acres in permanent open space, and clusters development in the disturbed, less sensitive areas of the site. The Modified Plan embodies a comprehensive, integrated and clustered development plan. The Modified Plan allows a comprehensive development plan that accommodates a reclamation plan that will promote public health, safety and welfare by eliminating an incompatible existing land use, improving the surrounding visual, noise and air quality environments once the project is completed, adding to habitat value in the area by restoring and revegetating damaged hillside areas and reestablishing a connection of potential habitat for the Alameda County Whipsnake.

9. For the reasons stated in the EIR, and in staff reports, in these findings, and in the CEQA findings for the Modified Plan (Exhibit A to resolution), the Council finds that the balance achieved by the Modified Plan among competing General Plan policies is acceptable, and that the Modified Plan complies with all performance standards in the General Plan. The Modified Plan represents a reasonable accommodation of all applicable competing policies in the General Plan. The Modified Plan provides an appropriate level of protection of resources while also promoting the General Plan goals referenced in the CEQA statement of overriding considerations (Exhibit A to resolution). Specifically, the implementation of the approved project will result in the fulfillment of several important General Plan policies including improving slope stability, restoring habitat and improving open space and reclamation of the quarry. Restoration of slopes and clustering of development in the lower area of the site result in substantial improvements to the overall visual quality of this portion of the Oakland Hills. These policies and objectives, along with others, have been set forth in detail in the public record for the project, specifically in the October 2, and October 23, 2002 Planning Commission staff reports.

III. PLANNED UNIT DEVELOPMENT

10. The Modified Plan includes a Planned Unit Development (PUD) permit under Chapters 17.122 and 17.140. The City's previous decision to find compliance with Chapters 17.122 and 17.140 of the Oakland Municipal Code was not challenged in court, and no objections relating to compliance with those requirements have been raised since Resolution 77544 was initially adopted. The City Council again confirms the Planning Commission's October 23, 2002 decisions and approves both a preliminary and final development plan.

11. The Modified Plan complies with all PUD regulations set forth in Chapters 17.122 and 17.140, except those requirements for which variances are granted, as noted below. The Modified Plan embodies a large, integrated development project that adheres to a comprehensive plan, and which is located on adjacent tracts of land that comprise one, continuous project site. The Leona Quarry project is the subject of an application submitted by owners of all the property included. The Modified Plan has undergone design review, in which the professional services of an architect licensed by the State of California, a landscape architect

licensed by the State of California, and an urban planner holding or capable of holding membership in the American Institute of Certified Planners were used.

12. Under section 17.122.060, suitable areas have been set aside for public facilities and open space, as set forth in the record for the project, including a 2 acre park and village green area. Common open space within the Lower Development Area will be maintained by a Homeowners' Association (HOA), which will be created to ensure that all property owners within the site, excluding Lots 1-19 and The Gateway Senior Homes are automatically made members of the HOA and are subject to assessments levied to maintain the open space. The HOA will exist for at least 20 years and will continue to exist thereafter until a majority vote of the members shall terminate it. The site is not suitable for location of a school and so no dedication of land for school purposes has been required. As discussed in the EIR, the project is conditioned upon payment of school impact mitigation fees as required by State Law.

13. Under section 17.122.070, acceptably rated performance bonds, in the amount of the estimated cost of the work, have been required. These bonds are conditioned upon faithful performance of the work within the time period specified, and will be approved by the City Attorney. These bonds pertain to reclamation work and infrastructure, landscaping and other requirements as set forth in more detail in the Conditions of Approval (Exhibit C to the staff report).

14. Except as expressly noted in these findings, the Modified Plan meets all development standards, including those set forth in section 17.122.110.

15. All the requirements for action set forth in Chapter 17.140 have been complied with. The Planning Commission held two public hearings on the application, for which notice was properly given. The Council is approving both a preliminary and final development plan for the entire Modified Plan, and the final development plan will not be submitted in stages. Both the preliminary and final development plans contain all information required by Chapters 17.122 and 17.140, including specifically sections 17.140.020 and 17.140.040. The final development plan conforms in all major respects with the preliminary development plan. Its level of detail is sufficient to indicate fully the ultimate operation and appearance of the Modified Plan. Copies of legal documents required for dedication or reservation of common space, for the creation of a nonprofit homeowners' association and for performance bonds will be submitted before final map approval as set forth in the conditions of approval (Exhibit C). The final development plan was forwarded to the City Engineer for review pursuant to section 17.140.050, and the Commission has reviewed the plan and finds that it conforms to acceptable City standard as set forth and further specified in the conditions of approval.

16. The Modified Plan meets the requirements of section 17.140.80 and the planned unit development regulations in Chapter 17.122. Specifically, the Modified Plan has been designed in compliance with the requirements of section 17.122.110 relating to maximum number of dwelling units, floor area ratios, height limitations, provision of yards and courts, provision of usable open space, standards for usable open space, undergrounding of electronic and telephone facilities, fire alarm conduits, and electrical wiring (including that required for

street lights), standards for electric and telephone facilities, and standards for street lighting and fire alarm facilities.

17. The Modified Plan PUD permit includes the following set of exceptions, bonuses and waivers (collectively “exceptions”) of the residential thirty foot height requirements, as allowed by Chapter 17.122:

Product 1 – Phase 1 downhill condos	38’ maximum from projected finish grade-allow up to 4’ variation to accomplish roof breaks; allow 36’ of height above front street pavement.
Product 2 – Phase 1 uphill townhomes	36’ maximum from projected finish grade; allow 31’ of wall height within 20’ of the front lot line
Product 3 – Phase 1 downhill townhomes	36’ maximum from projected finish grade - allow up to 2’ variation to accomplish roof breaks
Product 4 – Phase 1 Village Green condos (uphill)	40’ maximum from projected finish grade; allow 38’ of wall height within 20’ of the front lot line
Product 5 – Phase 1 downhill townhomes	40’ maximum from projected finish grade; allow 27’ of height within 20’ of the front lot line
Product 6 – Phase 2 downhill townhomes	36’ maximum from projected finish grade – allow up to 4’ variation to accomplish roof breaks
Product 7 – Phase 2 uphill townhomes	36’ maximum from projected finish grade; allow 26’ of wall height within 18’ of the front lot line
Product 8 – Phase 2 Terrace unit condos (downhill)	48’ maximum from projected finish grade; allow 31’ of wall height measured from the top of foundation
Product 9 – Gateway Senior Apts. (uphill)	60’ maximum from projected finish grade, except elevator towers and architectural treatments

The maximum heights noted above may be exceeded by up to 8’ for only gable ends and dormers 15’ wide or less.

18. The City Council finds these exceptions are appropriate. The topography creates a setting where there are no views that may be obstructed by this development, and so the height exceptions do not cause the type of problems the general development standards are intended to protect against. Through an integrated development design, each street offers different view potentials and each new homeowner will be made aware of the height of the approved design. In viewing the development from downhill, the amount of hillside located above even the highest neighborhood (Phase 2 Terrace Units) completely diminishes the overall massing. The height exceptions have also been mitigated to achieve the purposes of the general height restrictions. The design features that have been incorporated include: utilizing as much under-roof area as possible for living space; introducing dormers for roof line interest and to better utilize these under-roof areas; using stepped facades on uphill and downhill slopes; minimizing skirt walls; using taller facades purposely designed on the street side of the downhill structures where no view from above is impacted (Product 5 and 8); and using various roof structures, such as on buildings 6A, 6B-1, and 6B-2, to create variety in the street scene and the downhill view.

19. As explained above, the Modified Plan is consistent with the Oakland Comprehensive Plan (General Plan) and all applicable planning and zoning enactments. The location, design and size of the Modified Plan are well integrated with its surroundings. The project has been designed to incorporate mitigation of impacts to the surrounding existing development and to include buffers between the project and the development, all of which adequately reduces the impacts of development of the Modified Plan, as set forth in the MMRP, Exhibit B.

20. As explained in detail in the EIR, traffic generated by the Modified Plan can be accommodated safely and without congestion on major streets, and will not unduly burden local streets with the implementation of the traffic improvements as set forth in the MMRP Exhibit B. The future occupants of the Modified Plan will be adequately served by existing facilities and services, in combination with the facilities and services to be funded by the Modified Plan. The Modified Plan is an attractive, healthful, efficient and stable environment for living, shopping, or working. The comprehensive, integrated, clustered development plan for the Modified Plan results in the benefits described in the overriding considerations identified in the CEQA Findings (Exhibit A). The Modified Plan is well integrated into its setting. The earth-moving required for the project is necessary to reclaim the quarry site and replace its adverse appearance with a visually appealing, geologically stable and improved site. The reclamation of the site, and development of the Modified Plan will replace the scar created by quarrying activities with an attractive project that will not be visually obtrusive, will harmonize with surrounding areas and facilities, will improve views for surrounding residents, and will provide sufficient buffering in the form of spatial separation, revegetation of the quarry site, repair of topographic features in the site, and other means as explained in detail in the EIR, the staff reports and the record for the project.

IV. VARIANCES

21. The Modified Plan includes some variances the City previously granted in Resolution 77544. The City's previous decision to find the variances lawful and appropriate was not challenged in court, and no objections relating to compliance with the requirements for the variances have been raised since Resolution 77544 was initially adopted. The City Council again confirms the Planning Commission's October 23, 2002 decisions and approves the following variances.

22. The Modified Plan includes some garages that exceed 50% of the building frontage, some retaining walls higher than six feet, and some paved driveways that occupy more than 50% of the front yard. The Council approves these variances, pursuant to Chapter 17.148 and especially section 17.148.050. These exceptions to a limited set of development standards are required to address the unusual topography created by the quarrying operations at the project site, while still allowing the densities enjoyed by other owners of property zoned R-50 and subject to a PUD permit. In order to enjoy the privileges enjoyed by owners of other property zoned R-50 and subject to a PUD permit, the owners of the project site must be permitted to develop a comprehensive, integrated development plan that is fitted to the unique geologic and topographical constraints on the site. The Modified Plan could not achieve the desired clustered development in strict compliance with the development standards. Strict compliance with the development standards would require essentially as much grading and disruption of the site as

does the Modified Plan, but would produce gaps in the project and other undesirable aspects, resulting in a more disjointed and chaotic development plan for the site. The integrated, comprehensive nature of the Modified Plan satisfies the purposes of the development standards, and strict compliance with those standards would present practical difficulties, unnecessary hardships and inefficient development patterns. The variances thus do not grant special privileges inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.

23. The variances will not adversely affect the character, livability or development of abutting properties or the surrounding area, since those areas are already developed. On the contrary, the requested variances help to achieve a superior design for the site by creating a unified and consistent set of design standards that have been developed with respect to the steep slopes, existing topography and other constraints on the site. As stated elsewhere in these findings (Exhibit D), the Modified Plan is compatible with the surrounding area. As also stated elsewhere in these findings (Exhibit D), the Modified Plan promotes public welfare, and is consistent with, and not detrimental to, adopted plans and development policies.

24. *Garage Width.* A variance is granted to achieve the following exceptions to the development standards pertaining to the width of garages:

Product 2 – Phase 1 uphill townhomes	Building types 2A(3-plex), 2B(4-plex), 2C(5-plex) and 2D(6-plex) utilize 18 tandem garages, an 8’ wide door in a 17’ wide plan and only the 14 end units have a 16’ wide door in a 27’-6” wide plan that is recessed approx. 9’ from the front façade
Product 3 -- Phase 1 downhill townhomes	Building type 3A (2-plex) – the 20’-8” wide garage is 71% of building frontage. Garage doors have been recessed behind entry roofs and there are large sideyard set-backs for landscaping
Product 5 – Phase 1 downhill townhomes	Building types 5A(2-plex) and 5B(4-plex) – the 20’-8” wide garage is 75% of building frontage. Garage doors have been recessed and trellis structures introduced to highlight entries and reduce impact of garage doors. In the entire street length, the garages are 58% of the length.
Product 6 -- Phase 2 downhill townhomes	Building types 6A and 6B – the 20’-8” wide garage is 73% of building frontage. Garage doors have been recessed, shifted and trellis structures introduced to highlight entries and reduce impact of garage doors. In the entire street length, the garages are 55%-60% of the length.
Product 7 – Phase 2 uphill townhomes	Building types 7A, 7D and 7E – the appearance of the garage at 18’ wide is 69% of building frontage. The garage doors have been recessed approx. 7’ from upper floor. Building types 7B and 7C – the appearance of the garage at 18’ wide (3 of 4 plans) is 76% of building frontage. The garage doors have been staggered and set-back with entry stairs pulled forward in the street scene. In the entire street length, the garages are 63% of the length.

25. The garage variance is needed because the steep slopes in these neighborhoods allow only a certain amount of buildable area for garage structures. To facilitate

the integrated nature of the Modified Plan, and wherever possible (such as in the Village Green and Terrace Units), garages have been turned and placed in motor courts entirely off the street. The garage variance facilitates overall project design, and was not addressed as a specific building type design issue. The garage width variance has been mitigated to achieve the purposes of the regular garage width development standards. The design features that have been incorporated to mitigate the garage width variance include trellis features at entry areas that project in front of the face of garage, additional landscape areas in the right of way to soften the street scene, varying styles of garage doors, recessed doors from 2' to 9' to create shadow, and varying door colors – typically in the deeper, more muted ranges.

26. *Retaining Wall Height.* A variance is granted for the following exceptions to the general development standards limiting retaining walls to six feet in height: Uphill side of Gateway EVA; Supplemental emergency access from “I” to “A” Street; terminus of “A” Street; supplemental emergency access to Altura; and other walls, including behind the Village Green unit and units behind B Street. This variance is needed for these retaining walls. Topography of the site adjacent to Mountain Boulevard is such that the new Gateway emergency vehicle access could not be incorporated with appropriate turning radius without a steep cut into the existing slope, necessitate a major retaining wall. Views of this wall will be buffered by both the new Gateway Senior Housing Project and landscaping requirements. The internal street layout, in light of the given slopes, necessitates walls higher than six feet in certain locations throughout the site, including some of the Village Green units, the terminus of Street “A”, the Altura Supplemental EVA, and the supplemental access from “I” to “A” Streets.

27. *Front Yard Paving.* A variance is approved to implement the following exceptions to the front yard paving development standards:

Product 1 – Phase 1 downhill condos	Approx. 60 % paved
Product 2 – Phase 1 uphill townhomes	Approx. 74% paved
Product 3 – Phase 1 downhill townhomes	Approx. 66% paved
Product 5 – Phase 1 Downhill Townhomes	Approx. 78% paved
Product 6 – Phase 2 downhill townhomes	Approx. 80% paved
Product 7 – Phase 2 uphill townhomes	Approx. 80% paved

28. The front yard paving variance is needed for the same reasons the garage width variance is needed. The front yard paving variance facilitates overall project design, and was not addressed as a specific building type design issue. The amount of paving in the front yards allowed by this variance has been mitigated to achieve the purposes of the front yard paving development standards. Separations between buildings have been increased to allow for greater landscaped set-backs to offset the paved area. The design features that have been incorporated to mitigate the paving area variance include colored or enhanced paving in the driveways, additional landscape areas in the right of way (8' deep bulb-outs), and use of trellis elements with vine planting over walkways. In addition, the overall streetscape, public

improvements and front yard landscaping have been coordinated to provide a unified set of design standards.

V. VESTING TENTATIVE MAP

29. The Modified Plan includes a Vesting Tentative Map and certain exceptions to design standards previously approved in Resolution 77544. The City's previous decision to find the VTM and exceptions lawful and appropriate was not challenged in court, and no objections relating to compliance with the requirements for approval of the map and exceptions have been raised since Resolution 77544 was initially adopted. The City Council again confirms the Planning Commission's October 23, 2002 decisions, approves the Vesting Tentative Map (VTM) 7351 for the Modified Plan, pursuant to Title 16 of the Oakland Municipal Code, subject to the Conditions of Approval (Exhibit C), and grants certain exceptions from design standards pursuant to section 16.04.060.

30. VTM 7351 contains all information required by State Law and by the Oakland Municipal Code, including all information referenced in section 16.08.010. The VTM provides to the extent feasible for future passive or natural heating or cooling opportunities. The VTM is constrained by the geology and topography of the project site, but within those constraints orients structures in an east-west alignment for southern exposure, and orients structures in a way that takes advantage of shade and prevailing breezes.

31. Final maps may be filed in phases, as set forth in the VTM and in the Conditions of Approval (Exhibit C).

32. The VTM meets all design standards of Chapter 16.16. The VTM meets all improvement standards of Chapter 16.20. Pursuant to section 16.16.030, the Council approves the grades of all streets in the VTM. The Council acknowledges that Street A and part of Street K have grades that exceed the grades generally required by fire department regulations. Pursuant to section 16.04.060, the Council grants an exception from those regulations. The fire department has required a series of emergency access routes that provide a redundancy as follows: The Gateway EVA will be the main route and meet all dimensions and specifications; the Altura and northwest routes will provide additional means of egress in an emergency; the supplemental connections have been designed from "I" to "A" Street and "H" to "C" Street, and the Gateway EVA intersection with "A" Street has been off-set with "B" Street. This emergency access network, in its entirety, represents a level of redundancy that off-sets the three segments of the street network that exceed 18 percent extending over 150 feet. The Council also grants an exception from the requirement of section 16.16.170 that each lot have the minimum area prescribed by the zoning district within which it lies because the PUD presents a unified overall site plan.

33. Pursuant to section 16.20.040, the Council has given due consideration of the allocation of suitable areas for open space, schools, parks and playgrounds. Because the VTM proposes to cluster most of the development into the Lower Development Area while leaving more than 70 acres in open space and conservation uses, the areas provided for in the VTM are extensive and appropriate.

34. The conditions of approval require submittal of a preliminary soils report, in accordance with section 16.20.060 and, as indicated in the preliminary report, a soil investigation for all lots under section 16.020.080. 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.

VI. RECLAMATION PLAN

35. Carlson, Barbee & Gibson, Inc. has prepared a detailed specific site plan for the existing quarry that is based upon site-specific geotechnical studies produced by Berlogar Geotechnical Consultants. (*Berlogar 2000, 2002, 2003*) The site plan was and is subject to peer review by a geotechnical consultant selected by the City. The reclamation measures include restoring the main quarry face to an overall gradient no steeper than 2.3H:1V. The 440-foot tall slope will be segmented into sections of slope with gradients of 2H:1V. Between sections there will be five 10-foot-wide level drainage benches and three 30-foot-wide level hillside trail benches that will serve a dual purpose of providing drainage and recreation. Slope stability, grading and revegetation measures are adequate for the Project and will create safe and stable slopes adjacent to the proposed residential development.

36. The north slope of the site will be subject to mitigation measures that ensure appropriate slope stability. These measures include removal and rock bolting of identified outcrops, improving drainage to prevent future degradation of the slope, and utilizing retaining walls, barrier fences and catchment areas as additional protection. A Geologic Hazard Abatement District ("GHAD") has been created for the site and has responsibility for future geologic monitoring and maintenance activities. All final cut slopes will have a minimum factor of safety that is appropriate for the Project and will conform with the Project. (*Berlogar 2000, 2002, 2003*) All proposed unreinforced fill slopes do not exceed 2:1 and will be compacted in accordance with the Uniform Building Code. (*Berlogar 2000, 2002, 2003*) At closure, the fill slopes will conform to the final end use in that they will create a development area upon which the Project may commence.

37. Surface and ground water will be protected in accordance with California and federal laws. Site-specific surface water and ground water analyses have been performed and identified specific hydrologic concerns and constraints at the site. (*Balance Hydrologics 2001, Philip Williams & Associates, 2002, 2003*). The project applicant will prepare a Storm Water Pollution Prevention Plan ("SWPPP") prior to construction activities as required by the State Water Resource Control Board's General Permit for Construction Activities. Compliance with the SWPPP will ensure that surface and ground water will be protected throughout the first phase of the Project.

38. On-site test plots will be used to determine vegetation response of several different revegetation techniques. (*Harvey 2001a*) Revegetation will occur on the restored slope and a portion of the north slope with three different native habitat types including a California sagebrush plant association, a chamise plant association, and an oak woodland plant association. Revegetation will occur on the slopes that will provide self-sustaining cover appropriate for the Project. (*Harvey 2001*) Planted trees shall be maintained during a five-year establishment period. Maintenance activities include irrigation, weed control, maintenance of foliage

protectors, and dead plant replacement. Monitoring will occur on an annual basis for the first five years of plant establishment to ensure survival rates. All dead plants will be replanted if survival drops below 80%.

39. The existing GHAD will provide long-term funding to ensure that slope stability will be maintained and that revegetation will be successful. The GHAD will also help ensure that the costs of the Modified Plan are borne by the project, and not passed on to other Oakland residents.

VII. DESIGN REVIEW

40. The Modified Plan includes Design Review approval previously granted in Resolution 77544. The City's previous decision to find compliance with all requirements for Design Review, and to approve Design Review, was not challenged in court, and no objections relating to these matters have been raised since Resolution 77544 was initially adopted. The City Council again confirms the Planning Commission's October 23, 2002 decisions, and, pursuant to Chapter 17.136 and Chapter 17.142, the Council grants design review approval for the Modified Plan. All procedures for regular design review have been followed, and the design review has been processed and considered as part of the PUD permit, pursuant to section 17.136.120.

41. The Modified Plan will create buildings that are well-related to the surrounding area in their setting, scale, bulk, height, materials and textures, and that are within the parameters of the R-50 zone and PUD standards. The design proposed by the Modified Plan will protect desirable neighborhood characteristics by providing a cohesive, integrated project that will have no significant visual impacts. The Modified Plan design will enhance desirable neighborhood characteristics by replacing an existing quarry with an attractive residential development project.

42. Under section 17.136.070, the Council finds that the Modified Plan design is sensitive to the topography, landscape and neighboring uses. The Modified Plan has been designed to correct landslides, accommodate faults and otherwise improve the geological stability of the site. The Modified Plan places housing units in the Lower Development Area, where they are least likely to be visible, and calls for attractive revegetation of most of the highly visible upper slope areas. The design and massing of the proposed buildings are therefore sensitive to the grade of the terrain. The Modified Plan is consistent with the Oakland Comprehensive Plan (General Plan) and all applicable planning and zoning enactments.

43. The non-residential facilities of the Modified Plan, including the community center, tot lots, and signage, are well-related to each other and to the residential units. The non-residential facilities help make the Modified Plan a well-composed design, which gives consideration to site, landscape, bulk, height, arrangement, texture, materials, colors and appurtenances. The Modified Plan proposes to replace steep, barren and denuded slopes and an ongoing quarry operation with a well-composed design that will improve the look and feel of the area and that will be of a quality and character that harmonizes with, and serves to protect the value of private and public investments in the area.

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OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

2004 FEB -4 AM 9:51

RESOLUTION No. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION APPROVING THE APPLICATIONS OF THE DESILVA GROUP TO CLOSE THE LEONA QUARRY, RECLAIM IT AND REDEVELOP THE SITE FOR 477 RESIDENTIAL UNITS AT 7100 MOUNTAIN BOULEVARD IN COMPLAINE WITH ALAMEDA SUPERIOR COURT ORDER (Action No. RG-03077607)

WHEREAS, on July 30, 2001, in accordance with the California Environmental Quality Act ("CEQA"), City staff issued an Initial Study and Notice of Preparation ("NOP") indicating an intent to prepare an Environmental Impact Report for the Leona Quarry project, including the requested Zoning Boundary Line Adjustment ("ZBA"), Planned Unit Development ("PUD") permit, Vesting Tentative Map ("VTM"), Design Review and Variances; and

WHEREAS, on August 8, 2001, the Planning Commission conducted a public hearing to solicit comments on the NOP; and

WHEREAS, on June 11, 2002, a Draft EIR ("DEIR"), State Clearinghouse No. 199904205, was released by the City for a 49-day public review and comment period, which reviewed and evaluated the environmental impact of both the original proposal to develop 564 residential units, an approximately 10,000 square foot commercial center, an approximately 6,000 square foot community center and related urban facilities and the "Modified Plan" which would develop 477 residential units and an approximately 2,300 square foot community center and related urban facilities; and

WHEREAS, on July 17, 2002, the Planning Commission conducted a public hearing to provide the public with an additional opportunity to comment on the DEIR; and

WHEREAS, on September 23, 2002, a document entitled "Leona Quarry Final Environmental Impact Report" ("FEIR"), which responded to comments received by the City on the DEIR and provided a more detailed analysis of the Modified Plan was released; and

WHEREAS, on October 2, 2002, the Planning Commission conducted a public hearing and took testimony regarding the Modified Plan, the DEIR and the FEIR; and

WHEREAS, on October 23, 2002, the Planning Commission conducted another public hearing on and took testimony regarding the Modified Plan, the DEIR and the FEIR; and

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WHEREAS, at the Planning Commission hearing on October 23, 2002, the Planning Commission determined that the EIR (consisting of the DEIR, Responses to Comments and other information presented in the FEIR) was adequate for decision-making on the requested land use entitlements and certification of the EIR; and

WHEREAS, the Planning Commission, including the Design Review Committee of the Planning Commission and the Special Projects Committee of the Planning Commission, duly noticed and conducted a total of 7 public hearings and 4 study sessions sponsored by the project applicant regarding the proposed development of the Leona Quarry, including the requested land use entitlements, between April, 2001 and October 23, 2002; and

WHEREAS, on October 23, 2002, the Planning Commission recommended that the City Council approve the ZBA, certified the EIR, adopted CEQA Findings and a Statement of Overriding Considerations, adopted a Mitigation Monitoring and Reporting Program, adopted General Findings and adopted accompanying Conditions of Approval, approved a PUD permit, approved a VTM, approved Design Review and approved certain Variances; and

WHEREAS, on November 4, 2002, Maureen Dorsey filed an appeal (“Dorsey Appeal”) of the Planning Commission’s certification of the DEIR and FEIR, approval of the land use entitlements and recommendations and requested that the City Council reduce the density of the Modified Plan; and

WHEREAS, on November 15, 2002, the City Council duly noticed a public hearing at which all interested members of the public were allowed to voice their opinions on the Dorsey Appeal, Modified Plan land use entitlements, and proposed ZBA; and

WHEREAS, on December 3, 2002, the City Council conducted a public hearing on and took testimony regarding the Dorsey Appeal, Modified Plan, DEIR and FEIR and the proposed ZBA; and

WHEREAS, on December 3, 2002, the City Council, having fully reviewed, considered and evaluated the DEIR and FEIR, staff reports, public testimony and all documents and other evidence submitted on this matter, resolved to take certain actions; and

WHEREAS, on December 3, 2002, the City Council certified the DEIR and FEIR as adequate for the ZBA and Ordinance 12457, An Ordinance of the City of Oakland Adjusting the Zoning District Boundary Line for the Leona Quarry Property Located at 7100 Mountain Blvd., So That the R-50 (Medium Density Residential) Is Designated for the Lower Development Area Consistent with the Approved Planned Unit Development for the Leona Quarry Residential Project, was introduced and passed to print; and

WHEREAS, on December 3, 2002, the City Council adopted Resolution No. 77544, Resolution Denying the Appeal of Maureen Dorsey and Sustaining the Decision of the City Planning Commission in Approving the Applications of the DeSilva Group to Close the Leona Quarry, Reclaim It and Redevelop the Site for 477 Residential Units at 7100 Mountain Blvd.,

which Resolution certified the DEIR and FEIR as adequate for, and approved, a PUD permit, VTM, Design Review and Variance applications for the Modified Plan; and

WHEREAS, on December 17, 2003, Ordinance 12457 was adopted by the Council; and

WHEREAS, on January 2, 2003, a proceeding was initiated in the Alameda County Superior Court entitled *Dorsey v. City of Oakland*, Action No. RG-03077607 challenging CEQA compliance for Ordinance 12457 and Resolution 77544; and

WHEREAS, in the *Dorsey v. City of Oakland* proceeding, on August 5, 2003 the court entered final judgment on the CEQA claims by issuing an “Amended Judgment Granting Petition For Writ of Mandate” (“Amended Judgment”) and on August 29, 2003 the court issued a “Second Amended Peremptory Writ of Mandate” (“Second Amended Writ” or “Writ”); and

WHEREAS, the Amended Judgment and Writ stayed the force and effect of Ordinance 12457 pending a showing that decisions arising from the subsequent EIR process require the Court to take further action; remanding the matter to the City Council; ordered the City to set aside certification of the EIR and set aside the approvals issued pursuant to Resolution 77544 until a subsequent EIR was prepared with regard to only that portion of the EIR dealing with hydrological issues; and ordered that, as to the Geology segment of the EIR, additional review was ordered only if changes arising out of matters related to hydrology resulted in changes to the geology analysis in accord with standards set forth in CEQA Guideline 15162; and

WHEREAS, Ordinance 12457 remains valid, but its force and effect has been stayed by the court in the *Dorsey v. Oakland* proceeding; and

WHEREAS, on August 18, 2003, City staff issued an NOP indicating an intent to prepare a Subsequent Environmental Impact Report (“SEIR”) to comply with the Amended Judgment and Second Amended Writ; and

WHEREAS, on October 23, 2003, City staff issued a Notice of Availability of a Draft Subsequent Environmental Impact Report For The Leona Quarry Project (DSEIR), and solicited public comment during a comment period initially scheduled to conclude on December 8, 2003, and later extended to conclude on December 22, 2003; and

WHEREAS, on November 19, 2003, the Planning Commission conducted a public hearing to provide the public with an additional opportunity to comment on the DSEIR; and

WHEREAS, on January 14, 2004, a document entitled “Leona Quarry Final Subsequent Environmental Impact Report” (“FSEIR”), which responded to comments received by the City on the DSEIR was released; and

WHEREAS, the DEIR and FEIR, as revised and supplemented by the DSEIR and FSEIR, comprise the “EIR” for the Land Use Entitlements approved by this Resolution; and

WHEREAS, on January 21, 2004, the Planning Commission conducted another public hearing on and took testimony regarding the Leona Quarry Modified Plan, and the EIR, and made recommendations to the Council that it certify the EIR, and that it re-approve the PUD permit, VTM, Design Review and Variance applications for the Modified Plan, all as revised by the mitigation measures in the EIR; and

WHEREAS, on February 17, 2004, the City Council conducted another public hearing on and took testimony regarding the Leona Quarry Modified Plan and the EIR; and

WHEREAS, the SEIR was prepared in accordance with the Amended Judgment, the Second Amended Writ and CEQA; and

WHEREAS, all documents comprising the EIR were made available to responsible agencies and the public for review and comment in accordance with CEQA; and

WHEREAS, the Project Applicant and all other interested parties were given opportunities to participate in all public hearings by submittal of oral and written comments.

NOW, THEREFORE, BE IT RESOLVED that the City Council, as the final decision making body of the lead agency, sets aside certification of the DEIR and FEIR and the approvals issued pursuant to Resolution 77544 to the extent required by the Amended Judgment and Second Amended Writ.

FURTHER RESOLVED: That the City Council, as the final decision making body of the lead agency, makes the following certifications:

- 1) The EIR has been completed in compliance with the Amended Judgment, the Second Amended Writ, CEQA, and the City’s Environmental Review Regulations, all as more specifically set forth in Exhibit A of this Resolution;
- 2) The EIR reflects the lead agency’s independent judgment;
- 3) The City Council, as the final decision-making body of the lead agency, was presented with and reviewed and considered all information in the EIR before approving the project that is subject to this Resolution, as more specifically set forth in Exhibit A to this Resolution;

FURTHER RESOLVED: That the City Council, as the final decision making body of the lead agency, adopts all the CEQA findings set forth in Exhibit A – CEQA Findings and Statement of Overriding Considerations Related to Approval of the Leona Quarry Project by the Oakland City Council.

FURTHER RESOLVED: That, the City Council, as the final decision-making body of the lead agency, adopts all of the mitigation measures identified in the EIR as the Mitigation Monitoring and Reporting Program (MMRP), as set forth as Exhibit B to this Resolution, and directs the City Manager to ensure that these are duly and diligently implemented and enforced.

FURTHER RESOLVED: That the City Council approves the PUD permit, VTM, Design Review and Variance applications (collectively, "Land Use Entitlements") for the Modified Plan, as revised by the mitigation measures in the EIR, and approves these Land Use Entitlements based in part on the reasons set forth in the General Findings, contained in Exhibit D to this Resolution and incorporated by this reference.

FURTHER RESOLVED: That the City Council adopts the Conditions of Approval ("COA") of the foregoing Land Use Entitlements contained in Exhibit C to this Resolution, which is incorporated by this reference.

FURTHER RESOLVED: That the City Council makes the further findings contained in Exhibit D to this Resolution, which are incorporated by this reference.

FURTHER RESOLVED: That the City staff is directed to undertake the clerical task of amending the approved MMRP and/or the COA, if necessary, to conform to this Resolution.

FURTHER RESOLVED: That the Land Use Entitlements approved by this Resolution shall not take effect until the court in the *Dorsey v. Oakland* proceeding lifts the stay of the force and effect of Ordinance 12457.

FURTHER RESOLVED: That the Council finds and determines that this Resolution complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies.

FURTHER RESOLVED: That the record before this Council relating to this reconsideration and project applications include, without limitation, the information set forth in Exhibit C, all final staff reports and final documentation and information produced by or on behalf of the City, including without limitation the Draft and Final EIRs, the Draft and Final SEIRs, and supporting final technical studies and appendices, and all related and supporting material, and all final notices relating to the application and attendant hearings and meetings; all oral and written evidence received by the City Planning Commission and City Council during the public hearings on the Leona Quarry project; all written evidence received by relevant City staff before and during public hearings on the application; and all matters of common knowledge and all official enactments of the City such as the General Plan, Oakland Municipal Code, Oakland Fire Code, Oakland Planning Code, other applicable City policies and regulations and all applicable state and federal laws, rules and regulations.

FURTHER RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: 1) the Community and Economic Development Agency (CEDA),

Planning Division, 250 Frank Ogawa Plaza, suite 3300, Oakland, CA and 2) the Office of the City Clerk, 1 Frank Ogawa Plaza, 1st Floor, Oakland, CA.

FURTHER RESOLVED: That the recitals contained in this Resolution are true and correct and are an integral part of the City Council's decision.

In Council, Oakland, California, February 17, 2004

PASSED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTENTION:

ATTEST: _____

CEDA FLOYD

City Clerk and Clerk of the Council of the
City of Oakland, California

Attachments (4)

Exhibit "A", CEQA Findings;

Exhibit "B", CEQA Mitigation Monitoring and Reporting Program;

Exhibit "C", Conditions of Approval;

Exhibit "D", General Findings.

14.1-2

ORA/COUNCIL

FEB 17 2004

EXHIBIT A
CEQA FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS
RELATED TO APPROVAL OF LEONA QUARRY BY THE
OAKLAND CITY COUNCIL

I. INTRODUCTION

1. These CEQA findings are adopted by the City of Oakland (the "City"), as lead agency for the Leona Quarry project. These findings pertain to the original EIR prepared for that project, as that original EIR has been revised and supplemented by the Subsequent EIR for that project. Both the EIR and the SEIR have SCH #1999042052. These findings refer to four documents comprising the EIR: the Draft EIR (DEIR), the Final EIR (FEIR), the Draft Subsequent EIR (DSEIR) and the Final Subsequent EIR (FSEIR). The "EIR" referenced in these findings includes the DEIR and FEIR, as revised and supplemented by the DSEIR and FSEIR.

2. These CEQA findings are attached as Exhibit A and incorporated by reference into the Resolution Approving The Applications Of The DeSilva Group To Close The Leona Quarry, Reclaim It And Redevelop The Site For 477 Residential Units At 7100 Mountain Boulevard adopted on February 17, 2004 by the City Council. That resolution also includes Exhibit B that contains the Mitigation Monitoring and Reporting Program ("MMRP"), which references impacts, mitigation measures, and resulting levels of significance. Also attached to that same resolution is an Exhibit C that contains the conditions of approval, as revised and amended by the City Council, and an Exhibit D that contains findings regarding other matters, including compliance with the City planning and subdivision codes and General Plan consistency. All Exhibits are incorporated by reference into each other, and into the resolution. Some of these findings are based especially upon specific references, as noted below. However, all findings are based upon the entire record, described below. References to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the finding. These findings use capitalized terms (including "Lower Development Area") as they are used in the EIR.

II. THE PROJECT

3. The Leona Quarry project would terminate the operation of an active rock quarry and develop a residential neighborhood on 128 acres of land located at 7100 Mountain Boulevard, just northeast of Interstate 580 and immediately adjacent to the Edwards Avenue on-ramp. The project would regrade the existing slopes to less steep slopes, provide appropriate drainage for slope stabilization, and return a substantial portion of the site to seminatural conditions.

4. The project described in the EIR includes 564 residential units, consisting of 19 single-family homes in the upper portion of the site along Campus Drive, and 545 townhomes, condominiums and potential live-work units and/or senior housing in the lower portion of the site. The project described in the EIR also includes 10,000 square feet of neighborhood commercial space combined with 72 living units in a

Gateway Residential Center, and 6,000 square feet of community center space combined with 144 living units in a Village Center. The project also includes park and a pedestrian trail system.

5. The DEIR proposed numerous mitigation measures, and the project sponsors incorporated the design-level mitigation measures into a revised project design. The project sponsor also proposed modifications in response to issues raised at the commencement of design review proceedings. The result is the Modified Plan described in Chapter III of the FEIR. Additional or changed mitigation measures for the Modified Plan were referenced in the SEIR. These findings pertain to the Modified Plan as mitigated in the SEIR, and all references in these findings to "Project" are references to the Modified Plan as mitigated in the SEIR unless the context clearly indicates otherwise.

6. The Modified Plan proposes 477 residential units, a community center of approximately 2,300 square feet, a 2-acre park, 3 additional recreational areas, an improved Village Green area, and pedestrian trails. Of the 128 acres at the project site, more than 70 acres will be dedicated to permanent open space. Nineteen single-family detached units are proposed along Campus Drive. The remaining 458 attached units, consisting of 404 townhomes and condominiums and 54 senior affordable housing units, are proposed for approximately 45 acres of the Lower Development Area (as defined in the EIR) of the project site.

7. The Modified Plan is a reduction in the scope and intensity of development proposed by the 564-unit project studied in the DEIR, and its impacts fall within the range of impacts studied in the EIR. The Modified Plan is designed in response to increasing residential demand in Oakland, and is intended to fulfill the City of Oakland's goals of creating a range of housing types and providing uses on the project site that are more compatible with nearby residential neighborhoods than the existing quarry.

III. ENVIRONMENTAL REVIEW OF THE PROJECT

8. Pursuant to the California Environmental Quality Act, Public Resources Code section 21000 *et seq.* and the CEQA Guidelines, Cal. Code Regs., tit. 14, sections 15,000 *et seq.* (collectively, "CEQA"), the City determined that an EIR would be prepared. The City issued a Notice of Preparation (NOP), which was circulated to responsible agencies and interested groups and individuals for review and comment.

9. The DEIR was prepared for the 564-unit Leona Quarry project to analyze its environmental effects. The DEIR was circulated for a 49-day public review period, from June 10, 2002 to July 29, 2002. The Planning Commission held a public hearing on the DEIR on July 17, 2002.

10. The City received written and oral comments on the DEIR. The City prepared responses to comments on environmental issues, and made changes to the

DEIR. The responses to comments, changes to the DEIR and additional information were published in the FEIR on September 23, 2002.

11. The Planning Commission held two additional public hearings on the Modified Plan and on the DEIR and FEIR on October 2, 2002, and October 23, 2002. At their October 23, 2002 meeting, the Planning Commission took action to approve the project by certifying that original EIR, and approving the Planned Unit Development (PUD), Design Review, Variances and a Vesting Tentative Map. The Council subsequently affirmed the Planning Commission's actions and denied an appeal of the Planning Commission decisions, in Resolution 77544.

12. A litigation proceeding was initiated in the Alameda County Superior Court, entitled *Dorsey v. City of Oakland*, Action No. RG-03077607. In that proceeding, the court issued an Amended Judgment and Second Amended Writ ordering the City to set aside certification of the original EIR and set aside the approvals issued pursuant to Resolution 77544 until a subsequent EIR was prepared with regard to only that portion of the original EIR dealing with hydrological issues; and providing that, as to the Geology segment of the original EIR, additional review was ordered only if changes arising out of matters related to hydrology resulted in changes to the geology analysis in accord with standards set forth in CEQA Guideline 15162

13. On August 18, 2003, City staff issued an NOP indicating an intent to prepare a Subsequent Environmental Impact Report to comply with the Second Amended Writ.

14. On October 23, 2003, City staff issued a Notice of Availability of a Draft Subsequent Environmental Impact Report For The Leona Quarry Project (DSEIR). The City solicited public comment on the DSEIR during a comment period initially scheduled to conclude on December 8, 2003, and later extended to conclude on December 22, 2003.

15. On November 19, 2003, the Planning Commission conducted a public hearing to provide the public with an additional opportunity to comment on the DSEIR.

16. The City received written and oral comments on the DSEIR. The City prepared responses to comments on environmental issues, and made changes to the DSEIR. The responses to comments, changes to the DSEIR and additional information were published in the FSEIR on January 14, 2004.

17. On January 21, 2004, the Planning Commission conducted another public hearing on and took testimony regarding the Leona Quarry Modified Plan, and the EIR. The Planning Commission recommended to the Council that it certify the EIR, and that it re-approve the PUD permit, VTM, Design Review and Variance applications for the Modified Plan, all as revised by the mitigation measures in the EIR.

18. On February 17, 2004, the City Council conducted another public hearing on and took testimony regarding the Leona Quarry Modified Plan and the EIR.

19. At all public hearings, the City staff and its engineering and environmental consultants provided information about the Modified Plan, the potential environmental impacts, and the CEQA review process. At each meeting/hearing, members of the public had the opportunity to ask questions and express their concerns and interests for the Project.

IV. THE RECORD

20. 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 staff to the Planning Commission and the City Council relating to the EIR, the proposed Approvals and Entitlements, the Project or its alternatives.

c. All information (including written evidence and testimony) presented to the Planning Commission and the City Council by the environmental consultant and subconsultants who prepared the EIR, or incorporated into reports presented to the Commission and the Council.

d. All information (including written evidence and testimony) presented to the City from other public agencies relating to the Project or the EIR.

e. All applications, letters, testimony and presentations presented by the project sponsor and its consultants to the City in connection with the Project.

f. All information (including written evidence and testimony) presented at any public hearing or workshop 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 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 (“MMRP”) for the Project.

i. All other documents comprising the record pursuant to Public Resources Code section 21167.6(e).

21. The custodian of the documents and other materials that constitute the record of proceedings upon which the Council’s decision is based is Claudia Cappio, Development Director, Planning Department, Community and Economic Development

Agency, or designee. Such documents and other materials are located at 250 Frank H. Ogawa Plaza, Suite 3330, Oakland, California 94612.

22. These findings are based upon substantial evidence in the entire record before the Council. The references 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.

V. CERTIFICATION OF THE EIR

23. In accordance with CEQA, the Council, as lead agency, certifies that the EIR has been completed in compliance with CEQA. The Council further certifies that it has reviewed and considered the information in the EIR prior to approving the Modified Plan. Similarly, the Council finds that it has reviewed the record and the EIR prior to approving the project. By these findings, the Council confirms, ratifies and adopts the findings and conclusions of the EIR, as supplemented and modified by these findings. The EIR and these findings represent the independent judgment and analysis of the City and the Council.

24. The Council recognizes that the EIR addresses and evaluates impacts of the existing environment on the Modified Plan. Examples include all or some of the analyses and discussions of geological issues, seismic issues, soil issues and the like. These impacts are referred to as environmental impacts, and measures designed to reduce risks related to these impacts are referred to as mitigation measures, for ease of reference and because of common conventions. However, these impacts are impacts of the environment on the Modified Plan, and not of the Modified Plan on the environment. The Council nonetheless finds that the EIR's discussion of these impacts is adequate even if the impacts were considered to be environmental impacts, and it adopts the EIR's conclusions regarding mitigation measures and levels of significance for these impacts, as modified and clarified in these findings.

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

26. The Council certifies that the EIR is adequate to support the approval of the Modified Plan and of each entitlement or approval that is the subject of resolution to which these CEQA findings are attached. The Council certifies that the EIR is also adequate to support approval of the 564-unit project described in the EIR, each component of the 564-unit project described in the EIR, any project within the range of alternatives described and evaluated in the EIR, each component of any of those alternatives, any minor modifications to the Modified Plan described in the EIR or the alternatives, and the oversized basin described in the SEIR.

VI. ABSENCE OF SIGNIFICANT NEW INFORMATION

27. The City prepared and circulated the DEIR. Some additional information was circulated for a second round of comment with the publication of the

DSEIR. The Council recognizes that the FEIR and FSEIR incorporate information obtained and produced after circulation of the DEIR and DSEIR, respectively, and that the FEIR and FSEIR contain additions, clarifications, and modifications, including the Modified Plan. The Council further recognizes that additional modifications have been made to conditions of approval. The Council has reviewed and considered all of this information. There is no significant new information, which was not included in the DEIR or DSEIR, which would require recirculation under CEQA. There is no new, uncirculated information that would 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 Modified Plan. No information indicates that the DEIR, as revised and supplemented by the DSEIR prepared in response to the court order, was inadequate or conclusory.

28. The original EIR was challenged in the *Dorsey v. City of Oakland* proceeding, and the deficiencies the court identified in that proceeding were limited to those referenced in the Second Amended Writ. The remainder of the original EIR has therefore survived a court challenge and the time to bring any additional challenges to that EIR has passed. As documented in the staff report for the January 21, 2004 Planning Commission meeting and the February 17, 2004 Council meeting, the information discovered or produced since the original EIR was certified do not indicate any need for revision or updating except to the extent already addressed in the DSEIR and FSEIR.

29. The Modified Plan incorporates mitigation measures recommended in the DEIR and DSEIR, and accommodations made by the project sponsor. The Modified Plan would result in the same, or fewer and less severe significant impacts than those identified for the 564-unit project, and the impacts of the Modified Plan fall within the range of impacts of the range of alternatives studied in the DEIR.

30. Accordingly, no uncirculated information has revealed the existence of (1) a significant new environmental impact that would result from the Modified Plan 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 Modified Plan; or (4) information that indicates that the public was deprived of a meaningful opportunity to review and comment on the DEIR. The Council finds that the changes and modifications made to the EIR after the DEIR and DSEIR were 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 or CEQA Guidelines section 15088.5.

VII. MITIGATION MEASURES, CONDITIONS OF APPROVAL, AND MMRP

31. Public Resources Code section 21081.6 and CEQA Guidelines section 15097 require the City to adopt a monitoring or reporting program to ensure that

the mitigation measures and revisions to the Modified Plan identified in the EIR are implemented. The Mitigation Monitoring and Reporting Program (“MMRP”) is included in Exhibit B, and is adopted by the Council. The MMRP satisfies CEQA’s requirements.

32. The mitigation measures recommended by the EIR and incorporated into the Modified Plan are specific and enforceable. 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 Modified Plan complies with the adopted mitigation measures. The MMRP ensures that the mitigation measures are in place, as appropriate, throughout the life of the Modified Plan.

33. The mitigation measures set forth in Exhibit B and corresponding conditions of approval in Exhibit C are derived from the mitigation measures set forth in the EIR. The City has modified the language of some of the mitigation measures and 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 measures more precise and effective, all without making any substantive changes to the mitigation measures. The Council also recognizes that some mitigation measures have already been implemented through the redesign accomplished in the Modified Plan.

34. The DSEIR proposes alternate mitigation measures for hydrology impacts. These consist of alternate stormwater management systems: a two-basin system and a single-basin system. Each stormwater management system will achieve the performance standard of reducing peak flows for the 25-year storm to pre-project levels, and not failing structurally during a 100-year storm. The analysis in the EIR further demonstrates that each stormwater management system will reduce peak flows from the 100-year storm to pre-project levels. Accordingly, either stormwater system will provide adequate mitigation for the hydrology impact, and either system may be implemented at the project applicant’s election. These alternate stormwater management systems result from the consensus approach described in the SEIR. There were initially some differences of expert opinions among Phillip Williams Associates (the City’s independent peer-reviewer), Environmental Science Associates (the City’s independent environmental consultant, which prepared the EIR and which includes engineers and hydrologists on its staff), Balance Hydrologics (the applicant’s expert consultant), and Alameda County Flood Control and Water Conservation District. However, after the City determined to use the more conservative parameters recommended by PWA, those experts met and conferred extensively over the methodology and parameters to use in evaluating hydrology impacts of the Mitigated Plan and designing a stormwater management system to mitigate those impacts. The result was the most comprehensive, detailed and extensive hydrology analysis performed for an Oakland project. The analysis in the SEIR, and the stormwater management systems it recommends, reflect this extensive, comprehensive, duplicative analysis and consensus approach.

35. Mitigation Measure A.2a as stated in the DEIR (page IV.A-10) requires the project sponsors to reduce NOx emissions through implementation of BAAQMD mitigation measures pertaining to vehicle emissions, and by reducing unit counts to the extent necessary to achieve no more than 80 pounds per day of NOx emissions. The reduction in unit count accomplished by the Modified Plan already reduces impact A.2 (mobile source air quality impacts) to a level less than significant. The BAAQMD measures will, however, help reduce cumulative air quality impacts (impact A.4) and therefore are retained. Mitigation Measure A.2a is accordingly modified to require the project sponsor only to implement one or more of the BAAQMD mitigation measures for motor vehicle emissions, and not to reduce unit count further.

36. The EIR proposes in Mitigation Measures K.2d, K.2e, K.2g, K.2h and K.2i that the project sponsor pay fair share costs of certain traffic improvements that will be needed because of cumulative development that includes projects other than the Modified Plan. The EIR notes that these mitigation measures will feasibly reduce impacts only if the City establishes a Traffic Improvement Fund (TIF) and Traffic Improvement Program (TIP). The City has been actively engaged in forming the TIF and TIP. A traffic engineer has been engaged to prepare a TIF and TIP, and a review of the work scope has been completed. The Council accordingly finds that the TIF and TIP will likely be established before occupancy of the project site. Nonetheless, there is a possibility the TIF and TIP will not be in place in time to fund improvements as they are needed. The Council accordingly modifies Mitigation Measures K.2d, K.2e, K.2g, K.2h and K.2i to require the following:

The City shall use its best, good faith efforts, to prepare and implement a Traffic Improvement Program ("TIP") and a Traffic Improvement Fee ("TIF") for the Edwards Avenue Corridor, which may include the improvements listed below. If the City has adopted a TIP and TIF prior to the issuance of a building permit for the 351st unit excluding the Gateway Senior Residential and Lots 1-19 (the "Trigger Date"), the project applicant shall pay a fair share of the cost for the following traffic improvements in the amounts set forth in Attachment A to these Conditions of Approval. If the TIP and TIF have not been implemented as of the Trigger Date and other future projects that cumulatively trigger the need for the traffic improvements listed below have been approved, then the project applicant shall provide an acceptably rated bond or other security acceptable to the City Attorney to ensure funding of the entire cost of such traffic improvements, subject to an agreement with the City to reimburse the project applicant with funds raised from these future projects for amounts in excess of the Project's fair share. If as of the Trigger Date a TIP and TIF has not been adopted and the project applicant does not agree that the other approved projects have triggered cumulatively the need for such improvements, the project applicant may request that the City conduct a traffic study to determine whether the traffic improvements listed below are required. The project applicant shall pay for the cost of the traffic study, as established by the City with regard to scope of work and selection of a qualified traffic engineer. The City agrees to perform the traffic study and agrees to reasonably consider amending the list of improvements to implement the conclusions of the traffic study. If the study determines that certain of the

improvements are not required, then upon this determination, the project applicant shall pay the City only the Project's fair share of the cost for such improvements, based upon the lower of the amounts set forth in the conditions of approval or a revised cost for such improvements approved by the City in its sole discretion. In the event the project applicant installs or otherwise pays for the entirety of any of the traffic improvements listed below, the project applicant shall receive a credit or reimbursement for such work or costs that exceed its fair share.

No other feasible mitigation measures are available under CEQA Guidelines section 15041(a). These modified mitigation measures will provide greater assurance of feasibility than did the measures set forth in the EIR.

37. The Council adopts and imposes the mitigation measures recommended in the EIR, as modified, as enforceable conditions of the Modified Plan. These mitigation measures comprise the measures necessary to reduce significant impacts to a level less than significant whenever it is feasible to do so. The City has substantially lessened or eliminated all significant environmental effects where feasible. As required by Public Resources Code section 21085 and CEQA Guidelines section 15092(c), the City is approving the unit reductions proposed by the project sponsor, but is not requiring a reduction in the proposed number of housing units as a mitigation measure when there are other feasible specific mitigation measures available that will provide a comparable level of mitigation.

38. The mitigation measures incorporated into and imposed upon the Modified Plan will not have new significant environmental impacts that were not analyzed in the EIR. 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.

VIII. FINDINGS REGARDING IMPACTS

39. In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091 and 15092, the Council adopts the findings and conclusions regarding impacts and mitigation measures that are set forth in the EIR, and summarized in Exhibit B. These findings do not repeat the full discussions of environmental impacts contained in the EIR. The Council ratifies, adopts and incorporates the analysis, explanation, findings, responses to comments and conclusions of the EIR. The Council adopts the reasoning of the EIR, of staff reports, and of staff and the presentations provided by the project sponsor.

40. The Council recognizes that the environmental analysis of the Modified Plan raises several controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The Council acknowledges that there are differing and conflicting expert and other opinions regarding the Modified Plan. The Council 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 Modified Plan. In turn, this understanding has enabled the Council to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues and reviewing the record of the Planning Commission action concerning the project. 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 Modified Plan.

41. Under Public Resources Code section 21081(a)(1) and CEQA Guidelines sections 15091(a)(1) and 15092(b)(2)(A), and to the extent reflected in the EIR and in Exhibit B, the Council finds that changes or alterations have been required in, or incorporated into, the Modified Plan which mitigate or avoid the significant effects on the environment. The Council finds that, even with the modifications to Mitigation Measures K.2d, K.2e, K.2g, K.2h and K.2i adopted by this Council, there remains a possibility that the traffic improvements referenced in impacts K.2d, K.2e, K.2g, K.2h and K.2i would not be built before they are needed. This would occur if the TIF and TIP are not established in time, and if other, cumulative development projects do not proceed so there is no feasible source for reimbursement in excess of the Modified Plan's fair share. Although the Modified Plan will fund its fair share in any event, and although the TIF and TIP will likely be in place, and although the project applicant has agreed to bond for any improvements that are triggered as of the 351st building permit if the TIF and TIP are not in place, the Council concludes that the impacts should be considered significant, and finds them overridden as noted below. The Council also finds that because of the unit count reduction of the Modified Plan, impact A.2 (mobile source air quality emissions) is less than significant. The Council further finds that its modification to Mitigation Measure A.2a will help reduce cumulative impact A.4, but the cumulative impact will remain significant.

42. Under Public Resources Code section 21081(a)(2) and CEQA Guidelines section 15091(a)(2) and 15092(b)(2)(A), the Council recognizes that some mitigation measures require action by, or cooperation from, other agencies. Similarly, mitigation measures requiring the project applicant to contribute towards improvements planned by other agencies will require the relevant agencies to receive the funds and spend them appropriately. The Council 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, the Council 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.

43. Under Public Resources Code section 21081(a)(3) and (b), and CEQA Guidelines sections 15091(a)(3), 15092(b)(2)(B) and 15093, the Council 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.

IX. FINDINGS REGARDING ALTERNATIVES

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

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

46. The EIR evaluated a reasonable range of alternatives to the original project that was described in the DEIR. These alternatives include the (1) three variants of a No Project Alternative; (2) a Lower Density Alternative; (3) a Clustered Development Alternative; and (4) a Solar Power Plant Alternative. The analysis examined the feasibility of each alternative, the environmental impacts of each alternative, and the ability of each alternative to meet the project objectives.

47. The Council certifies that it has independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the Council's and the City's independent judgment as to alternatives. The Council finds that the Modified Plan provides the best balance between satisfaction of the project objectives and mitigation of environmental impacts to the extent feasible, as described and analyzed in the EIR. The project as proposed in the DEIR and all the remaining alternatives are rejected as infeasible, for the reasons stated in the EIR and for the following reasons.

48. The Council also bases its determinations regarding alternatives on Public Resources Code section 21085 and CEQA Guidelines section 15092(c). These sections preclude a public agency from reducing the proposed number of housing units as a mitigation measure or project alternative for a particular significant effect on the environment if the agency determines that there is another feasible specific mitigation measure or project alternative that would provide a comparable level of mitigation.

49. The Council notes that the only significant impacts remaining after mitigation of the Modified Plan are construction dust (impact A.1), cumulative air quality (impact A.4), temporary construction noise (impact H.1), and the traffic impacts that would remain significant if the TIF and TIP are not established, and if cumulative development does not materialize to provide a source for reimbursement in excess of the Modified Plan's fair share (impacts K.2d, K.2e, K.2g, K.2h and K.2i). CEQA requires the City to consider only those alternatives that would attain most of the project objectives while avoiding or substantially lessening any of the significant effects of the project. No such alternatives would avoid the remaining significant impacts.

50. As the EIR explains at pages IV.A-13 and IV.A-14, cumulative development is projected to result in 797 additional dwelling units in the project area, and

project emissions would contribute towards the adverse cumulative impacts resulting from cumulative development. Only drastic reductions in unit counts, which would not fulfill most of the project goals, would reduce the project's contribution towards this cumulative impact to a de minimus amount. Construction dust likewise remains a significant impact so long as any substantial development is proposed, because of the amount of grading needed to prepare the site. The need for traffic improvements would likely be triggered by the other, cumulative projects with or without development of the Modified Plan. As for noise, the EIR explains (at page III-3 of the FEIR) that while construction of fewer units would generate slightly less noise, the temporary, significant noise impacts that flow from the required grading and construction activities would not be substantially affected by reductions in unit counts. Accordingly, any alternative that achieves most of the project goals is likely to result in these significant impacts, and there is thus no feasible alternative available that would reduce or avoid these impacts. The Council addresses particular alternatives below.

51. Under the No Project Alternative, the proposed project and the revised reclamation plan would not be implemented. Several variants of this alternative were examined. The No Project Alternative, Variant One describes a heightened operation of the quarry as entitled under the existing approved reclamation plan. This alternative is not consistent with project objectives of providing a mix of housing types and sizes that will be available to a wide range of income levels and reclaiming the site for uses more compatible with surrounding residential neighborhoods. Moreover, given the increased intensity of the quarry activities and equipment associated with quarry activities as well as the proximity of the project site to nearby residences, significant and unavoidable air quality and noise impacts would occur. Operational noise of the quarry would also be introduced that would not occur under the proposed project. Significant impacts to biological resources may result from quarry operations and potential significant flooding impacts and water quality impacts would occur. Similarly, cultural resources impacts could be significant since mitigation measures identified to lessen potential finds of pale ontological, archaeological, and Native American cultural resources are not required for the quarry operation.

52. Another variant of the No Project Alternative was examined, which would have the quarry operations continue at levels similar to the level of activity in the past five years. This alternative is not consistent with project objectives of providing project objectives of providing a mix of housing types and sizes that will be available to a wide range of income levels and reclaiming the site for uses more compatible with surrounding residential neighborhoods. Impacts of such a scenario would result in different environmental effects than the proposed project. Cumulative air quality impacts would be significant and unavoidable, and significant operational noise impacts would be significant similar to Variant One. Flooding, water quality, and other associated impacts would be significant since the quarry is not tied to mitigation measures, similar to Variant One. This variant also could result in impacts to special-status species, if present, and it would not result in any beneficial impacts to biological habitats. Like Variant One, potential impacts to cultural resources would also continue due to the lack of mitigation measures to address this existing potential impact.

53. The third variant of the No Project alternative proposes 1,519 units of the maximum 3,840 units permitted under the density calculations of the General Plan. This variant would permit more development than the Modified Plan and thus would result in more significant impacts and more severe significant impacts.

54. Alternative 2 proposed lower density. It would allow 236 units instead of the 477 units proposed under the Modified Plan. The EIR explains that this alternative would generate air quality and noise impacts similar to those of the 564-unit project studied in the EIR. While this alternative would decrease the proportionate contribution to air quality impacts, it would not avoid the significant impacts. (DEIR, p. V-33) This alternative also would not achieve project objectives of alleviating a regional housing shortage, in that it would provide fewer houses while still causing significant cumulative air quality and construction noise impacts. This alternative also would not provide as much proportionate funding to the TIF and TIP as would the Modified Plan.

44. Alternative 3 proposes clustered development of 373 units. The cumulative air quality and construction noise impacts would remain significant. Like Alternative 2, this alternative would not achieve project objectives of alleviating a regional housing shortage, in that it would provide fewer houses while still causing significant cumulative air quality and construction noise impacts. This alternative also would not provide as much proportionate funding to the TIF and TIP as would the Modified Plan.

55. Alternative 4 proposes a solar power plant, as suggested by the neighbors during scoping sessions. This alternative would not achieve any of the project objectives, and would be inconsistent with the General Plan. This alternative would not be compatible with the surrounding neighborhood. This alternative would avoid the cumulative air quality impact, but would have significant construction noise impacts. This alternative would preclude implementation of the amended reclamation plan, thereby eliminating the long-term beneficial impacts on potential Alameda whipsnake habitat, and the wildlife corridors, that are provided for with the Modified Plan. This alternative would remove all on-site trees and provide no opportunities for revegetation.

56. The SEIR analyzes an oversized detention basin proposal. This oversized detention basin proposal explored ways to alleviate existing drainage deficiencies, and was not proposed to address any impacts of the Project. Because this proposal does not address impacts of the Project, it is not an alternative to the Project under CEQA. Also, as the SEIR notes, because there is no nexus between an oversized basin and the Project, project approval could not be conditioned upon such a basin.

X. STATEMENT OF OVERRIDING CONSIDERATIONS

57. The Council finds that each of the following specific economic, legal, social, technological, environmental and other considerations and the benefits of the Modified Plan independently outweigh the remaining significant, adverse impacts and is an overriding consideration independently warranting approval. The remaining significant, adverse impacts of the Modified Plan are acceptable in light of each of these overriding considerations.

58. The Modified Plan will provide much-needed housing near an existing major freeway, promoting smart growth principles.

59. The Modified Plan will implement and fulfill the objectives of the Land Use and Transportation Element of the General Plan.

60. The Modified Plan will promote reclamation of the site in a comprehensive way that promotes site development standards consistent with the existing General Plan, alleviating an eyesore that is highly visible from many parts of Oakland, and promote health, safety and welfare interests by repairing landslide-prone areas.

61. The Modified Plan includes an amended reclamation plan, which provides for a more geologically stable and useable site.

62. The Modified Plan would result in significant benefits with regard to the closure of the quarry, including eliminating an incompatible existing land use, improving the surrounding visual, noise and air quality environments once the Modified Plan is built out, adding to habitat value in the area by restoring and revegetating damaged hillside areas and the reestablishing a connection of habitat for the Alameda County Whipsnake. These actions are fully consistent with the objectives of creating and preserving habitat and enhancing the natural environment in the Open Space, Conservation and Recreation Element of the General Plan (OSCAR).

63. The Modified Plan would replace 18.3 acres of low quality potential Alameda County Whipsnake habitat with 37 acres of higher quality potential habitat. The revegetation plan included in the Modified Plan would restore denuded and unstable slopes with revegetated and stabilized slopes that will be maintained by the GHAD that has already been formed for the Modified Plan.

64. The Modified Plan will improve the City's Jobs/Housing balance and help alleviate a regional housing shortage. The Modified Plan will provide a mix of housing types and sizes that will be available to a wide range of income levels.

65. The Modified Plan will provide a significant amount of open space, and contribute trails that will provide opportunities for connections with major parks and open spaces nearby.

14.1-2
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EXHIBIT B

CEQA MITIGATION MONITORING AND REPORTING PROGRAM

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>A. Air Quality</p> <p>A.1: Fugitive dust generated by construction activities, while temporary, would be substantial and would contribute to intermittent ambient respirable particulate concentrations that would violate state standards.</p>	<p>A.1a: The project sponsor shall implement a construction dust abatement program.</p> <ul style="list-style-type: none"> • Water all active construction areas at least twice daily, as required to control dust. Active construction areas would be considered to be those under excavation at a given time, storage piles, and internal roadways. Watering methods may include water trucks for roadways and hoses or sprinklers for storage piles and active excavation. • Cover trucks hauling soil, sand, and other loose materials offsite. • Pave, apply water three times daily, or apply nontoxic soil stabilizers on all unpaved access roads, parking areas, and construction staging areas as required to control dust. 	<p>16</p>	<p>Significant and Unavoidable</p>	<p>City of Oakland Building Inspectors and/or Special Air Quality Monitor as set forth in the Dust Abatement Program.</p>	<p>During reclamation and construction.</p>

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¹ 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" 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)" 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" 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.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<ul style="list-style-type: none"> • Sweep daily with water sweepers if visible soil material is carried onto adjacent public streets. • Hydroseed or apply nontoxic soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more). • Enclose, cover, water twice daily, or apply nontoxic soil stabilizers to exposed stockpiles (direct, sand, etc.), as required to control dust. • Limit traffic speeds on unpaved roads, including the EVA if unpaved, to 15 miles per hour. • Limit the area subject to excavation, grading, and other construction activity at any one time, where possible. • Install sandbags or other erosion control measures to prevent silt runoff to public roadways. • Replant vegetation in disturbed areas as quickly as possible. • Install wheel washers for all existing trucks or wash off the tires or tracks of all trucks and equipment leaving the site. • Install wind breaks, or plant trees/vegetative wind breaks at the predominant windward side of construction areas. 				

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<ul style="list-style-type: none"> <li data-bbox="284 1035 370 1560">• Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 miles per hour. <li data-bbox="407 1035 829 1560">• Monitor particulate concentrations at site fencelines during peak earthmoving activities to assess the adequacy of the frequency of the on-site watering program. This could be performed by the City or an independent consultant using a handheld particulate monitor capable of real time and time-averaged concentrations. Monitoring should be performed at the nearest fenceline in the downwind direction. If time-weighted averages exceed the 24-hour PM-10 standard, then increased watering frequency or other mitigation measures should be implemented. 				
	<ul style="list-style-type: none"> <li data-bbox="867 1035 1133 1560">• Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent offsite transport of dust. Duties will include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons will be provided to BAAQMD prior to the start of construction. 				
	<ul style="list-style-type: none"> <li data-bbox="1170 1035 1468 1560">• The person designated to monitor the dust control program shall be fully qualified and shall be acceptable to the City and paid for by the project sponsor. The monitor shall inspect the site as required based on field observation, during periods of construction activity, with particular emphasis on times when the combination of construction activities, wind, and other relevant factors are likely to cause impacts 				

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	to be more severe.	16	Mitigated to Less than Significant (Other Agency)	Project applicant shall submit the final compliance plan to the Planning Director prior to the issuance of the first building permit, and will be reviewed and approved by the Planning Director concurrent with the issuance of the first building permit.	During course of project build-out.
<p>A.2: The project would result in increased emissions of criteria pollutants due to vehicular traffic to and from the project site as well as natural gas combustion, woodburning, consumer products, and lawn and garden equipment. The increase in emissions would exceed BAAQMD significance criteria for daily emissions of NO_x.</p>	<p>A special inspection deposit shall be required to ensure the project sponsor's compliance with the City approved construction dust abatement program. The amount of the deposit shall be determined by the Building Official and shall be submitted by the project sponsor concurrent with submittal of the construction dust abatement plan.</p> <p>A.2a: The project applicant shall reduce NO_x emissions to no more than 80 pounds per day by reducing motor vehicle emissions. The project applicant will further reduce motor vehicle emissions by implementing one or more of the following BAAQMD mitigation measures for motor vehicle emissions.</p> <ul style="list-style-type: none"> • On-site transit facilities with amenities such as bus stops, benches, shelters, etc. (estimated trip reduction of effectiveness of 0.2 to 2 percent of all trips); • Providing shuttle service to a regional transit system (such as BART) and to employment centers, schools or shopping areas (estimated trip reduction effectiveness of 0.1 to 0.3 percent of all trips); • Providing bicycle paths or lanes (estimated trip reduction effectiveness of 0.1 to 2 percent of all trips); • Providing neighborhood serving shops (estimated trip reduction effectiveness of 1 to 4 percent of all trips); and • Providing electrical power in garages/driveways or on-site for electric vehicle charging and providing preferential parking for electric vehicles (estimated trip 	16	Mitigated to Less than Significant (Other Agency)	<p>Project applicant shall submit the final compliance plan to the Planning Director prior to the issuance of the first building permit, and will be reviewed and approved by the Planning Director concurrent with the issuance of the first building permit.</p> <p>Compliance will be monitored as each measure is implemented throughout the course of project build-out; final check prior to occupancy permit for the 350th unit.</p>	During course of project build-out.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>reduction effectiveness of 0.5 to 1.5 percent of all trips).</p>				
<ul style="list-style-type: none"> • The City shall work with AC Transit on ways to improve bus service to the project site and the surrounding developments. 					
<ul style="list-style-type: none"> • The City shall encourage the project sponsor to link the site's proposed trail system with the regional bicycle and trail networks. 					
<p>A.3: Mobile emissions generated by project traffic would contribute to an increase in CO concentrations at intersections most affected by project traffic.</p>	<p>None required.</p>	<p>Not Applicable</p>	<p>Less than Significant</p>	<p>Not Applicable</p>	<p>Not Applicable</p>
<p>A.4: The proposed project, together with anticipated future development in the downtown area as well as the City of Oakland in general, could result in long-term traffic increases and would cumulatively increase regional air pollutant emissions.</p>	<p>Implementation of Mitigation Measure A.2a.</p>		<p>Significant and Unavoidable</p>	<p>See Mitigation Measure A.2a</p>	<p>See Mitigation Measure A.2a</p>
<p>B. Biological Resources</p>	<p>B.1a: The project applicant shall ensure that construction-related impacts to individual Alameda whipsnakes are avoided through the development and implementation of a Special-Status Species Mitigation and Monitoring Plan.</p>	<p>17</p>	<p>Mitigated to Less than Significant (Other Agency)</p>	<p>City of Oakland Building Department and Planning Department, special biological monitors as set forth in the Plan and on-site project management personnel and other City Staff people as assigned</p>	<p>The Special Status Species Mitigation and Monitoring Plan shall be developed and approved before issuance of a grading permit; monitoring for compliance with the plan shall continue during reclamation and construction, as set forth in the Plan. Compliance with measures shall be checked at each phase of construction.</p>
<p>B.1: Construction activities could result in the harm or direct mortality of Alameda whipsnakes.</p>	<ul style="list-style-type: none"> • A description of the species habitat requirements and movement patterns applicable to the project area; • A procedure for conducting preconstruction surveys before the onset of either initial ground-disturbing activity or restoration of the disturbed slopes each day that these activities will occur. The plan shall require a qualified wildlife biologist to conduct pre-construction surveys by carefully probing 				

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>and hand-excavating all burrows and rock outcrops in the construction footprint/Restored Slope Area that are shown as potential "low quality habitat." In addition, the biologist will supervise the hand removal of all vegetation in the construction footprint. After the area has been searched for snakes, a barrier fence or "herp fence" will be installed between the areas of potential habitat and the construction zone, to ensure that any AWS do not stray into the area during the course of development. Specifically, the area along the northern portion of the Lower Development Area that will about the Undeveloped Area will be fenced. The fence will be installed to prevent snake movement (if any are present) under or over the fencing.</p>				
	<ul style="list-style-type: none"> • A protocol for the selection of qualified wildlife biologist² staff the project for the duration of construction; • Up to 3 full-time construction "monitors" will be on-site to perform regular inspections of potential AWS habitat and ensure that the "herp" exclusion fence is maintained appropriately. These monitors will also expedite species identification should construction personnel observe snake species within the development area. Construction monitors will be on-site during all times that grading is occurring in low potential habitat areas. After the grading is completed, monitors will make regular inspections on a weekly basis and as needed for specific work near potential habitat; 				

² The term "qualified wildlife biologist" as used in this document indicates a person with at least an undergraduate degree in wildlife biology or a related field, and either professionally certified as a wildlife biologist by The Wildlife Society, or working under the direct supervision of a certified wildlife biologist.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>B.2: Post-construction conditions at the project site could result in impacts to the Alameda whipsnake.</p>	<ul style="list-style-type: none"> • Worker education materials and procedures for informing construction crews about the potential presence of Alameda whipsnake, responsibilities of project personnel, and authority of the monitoring staff; and • Clear direction and other procedures as required to (1) identify a potential threat to an individual Alameda whipsnake; and (2) eliminate threatening activities in the vicinity of the snake, including notification of the USFWS within 24 hours. Monitors shall have the authority to halt construction activities, but will not be allowed to relocate whipsnakes. 	17	Mitigated to Less than Significant	City of Oakland Planning Department	Draft of materials due for review prior to issuance of building permits for construction Phase B distribution of materials before issuance of certificates of occupancy for any unit.
<p>B.3: The proposed project would remove 18.3 acres of potential low-quality habitat and create 37 acres of suitable habitat.</p>	<p>B.3: As part of the project, 37 acres of suitable habitat will be created.</p> <p>In addition, Restored Slope areas and any undeveloped areas mapped as "Alameda Whipsnake Potential Habitat" in Figure IV.B-4 of the EIR will not be used for recreational trails and will be fenced with split-rail, post-and-cable or other symbolic fencing. Permanent signs will be placed at 100-foot intervals along the fence specifically excluding wheeled vehicles and off-leash dogs.</p>	17	Mitigated to Less than Significant	City of Oakland Building Department and Planning Department	A conservation easement protecting the approximately 70 acres of open space, which includes the 37 acres of newly created habitat shall be recorded with or concurrently to the recording of the last final map; other mitigation will be completed as part of trail construction.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
B.4: The proposed project's revegetation plan would maintain potentially suitable habitat for the Alameda whipsnake.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
B.5: Construction activities could adversely affect nonlisted special-status nesting raptors and other nesting birds during the breeding season. Removal of trees and shrubs that provide nesting habitat for special-status birds could result in direct mortality of birds. Construction noise and human disturbance could cause nest abandonment, death of young, or loss of reproductive potential at active nests located near the project site.	B.5a: The project applicant shall ensure that construction activities avoid disturbing nests of raptors or other special-status birds through implementation of the Special-Status Species Mitigation and Monitoring Plan.	17	Mitigated to Less than Significant	See Mitigation Measure B.1a	See Mitigation Measure B.1a
B.6: Construction activities that accidentally or otherwise exceed the boundaries of the Lower Development Area, Campus Drive Area, Restored Slope Area, or revegetation areas within the Undeveloped Area have the potential to disturb or result in mortality of special-status plant species (if they are present).	B.6a: The project applicant shall confine construction activities to the Lower Development Area, Campus Drive Area, Restored Slope Area, and revegetation areas of the Undeveloped Area through fencing, markers, signs, or other means as approved prior to construction activity.	17	Mitigated to Less than Significant	City of Oakland Planning and Building Departments	During reclamation and construction, as set forth in the construction phasing and management plan.
B.7: The project would result in disturbance to, or direct mortality of, common wildlife species.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
B.8: Removal of trees and other proposed construction activities during the breeding season could result in direct mortality of special-status bats. In addition, construction noise and human disturbance could	B.8a: The project applicant shall avoid disturbance to the roosts of special-status bats during the breeding season through the implementation of the Special-Status Species Mitigation and Monitoring Plan.	17	Mitigated to Less than Significant	See Mitigation Measure B.1a	See Mitigation Measure B.1a

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
cause roost abandonment and death of young.	None required.	17, 18	Not Applicable	City of Oakland Planning Department	The Plan shall be submitted prior to issuance of a grading permit; revegetation shall be implemented during reclamation and construction and monitored annually after planting during the 5-year establishment period which may be extended until a 1:1 ratio is achieved or if the plan is not successful. (See Mitigation Measure B.10a)
B.10: Project construction and grading activities, including those needed for the Altura EVA, would remove trees protected by Title 12, Chapter 12.36 of the City of Oakland's municipal code.	Implementation of Mitigation Measures B.10a, B.10b and B.10c, below.	17, 18, 21	Mitigated to Less than Significant	See Mitigation Measures B.10a, B.10b and B.10c, below.	See Mitigation Measures B.10a, B.10b and B.10c, below.
B.10a: The project applicant shall implement a revegetation plan approved by the City and consistent with the City Tree Protection Ordinance. Implementation of this plan will mitigate for the removal of protected trees.	<ul style="list-style-type: none"> A diverse planting of coast live oak, valley oak, blue elderberry, California buckeye, and California bay, Installation of trees from pot containers that are 4 inches wide by 14 inches long that are grown from propagules of local origin, collected from the project site and 				

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	immediately adjacent areas;	18			
	<ul style="list-style-type: none"> • Replacement of protected trees either on-site in a planting regime that allows for post-planting mortality and assures an eventual replacement at a ratio of at least 1:1, or the substitution of an in lieu fee if replacement trees cannot be planted on-site due to site constraints, as indicated by the City Tree Protection Ordinance; 				
	<ul style="list-style-type: none"> • Installation of foliage protectors (cages and tree shelters) to protect the planted trees from wildlife browse; 				
	<ul style="list-style-type: none"> • Regular maintenance of the planted trees during a minimum five-year establishment period, after which time the native tree plantings are typically capable of survival and growth without supplemental irrigation, and weed control (maintenance during the plant establishment period will include irrigation, as needed, and weed control); 				
	<ul style="list-style-type: none"> • Annual monitoring one, two, three, and five years after installation by a qualified restoration ecologist/botanist.³ Plant survival shall be evaluated with field surveys. Individual trees shall be tagged during the first year of implementation, catalogued in a data base, and surveyed for survival, growth, and vigor. Monitoring reports will be prepared annually and submitted to the City of Oakland. If at any point during the five-year monitoring period, the mitigation plan is judged to have not been successful, the mitigation action shall be re-initiated, after modification as necessary, and monitored for a succeeding 				

³ The term "qualified botanist" as used in this document indicates a person with at least an undergraduate degree in botany, plant ecology, or a related field, and with a minimum of three years of professional field experience within the region or working under the direct supervision of a professional botanist with at least six years of field experience in the region.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>five-year period; and</p> <ul style="list-style-type: none"> • Additional revegetation measures consistent with the City Tree Protection Ordinance. 	17, 19, 20, 21		City of Oakland Planning Director	<p>A master landscape plan shall be submitted prior to issuance of the first successive building permit, final definition plans consistent with the master landscape plan may be submitted thereafter. Implementation of the plan will be monitored during reclamation and construction and annually up to 3 years following planting. Landscape Maintenance Agreement also required to guarantee establishment.</p>
<p>B.10b: The project applicant shall implement the landscape plan prepared by Bradanini & Associates and ensure the following standards are incorporated into the landscape plan.</p> <ul style="list-style-type: none"> • The plantings must be comprised of a mix of oaks, cedars, poplars, and acacia. • The trees must be planted from various sized containers, from 15-gallon cans to 24-inch boxes. Trees planted from smaller containers should be massed to form dense plant groupings that will more easily adapt to the site and that will facilitate natural root development. • Plantings along major arterial roads should be large-scale trees, no smaller than 25 feet, and densely clustered with no fewer than one tree per 150 square feet of planting area. • The plantings should be monitored by a qualified botanist for two years to assess the rate of survival and vigor. If there is a less than 95 percent survival rate, dead trees will be replaced with vigorous species. • Native rocks and boulders from the quarry should be used to compliment the natural drainage features, landforms, and new plantings. • Native and naturalized trees and shrubs such as oaks, toyon, manzanita, coyote brush, and redbuds planted within native grass and 					

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>wildflowers ground plans should be planted.</p> <ul style="list-style-type: none"> Planting must be installed in clusters between buildings, but no taller than 1.5 feet to preserve views from the buildings. The fire department should be consulted about the proposed plantings to ensure they do not pose a fire hazard. Plantings should be monitored by a qualified botanist for three years to assess the rate of survival and vigor. If there is a less than 85 percent survival rate, dead plants will be replaced with vigorous species. Trees will be from a medium-scale plant palette, such as a flowering pear, cherry, crabapple, loquat, and laurel. Trees should be no larger than 25 feet and no smaller than 12 feet. Trees should be planted from 24-inch boxes where space permits and from 15-gallon containers in smaller spaces. Plantings should be monitored by a qualified botanist for two years to assess the rate of survival and vigor. If there is a less than 95 percent survival rate, dead trees will be replaced with vigorous species. Plants along the edge of the project site will be fast-growing evergreens from a Mediterranean plant palette, such as olive, carob, oleander, and acacia. Plants should be planted in tight groupings of one tree per 100 square feet of planting 				

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>area.</p> <ul style="list-style-type: none"> To encourage optimum adaptation to this area and facilitate natural root development, smaller plantings from containers of no greater than 15-gallon cans should be used. Plantings should be monitored by a qualified botanist for three years to assess the rate of survival and vigor. If there is a less than 85 percent survival rate, dead trees and shrubs will be replaced with vigorous species. 	17, 21		See Mitigation Measure B.10b	Prior to issuance of a grading permit, the applicant shall secure a tree removal permit; the tree protection plan shall be made a part of and implemented with the revegetation plan (see Mitigation Measure B.10b for further monitoring).
	<p>B.10c: The project applicant shall develop and implement a tree protection plan consistent with the City of Oakland Tree Protection Ordinance that will ensure construction-related impacts to protected trees outside of the construction area are avoided.</p>				
	<ul style="list-style-type: none"> If proposed construction activities will encroach upon the dripline (approximately equal to the area covered by the tree's canopy) of a protected coast live oak tree, the following measures will be implemented for these trees: (1) a 4-foot-tall temporary fence will be placed around the dripline of the tree prior to beginning the work; (2) no grade changes will occur within the dripline of the tree, unless specifically indicated in the plans; (3) no trenching will be allowed within the dripline of the tree (if it is necessary to install underground utilities within the temporary fence, the utility trench will be hand-dug so as not to cut any roots over 2 inches in diameter, or a line may be bored or drilled); and (4) only dead, weakened, diseased, or dangerous branches will be removed, and only by a licensed arborist (any branches 2 inches in diameter or larger that must be cut will be cleanly cut 				

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>with pruning rather than excavation equipment).</p> <ul style="list-style-type: none"> • Silt fences will be installed around the dripline of trees to be retained within the development envelope prior to any construction-related activities in order to prevent accidental damage. These fences will remain in place until all construction-related activities have ceased. • Initial grading and other construction activities around protected trees will be monitored by a qualified arborist (selected by the City) on a monthly basis or as necessary to ensure that trees are not damaged or removed unnecessarily. The results of the monitoring will be documented in writing. • A certified arborist will survey coast live oak and California bay trees for evidence of Sudden Oak Death Syndrome (SOD) prior to removal. If trees suspected of infection by the SOD pathogen are found on the project site, the Alameda County Agricultural Commissioner will be contacted for further action. Removal of oak trees will follow <i>Guidelines for Prevention of Spread of SOD</i> (http://www.suddenoakdeath.org/). These guidelines recommend either chipping tree material and spreading the chips on-site or burning slash material on-site. Wood chips should not be transported off site. Material too large to chip should be left in place to the greatest extent possible. If wood is removed from the property for disposal, it should be disposed of locally and not transported to an area that is free of the disease. 				

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<ul style="list-style-type: none"> Tree removal will not occur during March through June without a bird survey to determine that the tree is unused during the breeding season by avian species that are protected under Fish and Game Codes 3503, 3503.5, and 3511. Adherence to this mitigation measure would reduce the impacts to protected bird species to a less-than-significant level. 	15, 41	Mitigated to Less than Significant	City of Oakland Planning and Building Departments	During reclamation and construction as part of construction phasing and management plan.
C. Cultural Resources	<p>C.1: Excavation at the proposed project site and Altura EVA could unearth and damage important paleontological resources.</p>	15, 41	Mitigated to Less than Significant	City of Oakland Planning and Building Departments	During reclamation and construction as part of construction phasing and management plan.
<p>C.2: The proposed project could result in discovery of and/or inadvertent damage to Native American cultural resources.</p>	<ul style="list-style-type: none"> C.1a: If a paleontological resource is unearthed at the project site or along Altura Place, either during excavation or construction activities, the project sponsor shall halt all excavation and/or construction activities within a 25-foot radius of the find. A qualified cultural resource consultant or archaeologist shall evaluate the potential resource, as well as assess the significance of the find if the resource is found to be significant under the criteria set forth in Section 15064.5 of the CEQA Guidelines. The project sponsor shall not alter any of the uncovered materials or their context. If the City determines that avoidance is not feasible, a qualified cultural resource consultant shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important. The plan shall be prepared in accordance with provisions of Public Resources Code Section 21083.2 and shall be submitted to the City for review and approval. Implementation of Mitigation Measures C.2a and C.2b, below. C.2a: If a potential Native American cultural resource is discovered at the project site or along Altura Place, either during excavation or 	15, 41	Mitigated to Less than Significant (Other Agency)	See Mitigation Measures C.2a and C.2b, below.	See Mitigation Measures C.2a and C.2b, below.
	<p>C.2a: If a potential Native American cultural resource is discovered at the project site or along Altura Place, either during excavation or</p>	15, 41	Mitigated to Less than Significant (Other Agency)	City of Oakland with recommendation	During reclamation and construction.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>construction activities, the project sponsor shall immediately halt all excavation and/or construction activities within 25 feet of the find. The City of Oakland shall also require that a qualified archaeologist evaluate the find, assess the significance of the find, and recommend appropriate actions. Potential Native American resources include, but are not limited to, obsidian and chert flakes and chipped stone tools, arrowheads, ornaments, pottery fragments, grinding and mashing implements (such as slabs and handstones, and mortars and pestles), and locally darkened midden soils containing some of the previously listed items plus fragments of bone or fire-affected stones. Potential actions include, but are not limited to, significance evaluation, collection, recordation, and analysis. The City of Oakland will assure implementation of appropriate mitigation measures recommended by the cultural resource consultant.</p>	15, 41	Mitigated to Less than Significant	by a cultural resource consultant	During reclamation and construction; please refer to C.1a for detainment and monitoring.
<p>C.3: Development proposed as part of the project could unearth and damage an important archaeological resource.</p>	<p>C.3a: In the event an archaeological resource is unearthed, either during excavation or construction activities, the project sponsor shall immediately halt all excavation and/or construction activities within 25 feet of the find. A qualified archaeologist shall evaluate the find, and assess the significance of the find, and recommend actions. Potential archaeological resources include, but are not limited to,</p>	15, 41	Mitigated to Less than Significant	City of Oakland	During reclamation and construction.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>C.4: The proposed project would be located adjacent to or near historic buildings, as defined by the Oakland General Plan Historic Preservation Element and/or by the CEQA Guidelines.</p>	<p>structural remains or portions of foundations (bricks, cobbles/boulders, stacked field stone, postholes, etc.); trash pits, privies, wells, and associated artifacts; and isolated artifacts, including glass bottles, manufactured wood items, etc. The City of Oakland will assure implementation of recommendations made by the archaeologist.</p> <p>None required.</p>	<p>Not Applicable</p>	<p>Less than Significant</p>	<p>Not Applicable</p>	<p>Not Applicable</p>
<p>D. Geology, Seismicity, and Mineral Resources</p>	<p>D.1: In the event of a major earthquake, especially on the Hayward fault, shear zones or other areas on or near the proposed project site could be susceptible to minor, sympathetic rupture due to excessive seismic ground motion. Such an event could expose people and property to the hazards associated with lateral and/or vertical ground offset.</p>	<p>22</p>	<p>Mitigated to Less than Significant</p>	<p>City of Oakland, Building Services Division and Planning Department</p>	<p>Before issuance of the first building permit.</p>
<p>D.2: In the event of a major earthquake in the region, seismic ground shaking could potentially</p>	<p>D.1a: The site-specific, design-level geotechnical investigation, which is typical for any residential development and required as part of this project, shall include recommendations for structural design parameters for residential foundations that are sufficient to resist sympathetic movement within shear zones on the project site. For those planned structures underlain by thin, engineered fill or bedrock, the geotechnical engineer shall identify appropriate structural mitigation and incorporate the mitigation into the final design-level geotechnical recommendations. The final recommendations shall comply with UBC design standards and be approved by the City of Oakland Building Services Division. Once approved, these recommendations shall become part of the project and be incorporated into the final design.</p> <p>D.2a: The site-specific, design-level geotechnical investigation, which is typical for any residential development and required as part</p>	<p>22</p>	<p>Mitigated to Less than Significant</p>	<p>City of Oakland, Building Services</p>	<p>Before issuance of the first building permit.</p>

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>injure people and cause collapse or structural damage to existing and proposed structures. Ground shaking could potentially expose people and property to seismic-related hazards, including liquefaction and earthquake-induced settlement.</p>	<p>of this project, shall include an analysis of expected ground motions along the Hayward fault. This analysis shall be in accordance with the 1997 UBC, which requires structural design that incorporates ground accelerations expected from known active faults. Expected ground motions determined by a registered geotechnical engineer shall be incorporated into the final structural design as part of the project. The final seismic considerations for the site shall be submitted to and approved by the City of Oakland Building Services Division.</p>	<p>D.3: Development at the project site could subject people and property to slope instability hazards, including landslides, debris flows, and rockfalls caused by seismic and nonseismic mechanisms.</p>	<p>Mitigated to Less than Significant</p>	<p>See Mitigation Measures D.3a, D.3b, D.3c and D.3d, below.</p>	<p>See Mitigation Measures D.3a, D.3b, D.3c and D.3d, below.</p>
<p>D.3a: During slope cut-and-fill operations, especially on the high slope in the Restored Slope Area where landslide materials have been identified, incompetent bedrock materials or landslide debris exposed in the design cut slope shall be completely removed and replaced with drained, engineered fill. Inspection of these materials shall be completed by a registered civil or geotechnical engineer or certified engineering geologist with knowledge of the Leona Quarry geology and past landslide conditions. Upon identification of incompetent materials, the engineer or geologist shall oversee the removal of the suspected material and placement of the drained, engineered fill.</p>	<p>D.3b: In the Undeveloped Area, residential or commercial buildings shall not be sited between the street and the edge of the sloped area. To avoid potential debris flow or rockfall, or other unstable slope condition, residential and commercial building shall be placed on the</p>	<p>22</p>	<p>Mitigated to Less than Significant</p>	<p>City of Oakland, Building Services Division, Public Works Agency and Planning Department</p>	<p>Prior to the issuance of the grading permit.</p>
<p>D.3b: In the Undeveloped Area, residential or commercial buildings shall not be sited between the street and the edge of the sloped area. To avoid potential debris flow or rockfall, or other unstable slope condition, residential and commercial building shall be placed on the</p>	<p>D.3b: In the Undeveloped Area, residential or commercial buildings shall not be sited between the street and the edge of the sloped area. To avoid potential debris flow or rockfall, or other unstable slope condition, residential and commercial building shall be placed on the</p>	<p>22</p>	<p>Mitigated to Less than Significant</p>	<p>City of Oakland, Building Services Division and Planning Department</p>	<p>Final building and site plans shall incorporate recommendations and requirements pertaining to slope stabilization measure; implementation</p>

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	opposite side of the street, away from slopes of the western portion of the Undeveloped Area.	22		See Mitigation Measure D.3	during construction Phase A; review and approved by qualified geotechnical engineer hired by the City.
	<p>D.3c: In order to reduce potential slope instability hazards, the applicant shall implement measures to improve slope stability and reduce the potential for rockfall hazards in areas of the proposed site with unstable slope conditions. These measures could include but are not limited to the construction of debris fences, diversion walls, drainage/debris catchment benches fence barriers at the base of slopes, installation of rock bolts (or equivalent technology) within the slope face, or mechanical removal of unstable or potentially unstable rock masses in the disturbed, Undeveloped Area on the slope above "B" Street (also referred to as "H" Street (see Chapter III of the DEIR)), as recommended in the Final Grading and Geotechnical Report.</p>	22			Before the issuance of a grading permit and during reclamation.
<p>D.4: Development at the project site could be subjected to settlement, differential settlement, and related geologic hazards.</p>	<p>D.4a: The applicant shall incorporate into the project grading plan and construction specifications the recommendations provided by the project geotechnical engineer regarding settlement, presented in Berloger's May, 2003 report, as amended.</p> <ul style="list-style-type: none"> All fill materials on the project site, with the exception of the fill material in the lower 	22	Mitigated to Less than Significant		Before the issuance of a grading permit and during reclamation and construction.

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	<p>portion of the Lower Development Area, shall be removed and replaced as engineered fill. Fill in the lower portion of the Lower Development Area can remain in its current condition because of its compacted state.</p> <ul style="list-style-type: none"> Given the configuration of the proposed grading, it is recommended that the lower portion of the Lower Development Area be filled to design grade and settlement plates installed to monitor the settlement of the existing fill from the increased loading of the proposed fill. Settlement plates shall be surveyed on an bimonthly basis (every two weeks) for the first three months and then monthly thereafter for the following 18 months. Construction of buildings shall proceed once settlement plate readings indicate that the rate of settlement has decreased to a level that structures can tolerate. New fill shall be compacted to a minimum of 98 percent relative compaction where placed more than 90 feet below finished grade; 95 percent relative compaction where placed up 40 feet below finished grade and 90 percent relative compaction where placed above 40 feet to finished grade. 				
<p>D.5: Soil erosion of exposed cut or fill slopes, native slopes with removed vegetation, and soil stockpiles could result in damage to structures and temporary disruption to rough and final grading operations and construction as well as exacerbate the potential for landslide or debris flow.</p>	<p>D.5a: The project applicant shall incorporate into the grading and construction specifications provisions requiring that all phases of construction implement best management practices (BMPs) to reduce and eliminate soil erosion. The contractor shall implement these BMPs, and the contractor shall be responsible for the inspection and maintenance of the BMPs through all phases of construction.</p>	22, 41	Mitigated to Less than Significant	City of Oakland Building Services Division, on-site inspectors and monitors	Before the issuance of a grading permit and during reclamation and construction.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFREAME
D.6: Shallow groundwater levels on the project site and the proposed detention basin could alter groundwater flow patterns, cause groundwater mounding, increase groundwater flow gradients, and ultimately result in increased groundwater seepage rates downgradient of the project site.	Implementation of Mitigation Measures D.6a and D.6b, below.	23	Mitigated to Less than Significant	See Mitigation Measures D.6a and D.6b, below.	See Mitigation Measures D.6a and D.6b, below.
D.7: Development of a residential community at the Leona Quarry site would permanently restrict the ability to quarry the Leona Rhyolite aggregate source, which is considered of prime importance because it is a known economic mineral deposit.	D.6a: The applicant shall incorporate the geotechnical recommendation for 10-foot-deep, trenched subdrains in areas where groundwater would be shallow and potentially seep to the surface after final grading (i.e., the southeast corner of the Lower Development Area). As recommended, the subdrains would be installed along the inboard edges of "I," "J," and "K" Streets.	23		City of Oakland Building Services Division	The geotechnical recommendations shall be incorporated into the final grading and construction specifications; prior to issuance of a grading plan or the first building permit, further monitoring thereafter during reclamation.
D.8: Development of a residential community at the Leona Quarry site could result in exposing sulfur-bearing mineral ores to oxygen and water, potentially causing stormwater runoff quality issues.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
E. Hazards and Hazardous Materials					
E.1: Naturally occurring levels of metals such as arsenic in soil could	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>expose construction workers or future residents to hazards.</p>	<p>None required.</p>	<p>Applicable</p>	<p>Significant</p>	<p>Not Applicable</p>	<p>Not Applicable</p>
<p>E.2: Hazardous materials used on-site during construction activities (i.e., petroleum products) could be spilled through improper handling or storage.</p>	<p>None required.</p>	<p>Not Applicable</p>	<p>Less than Significant</p>	<p>Not Applicable</p>	<p>Not Applicable</p>
<p>E.3: Development at the project site would expose future residents to hazards associated with wildland fires.</p>	<p>E.3a: The project sponsor shall follow the policies and guidelines set forth in the Oakland Municipal Code and the Vegetation Management Almanac for the East Bay Hills (prepared by the Hills Emergency Forum, 2001) to minimize the use of highly flammable building materials and landscaping.</p>	<p>18, 19</p>	<p>Mitigated to Less than Significant</p>	<p>See Mitigation Measures B.9, B.10a, B.10b and B.10c.</p>	<p>During construction and implementation of the revegetation plan and landscape plan. (See Mitigation Measures B.9, B.10a, B.10b and B.10c.)</p>
<p>F. Hydrology and Water Quality</p>	<p>F.1: Development of the project site could create localized flooding and contribute to a cumulative flooding downstream.</p>	<p>Implementation of Mitigation Measures F.1a and F.1b, or Alternate Mitigation Measure F.1a, and Alternate Mitigation Measure F.1b:</p> <p>Mitigation Measure F.1a: The Project sponsor shall be required to construct a stormwater management system, that includes a detention basin and outlet works capable of maintaining peak flows from the 24-hour, 25-year design storm at or below pre-project levels, and that will not fail structurally during a 100-year storm, as determined using the parameters resulting from the consensus process discussed in the SEIR. The basin shall be lined with an impermeable material to minimize leakage and contribution to local groundwater flow. A surface drainage swale shall be constructed along the base of the western-most external berm slope of the detention basin to capture surface water runoff from the berm and convey it to appropriate stormwater outlets. The stormwater management system reviewed in the SEIR, with the 1.5.6 acre-foot lower detention</p>	<p>Mitigated to Less than Significant</p>	<p>City of Oakland Public Works Agency and Building Services Division</p>	<p>Prior to issuance of any building permits for Phase 1.</p>

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>basin, meets these performance standards.</p>	<p>Mitigation Measure F.1b: The Project sponsor shall modify the existing Ridgemoor Sub-watershed pond (Pond 4). Improvements to the pond outflow structure shall include the following elements (or design elements that achieve an equivalent discharge rating curve using the parameters resulting from the consensus process discussed in this SEIR equivalent to that achieved by the following elements): replacing the existing 30-inch outlet pipe with a 42-inch outlet pipe, adding a single drop box with one rectangular orifice, and construction an emergency spillway. The perimeter of the drop box would be comparable to a 36-inch rise and the rectangular orifice would be 2.75 feet by 2.0 feet in size. The replacement of the outlet pipe shall be consistent with standard engineering practice. A geotechnical evaluation of the existing detention basin levees and proposed modifications shall be completed to assess the overall integrity of the pond and recommendations from the evaluation shall become part of the Project design and be implemented as directed by a registered geotechnical engineer.</p>			
	<p>Alternate Mitigation Measure F.1a: The Project sponsor shall be required to construct a stormwater management system, that includes a detention basin and outlet works capable of maintaining peak flows from the 24-hour, 25-year design storm at or below pre-project levels, and that will not fail structurally during a 100-year storm, as determined using the parameters resulting from the consensus process discussed in the SEIR. The basin shall be lined with an impermeable material to minimize leakage and contribution to local groundwater flow. A surface drainage swale shall be constructed along the base of the western-most external</p>				

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	<p>berm slope of the detention basin to capture surface water runoff from the berm and convey it to appropriate stormwater outlets. The stormwater management system reviewed in the SEIR, with a single basin with 20.5 acre-feet of detention capacity, meets these performance standards.</p> <p>Alternate Mitigation Measure F.1b: The Project sponsor shall modify the existing Ridgmont Sub-watershed pond (Pond 4) by installing a 42" flow-through pipe system to minimize the detention capabilities of that existing pond.</p>	23	Mitigated to Less than Significant (Other Agency)	See Mitigation Measures F.2a and F.2b, below.	See Mitigation Measures F.2a and F.2b, below.
<p>F.2: Construction activities could result in soil erosion and increase levels of suspended sediments and contaminants in stormwater flows, resulting in adverse impacts to downstream water quality.</p>	<p>F.2a: The project applicant shall comply with all National Pollutant Discharge Elimination System (NPDES) requirements, including the preparation of a SWPPP prior to construction activities, as required by the State Water Resource Control Board's (SWRCB) General Permit for Construction Activities. Implementation of the plan starts with the commencement of construction and continues through the completion of the project. Upon completion of the project, the sponsor must submit a Notice of Termination to the SWRCB to indicate that construction is completed. The SWPPP shall include at a minimum:</p> <ul style="list-style-type: none"> Excavation and grading activities will be scheduled for the dry season only (April 15 to October 15), to the extent possible. This will reduce the chance of severe erosion from intense rainfall and surface runoff, as 	23, 41	Mitigated to Less than Significant (Other Agency)	See Mitigation Measures F.2a and F.2b, below. SWRCB and Building Services Division along with Public Works Agency	Prior to issuance of a grading permit.

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	<p>well as the potential for soil saturation in swale areas.</p>				
	<ul style="list-style-type: none"> • If excavation occurs during the rainy season, storm runoff from the construction area will be regulated through a stormwater management/erosion control plan that may include temporary on-site silt traps and/or basins with multiple discharge points to natural drainages and energy dissipaters. Stockpiles of loose material will be covered and runoff diverted away from exposed soil and material. If work is stopped due to rain, a positive grading away from slopes will be provided to carry the surface runoff to areas where flow can be controlled, such as the temporary silt basins. Sediment basin/traps will be located and operated to minimize the amount of offsite sediment transport. Any trapped sediment will be removed from the basin or trap and placed at a suitable location on-site, away from concentrated flows, or removed to an approved disposal site. 				
	<ul style="list-style-type: none"> • Temporary erosion control measures will be provided until perennial revegetation or landscaping is established and can minimize discharge of sediment into nearby waterways. For construction within 500 feet of a water body, straw bales will be placed upstream adjacent to the water body. 				
	<ul style="list-style-type: none"> • After completion of grading, erosion protection will be provided on all cut-and-fill slopes. Revegetation will be facilitated by mulching, hydroseeding, or other methods and should be initiated as soon as possible after completion of grading and prior to the onset of the rainy season (by November 1). 				
	<ul style="list-style-type: none"> • Permanent revegetation/landscaping will 				

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	<p>emphasize drought-tolerant perennial ground coverings, shrubs, and trees to improve the probability of slope and soil stabilization without adverse impacts to slope stability due to irrigation infiltration and long-term root development.</p>	<ul style="list-style-type: none"> BMPs selected and implemented for the project will be in place and operational prior to the onset of major earthwork on the site. The construction phase facilities will be maintained regularly and cleared of accumulated sediment as necessary. 			
	<ul style="list-style-type: none"> Hazardous materials such as fuels and solvents used on the construction sites will be stored in covered containers and protected from rainfall, runoff, and vandalism. A stockpile of spill cleanup materials will be readily available at all construction sites. Employees will be trained in spill prevention and cleanup, and individuals will be designated as responsible for prevention and cleanup activities. 	23, 41		See Mitigation Measure F.2a	See Mitigation Measure F.2a
<p>F.3: Construction dewatering could result in discharge of sediment-laden groundwater or impacts to local groundwater gradients and flow.</p>	<p>F.3a: The project sponsor shall comply with all applicable regulatory agency requirements set forth by the City of Oakland Public Works, San Francisco Bay RWQCB, or EBMUD regarding disposal of groundwater generated during site dewatering activities. Prior to discharge, the applicant will be required to obtain a discharge permit from ACFC or the RWQCB. In addition, these agency requirements will be incorporated into a construction dewatering plan that will provide contractors and future site operators</p>	23	Mitigated to Less than Significant (Other Agency)	RWQCB, EBMUD, ACFC, City of Oakland Public Works Agency, on-site inspectors and Building Services Division.	During reclamation and construction.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
with guidance on groundwater and surface water disposal during construction activities. The dewatering plan shall become part of the project.	Implementation of Mitigation Measures F.4a and F.4b, below.	23	Mitigated to Less than Significant (Other Agency)	See Mitigation Measures F.4a and F.4b, below.	See Mitigation Measures F.4a and F.4b, below.
F.4: Upon completion of construction activities, the proposed project could result in a long-term increase in stormwater runoff contaminant levels, degrading downstream receiving water quality.	<p>F.4a: To comply with provisions of the Clean Water Act, the project shall incorporate BMPs, including preparation of a stormwater discharge plan to minimize stormwater runoff and associated offsite migration of stormwater pollutants.</p> <ul style="list-style-type: none"> • Grass strips, high-infiltration substrates, and grassy swales will be used where feasible throughout the development to reduce runoff and provide initial stormwater treatment. • Roof drains will drain to natural surfaces or swales where feasible to avoid excessive concentration and channelization of stormwater. • Permanent energy dissipaters will be included for drainage outlets. • The water quality detention basins will be designed to provide effective water quality control measures, including the following: <ul style="list-style-type: none"> - Maximize detention time for settling of fine particles, within basin draw down requirements as set by the ACFC or City of Oakland. - Establish maintenance schedules for 	23		City of Oakland Building Services Division and Public Works Agency	Final grading and a master site drainage plan reviewed prior to the issuance of grading and improvement plans. The compliance with this plan is monitored during reclamation and construction of the Project.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>periodic removal of sedimentation, excessive vegetation, and debris that may clog basin inlets and outlets.</p> <p>F.4b: The project sponsor shall develop and implement a vegetation control and/or fertilizer management plan for the landscape areas, with the goal of reducing potential discharge of such chemicals to local waterways.</p>	23		City of Oakland Building Services and Public Works Agency	See Mitigation Measure F.4a
<p>F.5: Increased sediment and pollutant loads from site development in surface runoff and storm water could decrease habitat quality for central California coastal steelhead and winter-run Chinook salmon in drainage courses downstream from the project site and in the San Francisco Bay.</p>	<p>F.5a: The project sponsor shall prepare and implement a SWPPP for the project as required by the San Francisco Bay RWQCB under its NPDES General Permit. The SWPPP will be updated as needed to reflect changes in the project design and site conditions.</p> <ul style="list-style-type: none"> Berms will be constructed in the project area with sediment catchment basins in depressions and stormwater collection areas in the construction zone, using hay bales or other structures suitable to minimize sediment from being transported and deposited outside of the construction zone. Catchment basins and berms will be incorporated into the final project design. The SWPPP will outline interim and permanent stabilization practices, including a schedule for implementation, to ensure that disturbed portions of the project site are stabilized as quickly as practicable. The use of sediment control basins, sediment traps, silt fences, vegetative buffer strips, or equivalent control measures will be taken to rescue sediment and pollutant loads into sensitive riparian and wetland habitats. 	22, 23	Mitigated to Less than Significant (Other Agency)	RWQCB	See Mitigation Measure F.4a

G. Land Use, Plans, and Policies

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
No impacts or mitigation measures.					
H. Noise					
H.1: Construction activities would intermittently and temporarily generate noise levels above existing ambient levels in the project vicinity.	Implementation of Mitigation Measures H. 1a, H. 1b and H. 1c, below.	41	Significant and Unavoidable	City of Oakland Building Services and Planning Division and Police Department	Measures incorporated into the construction plan, monitored for compliance during reclamation and construction.
	H.1a: The project sponsor shall ensure that standard construction activities be limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday. No construction activities shall be allowed on weekends, until the buildings are enclosed, without prior authorization of the Building Services and Planning Divisions of the Community and Economic Development Agency.			See Mitigation Measure H.1	See Mitigation Measure H.1
	H.1b: To reduce daytime noise impacts due to construction, the City shall require construction contractors to implement the following measures:	41		See Mitigation Measure H.1	See Mitigation Measure H.1
	<ul style="list-style-type: none"> • Signs will 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 in the event of problems. 				Prior to issuance of the first building permit and on-going throughout the course of construction.
	<ul style="list-style-type: none"> • An on-site complaint and enforcement manager will be posted to respond to and track complaints. 				
	<ul style="list-style-type: none"> • A preconstruction meeting will be held with the job inspectors and the general contractor/on-site project manager to confirm 				Prior to issuance of the first building permit for each phase of

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>that noise mitigation and practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc.).</p>				<p>construction as set forth in Condition of Approval No 13.</p>
	<ul style="list-style-type: none"> Equipment and trucks used for project construction will utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible). 				<p>During construction as established in Mitigation Measure H.1, on-going until construction completed.</p>
	<ul style="list-style-type: none"> Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction will be hydraulically or electrically powered, wherever possible, to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust will be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves will be used, where feasible, which could achieve a reduction of 5 dBA. Quieter procedures will be used, such as drills rather than impact equipment, whenever feasible. 				
	<ul style="list-style-type: none"> Stationary noise sources will be located as far from sensitive receptors as possible and will be muffled and enclosed within temporary sheds, or insulation barriers or other measures will be incorporated to the extent feasible. 				
	<ul style="list-style-type: none"> For noise over 90 dBA, a third-party peer review, paid for by the applicant, shall be required to assist the City in evaluating the feasibility and effectiveness of a noise 				<p>Plan submitted for review and approval prior to issuance of the grading</p>

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	reduction plan submitted by the applicant.				permit.
<ul style="list-style-type: none"> For noise over 90 dBA, a special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of deposit shall be determined by the Building Official and the deposit shall be submitted by the project sponsor concurrent with submittal of the noise reduction plan. 		41		City of Oakland Building Services Division	Prior to issuance of the grading permit, plan implementation and monitoring on-going as required throughout the course of construction.
<p>H.1c: If subterranean blasting were to occur at the project site, the project applicant shall prepare an operational control and detonation plan. The plan shall be submitted to the City for review and approval prior to the issuance of grading permits. The plan shall include the following: (1) be prepared by a licensed geophysicist; (2) assure that ground acceleration will not effect neighboring structures; (3) monitor such ground acceleration with a minimum of three seismographs; and (4) designate hours of blasting and techniques to reduce noise levels to the extent feasible. Such techniques may include the use of non-electric caps and covering of shots with fill material or blankets. The blasting contractor shall notify building occupants within 500 feet of the project site of the blasting schedule at least one week in advance.</p> <p>The construction specifications for the project shall incorporate standards for vibration thresholds published by the U.S. Bureau of Mines or Caltrans to avoid significant impacts to humans and structures. The construction specifications will require monitoring of vibration during detonation events, which will then be compared to the adopted standards. Monitored exceedance of the standards would result in suspension of detonations and an adjustment in design of subsequent blasts.</p>		41		City of Oakland Building Services Division, Planning Department and Police Department	Prior to the onset of subterranean blasting; the plan shall be submitted to the City for review and approval. Compliance shall be monitored throughout the period of subterranean blasting during reclamation and construction.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
H.2: Project-related traffic would generate noise that would affect nearby sensitive receptors.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
H.3: The project would expose persons to noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
H.4: The proposed project, together with anticipated future development in Oakland, could result in long-term traffic increases and could cumulatively increase noise levels.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
I. Population and Housing					
I.1: The proposed project would result in an increase in the residential population of the South Hills Planning Area, the City of Oakland, and Alameda County.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
I.2: When considered with other development in the area, including development proposed for the Oak Knoll Naval Medical Center site, the project would cumulatively increase the population in the vicinity of the project site.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
J. Public Services					
J.1.1: The proposed project could result in an increase in calls for police protection services.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
J.1.2: The proposed project would increase the number of calls for fire	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
protection services and emergency medical assistance.		Applicable	Significant		
J.3: The proposed project would result in new students for local schools.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
J.4: Development proposed as part of the project would increase the demand for library services.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
J.5: Development proposed as part of the project could increase the demand for parks and recreational facilities.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
J.6: Development proposed as part of the project, when combined with development proposed at the former Oak Knoll Naval Medical Hospital, would result in cumulative impacts to Oakland's public schools.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
K. Transportation, Circulation, and Parking					
K.1: Traffic generated by Phase 1 of the project would affect traffic levels of service at local intersections in the project vicinity in 2005.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>K.2: Traffic generated by the project (under full buildout) would affect traffic levels of service at local intersections in the project vicinity in 2020.</p>	<p>Implementation of Mitigation Measures K.2a, K.2b, K.2c, K.2d, K.2e, K.2f, K.2g, K.2h, and K.2i.</p> <p>Note: Mitigation Measures K.2d, K.2e, K.2g, K.2h and K.2i include the following:</p> <p>The City shall use its best, good faith efforts, to prepare and implement a Traffic Improvement Program (“TIP”) and a Traffic Improvement Fee (“TIF”) for the Edwards Avenue Corridor, which may include the improvements listed below. If the City has adopted a TIP and TIF prior to the issuance of a building permit for the 351st unit excluding the Gateway Senior Residential and Lots 1-19 (the “Trigger Date”), the Project Applicant shall pay a fair share of the cost for the following traffic improvements in the amounts set forth in Attachment A to these Conditions of Approval. If the TIP and TIF have not been implemented as of the Trigger Date and other future projects that cumulatively trigger the need for the traffic improvements listed below have been approved, then the Project Applicant shall provide an acceptably rated bond or other security satisfactory to the City Attorney to ensure funding of the entire cost of such traffic improvements, subject to an agreement with the City to reimburse the Project Applicant with funds raised from these future projects for amounts in excess of the Project’s fair share. If as of the Trigger Date a TIP and TIF have not been adopted and the Project Applicant does not agree that the other approved projects have triggered cumulatively the need for such improvements, the Project Applicant may request that the City conduct a traffic study to determine whether the traffic improvements listed below are required. The Project Applicant shall pay for the cost of the traffic study, as established by the City with regard to scope of work and selection of a qualified traffic</p>	25, 26	<p>Mitigated to Less than Significant (Other Agency); However K.2d, K.2e, K.2g, K.2h and K.2i are Significant and Unavoidable if no TIP/ TIF and no reimbursement so project is simply funding its fair share.</p>	<p>See Mitigation Measures K.2a, K.2b, K.2c, K.2d, K.2e, K.2f, K.2g, K.2h, and K.2i.</p>	<p>See Mitigation Measures K.2a, K.2b, K.2c, K.2d, K.2e, K.2f, K.2g, K.2h, and K.2i.</p>

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>engineer. The City agrees to perform the traffic study and agrees to reasonably consider amending the list of improvements to implement the conclusions of the traffic study. If the study determines that certain of the improvements are not required, then upon this determination, the Project Applicant shall pay the City only the Project's fair share of the cost for each such improvement, based upon the lower of the amounts set forth in Attachment A to the conditions of approval for the project or a revised cost for such improvements approved by the City in its sole discretion. In the event the Project Applicant installs or otherwise pays for the entirety of any of the traffic improvements listed in Mitigation Measures K.2c, K.2d, K.2e, K.2f, K.2g, K.2h, K.2i, the Project Applicant shall receive a credit or reimbursement for such work or costs that exceed its fair share. This Condition of Approval applies to the following traffic improvements:</p>	25, 26		<p>City of Oakland Traffic Engineering Department and Planning Department</p>	<p>Submit plan prior to initiation of construction Phase B; reviewed, approved and implemented to the extent required of applicant prior to occupancy of 150th unit for remainder of project applicant's responsibility.</p>
<p>K.2a: Addition of project-generated traffic at the modified unsignalized intersection of <i>Edwards Avenue / I-580 westbound on-ramp - Mountain Boulevard [1]</i>, reconfigured to contain a fourth leg (project site access), would cause traffic signal warrants, not satisfied without the project, to be satisfied during the a.m. and p.m. peak hours (a significant impact).</p>	<p>K.2a: The project applicant shall work with the City of Oakland and Caltrans to install traffic signals at the unsignalized intersection of <i>Edwards Avenue / I-580 westbound on-ramp - Mountain Boulevard [1]</i>, to reconfigure traffic lanes on Edwards Avenue between the I-580 eastbound off-ramp and Mountain Boulevard, and to widen the freeway on-ramp to provide two lanes. The project applicant shall pay for this measure. Prior to commencing construction of the project, the project applicant shall prepare and submit to the City for its approval a traffic improvement plan for all traffic improvements that are to be funded solely by the project applicant and that require Caltrans' approval. The plan shall include a schedule for obtaining Caltrans' approval and constructing such improvements prior to the construction of project elements that create the need for such improvements.</p>	25, 26		<p>City of Oakland Traffic Engineering Department and Planning Department</p>	<p>Submit plan prior to initiation of construction Phase B; reviewed, approved and implemented to the extent required of applicant prior to occupancy of 150th unit for remainder of project applicant's responsibility.</p>

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>K.2b: Volumes at the side-street stop-controlled unsignalized intersection of <i>Edwards Avenue / I-580 eastbound off-ramp [2]</i> would satisfy traffic signal warrants with or without the project, and addition of project traffic would degrade the overall level of service from LOS B to LOS F during the p.m. peak hour.</p>	<p>K.2b: The project applicant shall work with Caltrans and coordinate with the City of Oakland to install traffic signals at the unsignalized intersection of <i>Edwards Avenue / I-580 eastbound off-ramp [2]</i>, and to relocate the driveway of the Burckhalter Park to better align with the off-ramp, eliminating the current offset separation of these two approaches to Edwards Avenue and creating a four-leg intersection. The project applicant shall pay for this measure. Prior to commencing construction of the project, the project applicant shall prepare and submit to the City for its approval a traffic improvement plan for all traffic improvements that are to be funded solely by the project applicant and that require Caltrans' approval. The plan shall include a schedule for obtaining Caltrans' approval and construction of such improvements prior to the construction of project elements that create the need for such improvements.</p>	25, 26		See Mitigation Measure K.2a	See Mitigation Measure K.2a
<p>K.2c: The LOS F conditions at the signalized intersection of <i>Edwards Avenue / Greenly Drive [4]</i>, which would prevail during the p.m. peak hour under 2020 Baseline conditions, would worsen with the addition of project traffic. The project-generated increases in vehicle delay would exceed the two-second threshold of significance.</p>	<p>K.2c: The project applicant shall work with the City of Oakland to restripe Edwards Avenue to provide a separate westbound left-turn lane at <i>Edwards Avenue / Greenly Drive [4]</i>. The project applicant shall be responsible for this measure.</p>	25, 26		See Mitigation Measure K.2a	See Mitigation Measure K.2a
<p>K.2d: The signalized intersection of <i>73rd Avenue / MacArthur Boulevard [6]</i> would degrade from LOS D to LOS E during the a.m. peak hour with the addition of project traffic. In addition, the project-generated increase in vehicle delay under LOS E conditions during the p.m. peak hour would</p>	<p>K.2d: The project applicant shall pay a fair share of the cost to modify the west leg of the signalized intersection of <i>73rd Avenue / MacArthur Boulevard [6]</i> to add a second left-turn lane on eastbound 73rd Avenue.</p>	25, 26		See Mitigation Measure K.2a	See Mitigation Measure K.2a

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>exceed the six-second threshold of significance.</p> <p>K.2e: The LOS F conditions at the all-way stop-controlled unsignalized intersection of <i>Mountain Boulevard / Keller Avenue [7]</i>, which would prevail during the p.m. peak hour under 2020 Baseline conditions, would worsen with the addition of project traffic. The project-generated increase in vehicle delay would exceed the two-second threshold of significance.</p>	<p>K.2e: The project applicant shall work with the City of Oakland to install traffic signals and to restripe the eastbound Keller Avenue approach to provide two through-lanes at the unsignalized intersection of <i>Mountain Boulevard / Keller Avenue [7]</i>. The project applicant shall pay a fair share of the cost for this measure.</p>	25		See Mitigation Measure K.2a	See Mitigation Measure K.2a
<p>K.2f: The side-street stop-controlled unsignalized intersection of <i>Mountain Boulevard / I-580 westbound off-ramp – Sanford Avenue [8]</i> would degrade from LOS C to LOS E during the p.m. peak hour with the addition of project traffic. Traffic volumes at the intersection would not satisfy traffic signal warrants, but the increase in vehicle delay on the off-ramp approach due to the addition of project traffic (from LOS D to F) would be high enough to substantially increase the potential for traffic hazards.</p>	<p>K.2f: The project applicant shall work with Caltrans and coordinate with the City of Oakland to install traffic signals at the unsignalized intersection of <i>Mountain Boulevard / I-580 westbound off-ramp – Sanford Avenue [8]</i>, and convert the right lane of the two-lane freeway off-ramp from an exclusive right-turn lane to a shared left-turn/right-turn lane. The project applicant shall pay for this measure. Prior to commencing construction of the project, the project applicant shall prepare and submit to the City for its approval a traffic improvement plan for all traffic improvements that are to be funded solely by the project applicant and that require Caltrans' approval. The plan shall include a schedule for obtaining Caltrans' approval and constructing such improvements prior to the construction of project elements that create the need for such improvements.</p>	25		See Mitigation Measure K.2a	See Mitigation Measure K.2a
<p>K.2g: The LOS E conditions at the all-way stop-controlled unsignalized intersection of <i>Keller Avenue / I-580 eastbound off-ramp [9]</i>, which would prevail during the p.m. peak hour under 2020 Baseline</p>	<p>K.2g: The project applicant shall work with Caltrans and coordinate with the City of Oakland to install traffic signals at the unsignalized intersection of <i>Keller Avenue / I-580 eastbound off-ramp [9]</i>. The project applicant shall pay a fair share of the cost for</p>	25		See Mitigation Measure K.2a	See Mitigation Measure K.2a

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
conditions, would worsen with the addition of project traffic. The project-generated increase in vehicle delay would exceed the six-second threshold of significance.	this measure.				
K.2h: The side-street stop-controlled unsignalized intersection of <i>I-580 westbound off-ramp / Mountain Boulevard – Kuhnle Avenue [16]</i> would degrade from LOS D to LOS E during the a.m. peak hour, and from LOS E to F during the p.m. peak hour, with the addition of project traffic.	K.2h: The project applicant shall work with Caltrans and coordinate with the City of Oakland to install traffic signals and to add a second eastbound left-turn lane at the unsignalized intersection of <i>I-580 westbound off-ramp / Mountain Boulevard – Kuhnle Avenue [16]</i> . The project applicant shall pay a fair share of the cost for this measure.	25		See Mitigation Measure K.2a	See Mitigation Measure K.2a
K.2i: The unacceptable LOS F conditions at the side-street stop-controlled unsignalized intersection of <i>Seminary Avenue / I-580 eastbound off-ramp – Overdale Avenue [18]</i> , which would prevail during the p.m. peak hour under the 2020 Baseline scenario, would worsen with the addition of project traffic. The project-generated increase in vehicle delay would exceed the two-second threshold of significance.	K.2i: The project applicant shall work with the City of Oakland to install traffic signals at the unsignalized intersection of <i>Seminary Avenue / I-580 eastbound off-ramp – Overdale Avenue [18]</i> . The project applicant shall pay a fair share of the cost for this measure.	25		See Mitigation Measure K.2a	See Mitigation Measure K.2a
K.3: The project would increase traffic on regional roadways in the project vicinity.	None required.	Not Applicable	Less than Significant		
K.4: The project would generate demand for parking spaces.	None required.	Not Applicable	Less than Significant		
K.5: The project would increase transit ridership.	None required.		Less than Significant		
K.6: The proposed project access (for general and emergency	K.6a: The project applicant shall coordinate with the City of Oakland Public Works Agency,	13, 25	Mitigated to Less	City of Oakland Public Works	Part of Construction Phase A, complies prior

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
<p>vehicles) and internal circulation system would need to accommodate traffic flows generated by motor vehicles, pedestrians, and bicyclists.</p>	<p>and providers of emergency services (e.g., the Oakland Fire Department) to construct the "Gateway EVA", which would connect the project site's new roadway network at "A" Street to Mountain Boulevard. The Gateway EVA will be a 25-foot wide paved road that is capable of supporting 65,000 pounds. Access will be restricted to emergency vehicles and buses only; no public access or parking will be allowed. In addition, two supplemental emergency accesses will be provided to Altura Place (Altura access) and to Leona Street (Northwestern access).</p> <p>The Altura access will be a 12-foot wide paved road that is capable of supporting 65,000 pounds. It will connect "I" Street with Altura place within the City's existing right of way. No other improvements or widening is required on Altura Place. The Northwestern access will be a 12-foot wide road that is capable of supporting 65,000 pounds. The alignment will follow the existing fire access easement along the I-580 right of way (located on the project site), across the City's right of way on Edan Place, back on to the project site and connect with Leona Street via an existing easement over the Suchan property. The Altura and Northwestern accesses will be locked or gated at or near the property line of the project site. Pedestrian and/or bicycle access to and from Altura Place may be provided; no pedestrian or bicycle access will be permitted to Leona Street. No public vehicular access will be permitted on Altura Lane or Leona Street to or from the project site except in an emergency.</p>	41	<p>than Significant</p>	<p>Agency, City of Oakland Fire Department and Planning Department</p>	<p>to Construction Phase B.</p>
<p>K.7: The project would increase traffic and pedestrian/bicycle activity in the project vicinity.</p>	<p>None required.</p>		<p>Less than Significant</p>		
<p>K.8: Project construction could</p>	<p>K.8a: Prior to construction activity, the project</p>	41	<p>Mitigated to Less</p>	<p>City of Oakland</p>	<p>Plan shall be submitted,</p>

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
result in temporary circulation and safety impacts in the project vicinity.	<p>applicant shall submit a construction management plan for review and approval by the City's Traffic Engineering Division. This plan shall include, but is not limited to, the following items:</p> <ul style="list-style-type: none"> • Identification of routes (in a Haul Route Plan) for the movements of construction vehicles that would minimize the impacts on vehicular traffic circulation and safety in the area. • Staging of the movements of construction materials and equipment so as not to hinder the general flow of traffic in the immediate vicinity of the project site. • Identification of areas required for encroachment within the public right-of-way. • Accommodation of on-site placement of construction equipment and construction vehicles. • Posting of signs 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 of Oakland in the event of problems. • Designation of an on-site complaint and enforcement manager to respond to and track complaints. • Provision of adequate notification procedures for any road closures. 		than Significant	Traffic Engineering Department, Public Works Department and Planning Department	reviewed and approved prior to issuance of a grading permit. Compliance with plan requirements shall be continuous throughout the course of grading and construction.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
L. Utility Service Systems					
L.1: Construction of the proposed Leona Quarry project could impede the ability of the City of Oakland to meet the waste diversion requirements of the California Integrated Waste Management Act (AB 939).	L.1a: Prior to issuance of building permits, the City of Oakland shall require the project applicant to comply with the City's Construction and Demolition Debris Waste Reduction and Recycling Plan, which requires submittal of a plan to divert at least 50 percent of the construction waste generated by the project from landfill disposal. This shall be submitted to the City of Oakland's Public Works Agency for review and approval.	41	Mitigated to Less than Significant	City of Oakland Public Works Agency	Prior to issuance of the first building permit.
L.2: The proposed project would increase the demand for water services and could potentially impact EBMUD's limited water supply.	L.2a: The project applicant shall implement Mitigation Measures A.1a, C.1a, C.2a, C.2b, C.3a, F.3a, H.1a, and H.1b.	16, 23, 41	Mitigated to Less than Significant (Other Agency)	See Mitigation Measures A.1a, C.1a, C.2a, C.2b, C.3a, F.3a, H.1a, and H.1b.	See Mitigation Measures A.1a, C.1a, C.2a, C.2b, C.3a, F.3a, H.1a, and H.1b.
L.3: The proposed project would increase the demand for sanitary sewer services.	L.3a: The project applicant shall implement the Mitigation Measures A.1a, C.1a, C.2a, C.2b, C.3a, F.3a, H.1a, and H.1b.	16, 23, 41	Mitigated to Less than Significant (Other Agency)	See Mitigation Measures A.1a, C.1a, C.2a, C.2b, C.3a, F.3a, H.1a, and H.1b.	See Mitigation Measures A.1a, C.1a, C.2a, C.2b, C.3a, F.3a, H.1a, and H.1b.
L.4: The proposed project would increase the amount of impervious surface on the site and could affect the ability of the City of Oakland and the Alameda County Flood Control and Water Conservation District to adequately treat and drain stormwater runoff.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
L.5: Operation of the project and its components would increase the demand for electrical services and natural gas.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
L.6: The proposed project would increase the amount of solid waste	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
disposed of by the City of Oakland at the Altamont Landfill and Recycling Facility (Altamont Landfill).	L.7: Solid waste generated by operation of the proposed project could impede the City of Oakland from diverting 50 percent of its waste from landfills, as mandated under AB 939 (the California Integrated Waste Management Act).	L.7a: The City of Oakland shall require the project applicant to comply with its Recycling/Space Allocation Requirements, which requires submittal of building plans that specify adequate storage space for recyclable and compostable materials for each proposed unit to the City for review and approval.	Mitigated to Less than Significant	City of Oakland	Prior to issuance of the first building permit.
L.8: Construction and operation of the proposed project, when combined with the construction and operation of the proposed Naval Medical Center Oakland (Oak Knoll) project, would result in cumulative impacts on the provision of water and sanitary sewer services.	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
M. Visual Quality	None required.	Not Applicable	Less than Significant	Not Applicable	Not Applicable
M.1: The project would result in a change to the scenic vistas of which the proposed project site is a part.	M.2a: The City shall require that the local homeowners association or similar entity maintain the landscaping proposed as part of the project in the Lower Development, Restored Slope, and Campus Drive Areas.	14	Mitigated to Less than Significant.	City of Oakland	Prior to issuance of a certificate of occupancy for the first unit and ongoing as part of MOA.
M.3: The proposed project would result in an increase in development that would generate some light and glare at the project site.	Implementation of Mitigation Measures M.3a and M.3b, below.	14	Mitigated to Less than Significant	See Mitigation Measures M.3a and M.3b, below.	See Mitigation Measures M.3a and M.3b, below.

ENVIRONMENTAL IMPACT	MITIGATION MEASURES	CONDITION OF APPROVAL NOS.	RESULTING LEVEL OF SIGNIFICANCE ¹	MONITORING RESPONSIBILITY	MONITORING TIMEFRAME
	<p>M.3a: To minimize project-related spill light, the project sponsor shall install low-level street and pedestrian-scale light fixtures in outside areas. Light standards in these areas should be less than 16 feet above ground, with the lights aimed downward to illuminate the area around the fixture. Such light standards should be designed to provide pedestrian illumination levels of about 3 foot-candles. Additional lighting near loading areas should be greater for safety, but shielded to minimize the project-related spill light to offsite receptors.</p>	14, 15			<p>Design of light fixtures to be approved by City as part of designation requirements in the PUD design and specification documentation in Condition of Approval No. 4.</p>
	<p>M.3b: To minimize both spill light and glare, the project sponsor shall include timing devices that would minimize the amount of time that project lighting, including street lighting, would be utilized, where appropriate and feasible.</p>	14, 15			<p>See Mitigation Measure M.3a</p>

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General Conditions and Compliance with Approved Plans

1. The project shall comply with the following plans and exhibits entitled “Leona Quarry,” as prepared by the following consultants (“the Project Plans”):

Architect

KTGY Group Inc.
17992 Mitchell South
Irvine
CA 92614
(949) 851-2133
(949) 851-5156 (Fax)

Civil Engineer

Carlson, Barbee & Gibson, Inc.
2603 Camino Ramon, Suite 100

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San Ramon
CA 94583
(925) 866-0322
(925) 866-8575 (Fax)

Landscape Architect
Bradani & Associates
Landscape Architecture
90 Throckmorton Avenue
Mill Valley, CA
(415) 383-9780

I. Site Plan and Landscape Plans

- S-1 Site Plan
- K-1 Key Plan
- L-1 Landscape Site Plan
- L-2 Street/Landscape Uphill Townhome Product 2
Downhill Condo Product 1
- L-3 Street/Landscape Village Green Product 4
Downhill Condo Product 2
- L-4 Street/Landscape Village Green Product 4
- L-5 Street/Landscape Downhill Townhome Product 5
- L-6 Street/Landscape Uphill Townhome Product 7
Downhill Townhome Product 6
- L-7 Street/Landscape Terrace Product 8
- L-8 Phase 1 Landscape Site Sections Uphill Townhome Product 2
Downhill Townhome Product 5
Downhill Condo Product 1
- L-9 Phase 1 Landscape Site Sections Village Green Product 4
Downhill Condo Product 2
- L-10 Phase 2 Landscape Site Sections Uphill Townhome Product 7
Downhill Townhome Product 6
Terrace Product 8
- L-11 Landscape Village Green Product 4
- L-12 Landscape Plan at Park
- L-13 Landscape Entry Feature

II. Architecture: Plans and Elevations

- 1-1 Perspective Phase 1 Product 1&2
- 1-2 Phase 1 Product 1: 6-Plex Downhill Condo Floor Plans

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1-3	Phase 1	Product 1: 7-Plex Downhill Condo Floor Plans
1-4	Phase 1	Product 1: 6 & 7-Plex Downhill Condo Floor Plans
1-5	Phase 1	Sections
1-6	Phase 1	Product 1: Roof Plans
2-1	Phase 1	Product 2: 5-Plex Uphill Townhome Floor Plans
2-2	Phase 1	Product 2: 5-Plex Uphill Townhome Elevations
3-1	Phase 1	Product 3: Duet Downhill Townhome Floor Plans and Elevations
4-1	Perspective Village Green	
4-2	Phase 1	Product 4: Village Green 8-Plex Floor Plans
4-3	Phase 1	Product 4: Village Green 8-Plex Elevations
4-4	Phase 1	Product 4: Village Green 10-Plex Floor Plans
4-5	Phase 1	Product 4: Village Green 10-Plex Floor Plans
4-6	Phase 1	Product 4: Village Green 10-Plex Elevations
4-7	Phase 1	Product 4: Village Green 8 & 10-Plex Roof Plans
4-8	Phase 1	Product 4: Village Green 8 & 10-Plex Sections
5-1	Phase 1	Product 5: 4-Plex Downhill Townhome Floor Plans
5-2	Phase 1	Product 5: 4-Plex Downhill Townhome Elevations
5-3	Phase 1	Product 5: 4-Plex Downhill Townhome Elevations
6-1	Perspective Phase 2	Product 6 & 7
6-2	Perspective Phase 2	Product 6 & 7
6-3	Phase 2	Product 6: 4-Plex 6A Downhill Townhome Roof Plans
6-4	Phase 2	Product 6: 4-Plex 6B Downhill Townhome Roof Plans
6-5	Phase 2	Product 6: 4-Plex 6B-1 Downhill Townhome Elevations
6-6	Phase 2	Product 6: 4-Plex Downhill Townhome Elevations
6-7	Phase 2	Product 6: Uphill/Downhill Townhome Sections
7-1	Phase 2	Product 7: 4-Plex 2A Uphill Townhome Floor Plans
7-2	Phase 2	Product 7: 4-Plex 2B Uphill Townhome Floor Plans
7-3	Phase 2	Product 7: 4-Plex 2C Uphill Townhome Floor Plans
7-4	Phase 2	Product 7: 4-Plex 2D Uphill Townhome Floor Plans
7-5	Phase 2	Product 7: 4-Plex 2C Uphill Townhome Elevations
7-6	Phase 2	Roof Plans
8-1	Perspective Terrace Building Product 8	
8-2	Phase 2	Product 8: 6-Plex Terrace Building Floor Plans
8-3	Phase 2	Product 8: 6-Plex Terrace Building Elevations

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- 8-4 Phase 2 Product 8: 6-Plex Terrace Building Sections
- 8-5 Phase 2 Product 8: 12-Plex Terrace Building Floor Plans
- 8-6 Phase 2 Product 8: 12-Plex Terrace Building Floor Plans
- 8-7 Phase 2 Product 8: 12-Plex Terrace Building Floor Plans
- 8-8 Phase 2 Product 8: 12-Plex Terrace Building Floor Plans
- 8-9 Phase 2 Product 8: Roof Plans
- 8-10 Phase 2 Product 8: 12-Plex Terrace Building Elevations
- 8-11 Phase 2 Product 8: 12-Plex Terrace Building Elevations

- 9-1 Gateway Senior Apartments
- 9-2 Gateway Senior Apartments
- 9-3 Perspective Senior Apartments & Gateway

- 10-1 Phase 1 Site Sections
- 10-2 Phase 2 Site Sections
- 10-3 Perspective from MacArthur Freeway
- 10-4 Perspective from MacArthur Freeway

CC Community Center

III. Vesting Tentative Tract Map

Vesting Tentative Tract Map -Tract 7351 Sheets 1 through 5 (September 25, 2002)

2. The Project Applicant and its agents, heirs, successors and assigns (collectively, the "Project Applicant") shall be bound by these Conditions of Approval and by any other terms and condition of "this Approval" (as defined in Condition No. 3, below). The Project Applicant shall be responsible for assuring that any such successive owner or any of the Project Applicant's agents, heirs, successors and assigns is fully informed of the terms and conditions of this Approval.
3. This action by the City Council ("this Approval") includes the approvals set forth in this Condition of Approval No. 3. Each of these individual approvals shall become effective when the court in the *Dorsey v. Oakland* proceeding lifts the stay of the force and effect of Ordinance 12457 (the "Effective Date"). This Approval includes:
 - a. Approval of a Planned Unit Development ("PUD") including a preliminary development plan and final development plan under Oakland Municipal Code Section 17.140, for phased construction of 477 residential

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units, including 54 affordable senior units, as set forth in the Project Plans, as modified by these Conditions of Approval.

- b. Approval of Residential Design Review under 17.136 of the Oakland Municipal Code in accordance with Condition of Approval No. 14.
 - c. Approval of a Vesting Tentative Map (“VTM”) under Oakland Municipal Code 16.08.040 and the State Subdivision Map Act (Government Code Sections 66410 - 66499.37). The VTM approval shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and the applicable provisions of the Oakland Municipal Code. The VTM may employ multiple (phased) final maps, subject to the phasing program illustrated on the VTM and in these Conditions of Approval. The VTM is approved as a vesting tentative map for the entire site (approximately 128 acres) within the City. Therefore, the City shall have final map approval authority and shall have the authority, within its sole discretion, to amend the VTM.
 - d. Three variances to residential design review standards pursuant to special design requirements and residential design review standards (Oakland Municipal Code 17.108) as follows: retaining wall height; maximum garage width and percentage of front yard paving.
4. The plans approved as part of the PUD shall be amended to be consistent with the Conditions of Approval and shall be submitted to the City Planning Department in the form of a “PUD Design and Specification Document for the Leona Quarry Project” within ninety (90) days of this Approval. This Design and Specification Document shall include but not be limited to all detailed plans and specifications pertaining to Condition of Approval No. 14 and all other information and details deemed necessary by the Development Director or the Development Director’s designee.
 5. The work described in “Construction Phase B (Site Preparation)” in Condition of Approval No. 13 below, shall commence within two (2) years following the Effective Date. Thereafter, such construction shall be governed by Condition of Approval No. 13, and this Approval. The above referenced time period shall exclude any and all time involved with administrative appeals, third-party lawsuits, and other similar delays challenging the Project Approvals not caused by the Project Applicant. Once construction is commenced, the Project Applicant shall use its good faith and diligence to continue until construction is completed.
 6. Notice of Exactions:

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- a. This Approval includes certain dedication requirements, reservation requirements and non-monetary exactions as set forth in these Conditions of Approval. Pursuant to Government Code 66020(d)(1), this Approval constitutes written notice of a description of the dedications, reservations and other exactions. The Project Applicant is hereby further notified that the ninety (90) day period in which these dedications, reservations and other exactions may be protested, pursuant to Government Code 66020(a), shall commence on the Effective Date. If the Project Applicant fails to file a protest within this ninety (90) day period complying with all of the requirements of Section 66020, Project Applicant will be legally barred from challenging such exactions.
 - b. This Approval includes certain fees, which shall be set forth in a Leona Quarry Fee Schedule to be provided by the Development Director to the Project Applicant. Delivery of the Leona Quarry Fee Schedule by the Development Director to the Project Applicant shall constitute written notice, pursuant to Government Code 66020(d)(1), of a statement of the amount of such fees. The Project Applicant is hereby further notified that the ninety (90) day period in which these fees may be protested, pursuant to Government Code 66020(a), shall commence on delivery by the Development Director of the Leona Quarry Fee Schedule to the Project Applicant. If the Project Applicant fails to file a protest within this ninety (90) day period complying with all of the requirements of Section 66020, the Project Applicant will be legally barred from challenging such fees.
7. Final inspection and a certificate of occupancy for any unit or other structure within a phase, as set forth in Condition of Approval No. 13, shall not be issued until (a) all landscaping and on and off-site improvements for that phase are completed in accordance with this Approval, or (b) until cash, an acceptably rated bond, a certificate of deposit, an irrevocable standby letter of credit or other form of security (collectively "security"), acceptable to the City Attorney, has been posted to cover all costs of any unfinished work related to landscaping and public improvements plus 25 percent within that phase, unless already secured by a subdivision improvement agreement approved by the City, except that such security shall not be a substitute for completion of the Reclamation Work in accordance with Condition No. 12. For purposes of these Conditions of Approval, a certificate of occupancy shall mean a final certificate of occupancy, not temporary or conditional, except as the City determines may be necessary to test utilities and services prior to issuance of the final certificate of occupancy.
 8. Except as otherwise provided below in this Condition of Approval No. 8 with respect to City's issuance of a certificate of occupancy for a unit, each of the

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Conditions of Approval shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law, including without limitation, Civil Code Section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the property that is subject to this Approval (the "Property"), as appropriate, runs with the Property and is binding upon the owner of all or a portion of the Property and each successive owner. Within ninety (90) days of the Effective Date, the Project Applicant shall cause these Conditions of Approval to be recorded in the Official Records of the County of Alameda, California against all of the Property. These Conditions of Approval also shall be attached to each grading permit and each building permit for infrastructure work issued for each phase of construction. Upon City's issuance of a certificate of occupancy for a unit, these Conditions of Approval shall be released from the exceptions to title of the parcel upon which the unit is located. Upon completion of the Project, as determined by the City, these Conditions of Approval shall be released from the all of the Property.

Indemnification Requirements

9. To the maximum extent permitted by law, the Project Applicant shall defend, hold harmless, and indemnify the City, the GHAD and their 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. 9. The Indemnified Parties shall take all reasonable steps to promptly notify the Project Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these Conditions of Approval.

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10. Not in limitation of the foregoing Condition of Approval No. 9, Project Applicant shall defend, hold harmless and indemnify the Indemnified Parties and their insurers against any and all liability, damages, claims, demands, judgments, losses (“Indemnified Claims”) or other forms of legal or equitable relief related to implementation of the Project, including, without limitation, the formation and operation of the GHAD and in the case of the City Council members, actions taken by said members while acting as the GHAD Board of Directors, design, construction or maintenance of the Project and any private or public improvements. Notwithstanding the last sentence of Condition of Approval No. 8, the foregoing indemnity shall not be released upon completion of the Project. A Project Applicant may be released from this indemnity obligation, including the Indemnification Agreement referred to in Condition of Approval 11, 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 Applicant gives 30 days’ written notice of such proposed assignment to the City Manager, and the City Manager approves such assignment in writing, which approval may be withheld 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 Applicant, 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 Applicant, 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 Applicant’s expense, in the defense of any action specified in this Condition of Approval No. 10. The Indemnified Parties shall take all reasonable steps to promptly notify the Project Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these Conditions of Approval.
11. Within 90 (*this time period also being required for the submittal of the PUD doc. in COA 4*) days following the Effective Date, the Project Applicant shall enter into an Indemnification Agreement in a form acceptable to the City Attorney to

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establish in more specific detail terms and conditions of the Project Applicant's indemnification obligations set forth in Conditions of Approval Nos. 9 and 10. Any failure of any party to timely execute such Indemnification Agreement shall not be construed to limit any right or obligation otherwise specified in these Conditions of Approval, including, without limitation, Conditions of Approval Nos. 9 and 10, except that it shall not limit Development Director authority as set forth in Condition of Approval No. 37.

Compliance with SMARA - Implementation, Security, and Phasing of Project

12. Prior to issuance of a grading permit, the Project Applicant shall obtain an amendment to the current Reclamation Plan that is consistent with the PUD, VTM, these Conditions of Approval and all requirements of the State Mining and Reclamation Act ("SMARA"). This amendment may be obtained from the City.

Also prior to issuance of a grading permit, the Project Applicant shall provide the City with an acceptably rated bond or bonds, or other form of security acceptable to the City Attorney that will cover all costs of implementing and completing all of the work necessary to fulfill the requirements of the Reclamation Plan, as amended and otherwise to safely provide for residential development. ("the Reclamation Work"). The Reclamation Work includes without limitation the work described in Conditions of Approval Nos. 17, 18, 21, 22, 23, 37, 41 in accordance with all of these Conditions of Approval and the Mitigation Measures described in the Mitigation Monitoring and Reporting Program ("MMRP") which is attached as Exhibit B to the Resolution to which these conditions are attached. The MMRP is hereby incorporated into and made a part of these Conditions of Approval.

Prior to the issuance of a certificate of occupancy for any unit within the Project (except for model homes) all of the Reclamation Work must be completed; provided, however, that the revegetation work (described in Condition of Approval No. 18) must be commenced at the earliest feasible time in accordance with season planting requirements and may be completed after the first certificate of occupancy is issued, so long as the Project Applicant continues to diligently complete such work in accordance with seasonal planting requirements.

Project Phasing

13. Project Phasing Plan. As used in this Condition of Approval, the term phase or phases refers to phases associated with grading and construction activities, not to the phases identified on the VTM, which are referred to as "VTM Phase." This Approval is contingent upon the grading, construction and other improvements

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being completed in accordance with the specific phasing plan established in this Condition of Approval and the City shall retain the full and sole authority to withhold further approvals at any juncture if all the requirements for each phase have not been completed as specified in this Condition of Approval. Further, any modifications in the phasing plan shall require prior written approval by the City Development Director and the City Engineer.

Pre-Construction Phase A (Review and Approval of Detailed Plans) – The first phase of the project shall require the applicant to submit all required plans, information, analysis, and other specifications as required for the Reclamation Work, the grading plan, and other related work in accordance with the Conditions of Approval and the MMRP. This work includes:

- a. The geotechnical work as set forth in Condition of Approval No. 22.
- b. The hydrology plans, information and analysis as set forth in Condition of Approval No. 23.
- c. The master public improvement plan as set forth in Condition of Approval No. 35.
- d. The Revegetation Plan and specifications as set forth in Condition of Approval No. 18.
- e. Implementation of the Construction Management and Phasing Plan as set forth in Condition of Approval No. 41, including payment of fees, hiring of independent technical consultants and coordination of project management and monitoring activities as set forth in Condition of Approval No. 40.
- f. Submittal of the Traffic Improvement Program as set forth in Condition of Approval No. 25.
- g. Establishment of the special deposit fund as set forth in Condition of Approval No. 40.
- h. Funding of the GHAD as specified in Condition of Approval No. 24.

Upon successful completion of this phase and approval by the Development Director, the City Engineer and the Building Official (or their designees), the grading permit shall be issued for Construction Phase B (Site Preparation).

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Construction Phase B (Site Preparation) – The first physical phase of the Project shall be the grading, earthwork and implementation of the Reclamation Plan Amendment or Site Closure to prepare the site for residential development. Work under this phase includes completion of:

- i. Commencement of Reclamation Work, as defined in Condition No. 12, including, without limitation, grading, slope drainage, and other requirements to ensure the quarry is in a safe and stable condition for residential construction activities.
- j. Completion of slope stability measures for Parcels C-C and the initiation of reconstruction of the slopes in D-D in accordance with subsection g, below.
- k. Site preparation for residential construction on Lots 1-19 on Campus Drive in compliance with the approved grading and improvement plans set forth in Pre-construction Phase A
- l. Rough roadway improvements and utilities for A Street (entirety) and all of the streets where residential construction is proposed during the first phase of residential construction (Construction Phase C).
- m. Construction of the Gateway Emergency Vehicle Access (“EVA”) (Parcel F-F).
- n. Construction of the detention basin (Parcel A-A).

Prior to the issuance of building permits for any unit within the VTM Phase I Area and Lots 1-19, the Project Applicant shall submit a geotechnical and engineering report that confirms that all slope stability measures for the western slope (Parcel C-C) and the restored slope (Parcel D-D) have been implemented to the degree necessary to assure site and construction worker safety. This report shall be reviewed by an independent geotechnical engineer hired by the City at the Project Applicant’s expense and approved by the City. Further, implementation of a construction management and site security plan for the VTM Phase I Area shall also be required, as set forth in Condition of Approval No. 41.

Upon successful completion of this phase and approval by the Development Director and the Building Official (or their designees), building permits for up to 150 units within the VTM Phase I Area and additional building permits for Lots 1-19 may be issued. Because completion of the specific improvements identified for this phase is critical for public health and safety considerations, provision of

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security, such as bonds or letters of credit shall not be acceptable as a substitute for completion of such improvements.

Construction Phase C (Initial Residential Construction). Work in Construction Phase C shall include construction of up to 150 housing units within the VTM Phase I Area, construction on Lots 1-19 and completion of grading and implementation of Reclamation Plan Amendment (excluding completion of the revegetation plan) as described in Condition of Approval No. 12, as well as:

- o. Completion of the Revegetation/restoration work according to Condition of Approval No. 18 for Parcel C-C, completion of grading and slope stabilization for Parcel D-D, and, to the greatest extent feasible, the initiation and continuation of revegetation of Parcel D-D in accordance with seasonal planting requirements and Condition of Approval No. 18.
- p. Completion of final street improvements, excluding landscaping, for the entirety of any street adjacent to or providing access to the first 150 units that will be occupied within the VTM Phase I Area. Landscaping associated with such street improvements, including common area, will be completed concurrently with completion of the adjacent residential units; the security for such work is further set forth in Condition of Approval No. 7, with the exception that all landscaping shall be complete for any phase prior to the issuance of the certificate of occupancy for the last two units of that phase.
- q. Landscaping of front entrance (Parcels G-G and H-H) and detention basin (Parcel A), as further set forth in Conditions of Approval Nos. 19 and 23.c, respectively.
- r. Northwestern supplemental EVA improvements.
- s. Village Green landscaping and improvements (Parcel E).
- t. EVA connection from H to C Streets.
- u. Landscaping of Parcels B, C D and J.
- v. When VTM Phase ID is completed, the landscaping and improvements for Parcels G, H and I shall be completed prior to the issuance of certificates of occupancy for the last two units in Phase ID.
- w. Prior to the issuance of any occupancy permits for the first 150 units in the VTM Phase I Area, as well as any of the units on Lots 1-19, the City shall

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confirm that the Project Applicant has successfully completed all required work under Construction Phase C, including confirmation by the independent geotechnical engineer hired by the City at the Project Applicant's expense that all Reclamation Plan Amendment measures (exclusive of completing the revegetation plan) have been completed as required.

Construction Phase D (Continued Residential Construction). Work in this Construction Phase D includes continued residential construction in the VTM Phase I Area and Lots 1-19, construction in the VTM Phase II Area, construction of the Gateway Senior Housing Project (Parcel Z) and construction of Greenly Drive/Edwards Avenue Improvements.

Prior to the issuance of any building permits for VTM Phase II Area, the Project Applicant shall have complied with Condition of Approval 41.

Prior to the issuance of an occupancy permit for the 151st unit and prior to the issuance of a building permit for the 350th unit (excluding Lots 1-19 on Campus Drive and the Gateway Senior Housing Project), the Project Applicant shall have (i) completed to a standard acceptable to the City and (ii) offered to the City, and the City shall have accepted, the Greenly Drive/Edwards Avenue improvements described in Condition of Approval No. 25 and the MMRP.

Prior to the issuance of a certificate occupancy for any unit in the VTM Phase II Area, the following shall be completed:

- x. the Altura supplemental EVA connection and improvements.
- y. EVA connection from I to A Streets.

Because completion of the specific improvements identified in subparagraphs 25a and 25b above for this phase is critical for public health and safety considerations, provision of security, such as an acceptably rated bond, or letters of credit shall not be acceptable as a substitute for completing such improvements.

Construction Phase E (Completion of Residential Construction up and to the 351st Unit). Work in this Construction Phase E shall include completion of residential construction and site work in VTM Phase I Area and Phase II Area, the Gateway Senior Project and Lots 1-19, except that the Project Applicant shall complete and the City shall have accepted the following work prior to the issuance of a certificate of occupancy for the 351st unit (excluding Lots 1-19 and the Gateway Senior Project):

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- z. Interior park improvements (Parcel Y).
- aa. All Project trail connections and improvements.
- bb. All remaining street landscaping, revegetation and other open space improvements associated with any of the first 350 units that have received occupancy permits; and specifically excluding improvements adjacent to the remaining 53 units (excluding Lots 1-19 and the Gateway Senior Project).

Construction Phase F (Completion of the Approved Project) – All remaining improvements shall be completed and compliance with Conditions of Approval Nos. 25 and 26 shall be demonstrated to the satisfaction of the City Development Director prior to the issuance of a certificate of occupancy permit for the remaining 53 units.

Project Design Requirements

- 14. The following design refinements, standards and requirements shall be incorporated into the final design plans for the project:
 - a. The design of the Gateway Senior Housing Project shall be revised to be more of a signature gateway design, with high quality materials and detailing appropriate to its tall height and prominent location close to the freeway. The design shall incorporate a greater degree of articulation and detailing, including a combination of window recess and trim that creates at least three inches of shadow and articulation. The other major elements of the design to be revised include the roof forms, entry, and overall proportions. The revised design shall be reviewed and approved by the Design Review Committee of the Planning Commission as part of the design submittal required for compliance with Condition of Approval No. 4.
 - b. Four of the retaining walls proposed shall be revised to be closer in compliance with zoning standards for height and distance separation. The following four areas of retaining walls shall be revised such that the maximum height of the walls is eight feet, with at least four feet of horizontal separation between walls
 - Retaining wall at the uppermost portion of “A” Street, near the roundabout
 - Retaining Wall near the south property line abutting Altura Place
 - Retaining Wall along the EVA in Parcel Y, near the cul-de-sac end of “I” Street
 - Retaining Wall behind the Gateway Senior Housing on Parcel Z

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- b. The design of the Community Center shall be revised to be more consistent with the overall design theme and design elements used in other portions of the project. The size of the proposed facility shall not be required to be reduced. The final design shall be reviewed and approved by the Design Review Committee of the Planning Commission as part of the submittal required to comply with Condition of Approval No. 4.
- c. The design of the Terrace Buildings, 6-plex buildings, Product 8A, shall be revised. The roof forms and design of the west-facing, downhill side shall be revised to reduce the repetitiveness of the roof forms, and to introduce some degree of asymmetry. It will be acceptable to have the lower three stories of these buildings in one plane to create a more prominent central element that reduces the repetition of roof forms and is differentiated from the roof forms of the fourth and fifth floors above. A gable roof rather than a hip in this area of the façade could be incorporated. The revised design shall be approved by the Development Director; if there are issues that cannot be resolved between the applicant and the Director the matter shall be referred for decision to the Design Review Committee of the Planning Commission. The revised design shall be incorporated into the submittal required as part of Condition of Approval 4.
- d. The massing of the Product 6A buildings shall be revised such that at least one unit within these four unit buildings is pushed forward or back in plan so that the garages are not lined up in a row, as follows:
- For lots 231 and 136, push these corner units forward towards the street at least 6 feet.
 - For the buildings with lots 212-215, 160-163, and 148-151, push at least one unit in each of these three buildings downhill at least 4 feet.
 - This requirement shall not apply to the building on lots 204-207.
- e. Product 7 shall be revised and refined to add more design variety in the following manner, to a level of design variety comparable to that of Product 6:
- Vary the siding material for different units
 - Vary the roof lines for different units and/or different buildings
 - Vary the porch railing designs
 - Vary the design of the entry roof forms
 - Vary the design of the arched design elements at the garage entrances

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- f. The siding materials of Products 6 and 7 on “I” and “J” Streets shall be revised and refined to include more of a mix of stucco and siding within each building, rather than alternating buildings of stucco and siding.
- g. For Products 1, 2, 5, 6, and 7, the end units of the buildings at the ends of the blocks (both downhill and uphill units) shall be revised to include more windows, and a significantly greater degree of articulation through the use of elements such as bay windows, entry porches, etc.
- h. A special inspector shall be hired at the applicant’s expense to verify compliance with all building heights shown in the approved plans for all building types. The inspection shall occur at the completion of the framing stage of construction, prior to installation of building siding. The inspector shall be a surveyor or other licensed professional, and shall verify in writing to the City that the buildings constructed do not exceed the heights shown on the approved plans referenced in Condition of Approval 1. This special inspector shall be identified in the Construction Phasing and Management Plan required by Condition of Approval 41.
- i. The height of the Product 5 buildings shall not exceed 40 feet, as measured per the zoning code standard method from finished grade to top of roof.
- j. The height of Product 1, Phase I Downhill Condos, shall be revised and reduced to conform to the drawings submitted on October 14, 2002, entitled 6/7 – Plex Condos, Product, Section.
- k. The final site plan shall provide for a minimum of 10 feet from the back of the sidewalk to the face of the buildings of the Product 4 Village Green units, in all conditions where the buildings front on streets.
- l. Product 4B of the Village Green units shall be revised as follows:
 - On the left side of the buildings (as viewed in the elevations), a planter box shall be added in front of the garage wall to add articulation to the façade, such planter box to be a minimum of three feet tall and 2.5 feet deep.
 - On the right side of the buildings (as viewed in the elevations), a planter box shall be added in front of the garage wall to add articulation to the façade, such planter box to be a minimum of three feet tall and 2.5 feet deep; and a bay window shall be added in the first floor living room projecting forward of the main façade at least 2.5 feet.

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- m. For Products 1 and 2, Phase I uphill and downhill units, the entry stoops and steps of the units shall be revised such that they project forward of the front plane of the garage structure two to four feet, and such that the entry arch or awning also extends forward of the main plane of the façade, covering the stoop.
- n. The following detailed requirements and specifications for all of the following features shall be incorporated into the "PUD Design and Specification Document for the Leona Quarry Project". This document shall be reviewed and approved by the Design Review Committee of the Planning Commission, with the benefit of the recommendations of the Development Director:
- *Retaining Walls:* The design of all the retaining walls shall be constructed of attractive quality materials, and shall have landscaping planted at the base to minimize the visibility and height of the retaining walls when they are located in a location visible from public streets. Basic concrete block will not be an acceptable material. The retaining wall at the top of "A" Street shall be of the highest quality material because there is no landscaping immediately in front of the wall.
 - *Garage Doors and Entry Doors:* The design and color of the garage doors and entry doors shall be varied throughout the project, and there shall be a variety of designs and colors within each Product Type.
 - *Driveway Surfaces:* All driveways shall be colored to be in the darker tone range, to reduce the prominence of the paved surfaces within the streetscape area. The use of stamped concrete is strongly encouraged.
 - *Uphill Driveways:* For all driveways serving townhouses on uphill lots (specifically on "I", "J" and "B" streets, where such driveways are on-grade driveways, twenty percent of the 16 foot by 20 foot driveway area shall be pervious surface.
 - *Exterior Material for all Product Types using Siding:* Hardiplank or equivalent siding, in 4, 6, and 8 inch sizes. Hardiplank or equivalent should have a maximum of 8 inches of exposure.
 - *Exterior Siding Finishes for Stucco:* Stucco finishes shall be specified for all product types.
 - *Window Types:* Milgard vinyl windows or equivalent as a minimum standard of quality throughout the project. Wood widows or vinyl-clad wood windows may also be used.
 - *Window Recess and Trim Details:* For all windows in Products 1,2, 3, 4, 5, 6, and 7, dimensions of window recess and trim shall be at least of the minimum dimensions specified in the drawing dated 10.14.02

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and entitled "Alt. Window Head/Sill Trim Siding (Single Hung Typ.)
The general parameter established in this drawing which shall be a requirement is that there shall be a minimum of 3 inches of articulation created by a combination of window recess (face of window to face of siding), and trim projection (face of trim to face of siding). The same parameter shall apply to the stucco buildings of Product 8 (Terrace Units). However the details shall be developed specific to that Product Type, and may include recessed surrounds in lieu of trim.

- *Roof Materials:* Specified as composition shingle, of a quality and depth equivalent to Landmark TL by Certainteed. Concrete tiles may also be acceptable, to be reviewed and approved by the Design Review Committee of the Planning Commission.
- *Railings:* Minimum dimension of 2 inches by 4 inches (nominal dimensions) for the main members and 2 inches by 2 inches (nominal dimensions) for pickets. Specify wood railings for stucco buildings. Metal railings can be used in some of the shingled buildings or shingled parts of buildings.
- *Exterior Colors:* Windows shall be a sand or beige color, not white. Colors shall be as shown in the colored renderings shown in the Plans described in Condition #1, and as shown in the Primary and Secondary colors submitted in the color board. The tertiary colors shown on the color board are not approved for use.
- *Master Sign Program:* A master sign program for the site shall be submitted, including all project identification and directional signs, temporary real estate sales signs and/or banners and street signs, and other signs for the site.
- *Lighting Plan:* The Project Applicant shall implement Mitigation Measure 3a as set forth in the MMRP by submission of a lighting plan for each phase of development to the Department of Building Services for review and approval, prior to issuance of the first building permit for each phase of the project. **(MM#M.3a)**

Mitigation Measures Part of Conditions of Approval

15. All Mitigation Measures in the EIR as deemed to be required in the Environmental Findings shall be considered conditions of approval for the project, as may be further refined and/or clarified by this Approval, including the refinements and clarifications set forth in these Conditions of Approval. Implementation of the Mitigation Measures shall be adhered to in accordance with the MMRP. The MMRP identifies the time frame and responsible party for implementation and monitoring of each measure, as modified by this Approval. Overall monitoring compliance with the mitigation measures will be the

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responsibility of the Development Director or his or her designee. Each of the improvements identified in the MMRP shall be implemented at the Project Applicant's sole cost and expense (except where only a fair share contribution is required as set forth in the MMRP or these Conditions of Approval) or secured with a subdivision improvement agreement, or similar financial assurance, acceptable to the City.

Air Quality Measures

16. The Project Applicant shall implement all of the mitigation measures described in "Section A. Air Quality" of the MMRP. The Project Applicant shall reduce NOx emissions to no more than 80 pounds per day by reducing motor vehicle emissions. Implementation of the Project pursuant to this Approval reduces the NOx emissions to less than 80 pounds per day and therefore satisfies Draft EIR Mitigation Measure A.2. No further reduction in units to reduce emissions is required. However, the Project Applicant will further reduce motor vehicle emissions by developing a plan that incorporates one or more of the BAAQMD mitigation measures for motor vehicle emissions set forth in Mitigation Measure A.2a as set forth in the MMRP in order to reduce cumulative air quality impacts identified in Draft EIR Impact A.4 (MM #A.2), which shall include funding the furnishing, installation, maintenance, repair and replacement of a new bus shelter to be located on a public sidewalk within the development in a location approved by AC Transit prior to the issuance of a certificate of occupancy for the first residential unit. This condition shall be coordinated with the City Public Works Agency.

Biological Resources Protection Measures

17. The Project Applicant shall implement all of the mitigation measures described in "Section B. Biology" of the MMRP. The Project design includes the creation of 37 acres of suitable Alameda Whipsnake ("AWS") habitat (MM #B.3a). Condition of Approval Nos. 18 and 19 pertain to the specific requirements of the required revegetation and landscaping plans and Condition of Approval No. 32 pertains to the required conservation easement for the open space areas, which includes the approximately 37 acres of newly created AWS habitat. The conservation easement shall be recorded prior to or concurrently with recordation of the last Final Map for the Project.
18. The Project Applicant shall prepare and implement a Revegetation Plan approved by the City, substantially consistent with the plan prepared by H.T. Harvey and Associates entitled "Conceptual Revegetation Plan for Reconstructed Slope", dated August 23, 2001 and consistent with the City's Tree Protection Ordinance.

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As required, the plan shall include the portions of the slopes along the western side of the Project that are presently denuded (Parcels C-C and D-D). Implementation of this plan must comply with the MMRP (MM #B.10a and E.3a). This plan shall be implemented within the time provided in Condition of Approval No. 13.

Landscape Plan Requirements

19. The Project Applicant shall prepare and implement a Landscape Plan substantially consistent with the Landscape Plan prepared by Bradanini & Associates, plans dated October 8, 2002 sheets L-1 through L-13 and ensure the standards set forth in the MMRP (MM #B.10b and MM E.3a) are met. A schematic master landscape plan shall be prepared for VTM Phase I and II Areas and adjacent areas, as applicable (excluding the Senior Gateway Housing and Lots 1-19), and shall be submitted to the Development Director for review and approval prior to the issuance of the building permits for the models. This plan shall include:
 - a. Complete soils information, including soil preparation and amendment specifications, soil particle size for existing site soils and imported soils, representative soils and water table tests confirming the suitability of the site for the plant materials selected.
 - b. Detailed plans for the corner of Mountain Boulevard and "A" Street to assure adequate buffering and screening of the parking area or Gateway Senior Project.
 - c. Retaining wall design and details, based on the requirements in Condition of Approval 14.
 - d. Details for transitions between natural and more cultivated areas.
 - e. Details and specifications for other landscaping features such as street furniture, rocks, and, in accordance with subsection h, any water feature along A Street.
 - f. Design and specifications for the public pathways throughout the site.
 - g. Design of the park, tot lots and other recreational features, as follows;
 - Leona Park: approximately 2 acres including a 15,000 square foot open lawn area providing play space for volleyball, Frisbee and a small soccer field; a 1,600 square foot active play area for 6 to 10 year olds. The play equipment will include climbing structures, slides and

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- tire swings. A tree shaded gathering place, including picnic tables will also be included near the tot lot.
- All play surfaces and play structures throughout the development will comply with ADA standards.
 - Village Green: This feature in the center of the Phase One Condominiums will include low, 30 inch stone walls that will form two, 10 foot wide terraces stepping up to "C" Street, planted with shaded trees. The stone terraces, along with an approximately 28,000 square foot open lawn area will provide an informal gathering place. Adjacent to the lawn area is an approximately 2,500 square foot tot lot play area for children 1-5 years old, including interactive play equipment promoting gross motor skills. A pathway will encircle the play area with a 5 foot stone wall along one edge; this feature will also include a built in fort-like structure with sculptural elements for climbing and play.
 - "J" Street Play Area: This approximately 2,800 square foot area is crescent shaped and will be cut into the uphill slope of the site. A rock climbing wall approximately 6 feet high will be included in the design, along with a bicycle or mini-skateboard ramp for active recreation for ages 10 – 18.
 - "K" Street Greenway Park: This feature is an approximately 1,050 foot lineal greenway along upper "K" Street. It will include a lawn and tree shaded area for passive activities, along with a series of par-course exercise stations along a 5 foot wide meandering pathway, with periodic bench seating areas.
 - "K" Street Open Space: This feature is an area of approximately 2,500 square feet within two level terrace spaces for passive recreation. An overhead shade trellis with bench stations will be included in the design.
 - Water Detention Basin Area: A 10 foot wide crushed granite pathway around the basin will be constructed around the water detention basin at the base of the site, including par-course stations that are linked with other stations in the development.
 - Par-course: A series of par-course stations will be located throughout the lower development area.
- h. At the option of the Project Applicant the water features shown on sheets S-1, L-1 and L-12 shall be implemented. A feasibility study for the water feature shall be prepared before the Project Applicant proceeds with such water feature.

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- i. Prior to the issuance of a building permit for any unit in a phase within the VTM Phase I and II Areas, a final landscape plan shall be submitted for that phase, based on the results, requirements, information and recommendations contained in the master schematic plan, and including but not limited to the following:
- Detailed irrigation plans, consistent with Sustainability Measure Condition No. 38 b. Planting details such as location, number and sizes of the plant materials and the specifications for planting.
 - Street trees shown in all landscaped pockets between driveways as shown on the site plans dated October 8, 2002, sheets L-1 through L-7.
 - Specifications for driveway, motor court and other hard slope areas, paving and other surface treatments.
 - Detailed landscape and improvement plan for the Village Green area.
 - Landscape plan and other details for the sloped areas between the buildings that meet all City requirements for tree planting on downhill slopes below single family homes.
 - A detailed landscape maintenance plan for each phase, including short and long term plant and tree care, irrigation system maintenance and other information to assure that the landscape plan will be successfully established.

Both the master schematic plan and each successive final landscape plan shall be independently reviewed and approved by a qualified landscape architect and other professional consultant, as deemed required by the Development Director, at the Project Applicant's expense. These plans shall comply with Mitigation Measure B.10a as set forth in the MMRP.

20. Prior to the issuance of an occupancy permit for the units in each phase of the Project, the Project Applicant shall enter into a two year landscape maintenance agreement with the City, subject to the review and approval of the City Attorney, running from the date the landscaping is deemed complete and in compliance with the approved landscape plan for each phase as set forth in Condition of Approval 13. The security posted shall be in the form of an acceptably rated bond, cash, an irrevocable letter of credit or a certificate of deposit, and the amount shall be determined based on the contract costs of plants and installation plus 25 percent.
21. The Project Applicant shall prepare and implement a Tree Protection Plan consistent with the City's Tree Protection Ordinance that avoids construction-related impacts to protected trees outside of the construction in accordance with Mitigation Measure B.10c as set forth in the MMRP. **(MM #B10.c)** The Project Applicant may remove trees within the construction area provided that the Project Applicant has prepared a revegetation plan that is in compliance with the City's

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Tree Protection Ordinance and incorporates all of the mitigation measures that mitigate for the removal of protected trees as set forth in Mitigation Measure B.10a. **(MM #B.10a)** This plan shall be made a part of and implemented simultaneously with the Revegetation Plan required in Condition of Approval No. 18.

Geology, Seismicity, and Mineral Resources

22. The Project Applicant shall implement all of the mitigation measures described in "Section D. Geology, Seismicity, and Mineral Resources" of the MMRP. All geotechnical reports and recommendations submitted in accordance with final grading and construction specifications shall incorporate the information, standards, and requirements required in that section. **(MM # Measures D.1.a., D.2.a., D.3.a through d., D.4.a., D.5.a., D.6.a. and b.)**

In addition, the final grading plans and specifications submitted for the site shall include the following information, analysis, requirements and standards:

- a. For the areas along the western slope (Parcels C-C and D-D) potentially subject to wedge failures and debris slides, an estimate of the size of the storage area required, if applicable; mechanisms for accessing the storage area and/or cleaning debris or removal of debris, including a discussion as to whether off-haul or on-site storage is more appropriate.
- b. Information, design and specifications of a permanent drainage system for the western slope area (Parcels C-C and D-D).
- c. A specified performance standard that there be no overspill of debris from the western slope area (Parcels C-C and D-D) onto H Street unless unusual events occur (i.e. seismic activity).
- d. The completion and results of a perched water table study, along with recommendations pertaining to the findings of the study, as deemed necessary.
- e. Specifications that subdrains within the project site be surveyed and mapped utilizing a standard civil engineering method and employing site elevation and x-y ground coordinates under the California coordinate system.
- f. The specifications for the piping material for the subdrains to be used along with an analysis that the specifications used are rated for the degree of overburden material anticipated.

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- g. An evaluation of the chemical content within the water in the water table at the site to determine whether salt precipitation may be a long-term problem, along with the degree to which other substances may cause pipe corrosion such as carbonates, magnesium, silica, calcium or sulfates. This evaluation should include any recommendations for the specifications of the pipes used in the drainage system to avoid or mitigate potential corrosion.
- h. The design of the drainage system shall include redundancy so that each level of subdrains beneath the level of fill has multiple discharge points.
- i. An analysis of the structural requirements and design specifications to mount the solar panel system required by Condition of Approval 38.
- j. Provisions for an inspection, monitoring, and maintenance process throughout the course of grading, construction and post construction to assure that the geotechnical requirements, standards and recommendations are being implemented properly.

Prior to the issuance of a grading permit for the site, the plans, information and analysis required by this Condition of Approval shall be independently reviewed by a qualified geotechnical engineer hired by the City at the Project Applicant's expense and approved by the City Engineer.

Hydrology and Drainage Requirements

- 23. The Project Applicant shall implement all of the mitigation measures described in "Section F. Hydrology and Water Quality" of the MMRP. Final grading and improvement plans for the Project shall include the following information, analysis and requirements:
 - a. A master site drainage and grading plan that: (i) incorporates one of the following detention basin system, (ii) meets the published design criteria set forth in the Alameda County publication entitled "Hydrology and Hydraulics Criteria Summary for Western Alameda County" (1989), using the parameters recommended by PWA as set forth in the SEIR, including the parameter that existing ponds shall be considered empty at the onset of the design storm, and (iii) is consistent with the information, standards and requirements as set forth in the MMRP (**MM #s D.6a, D.6b, F.1a and 1b, F2.a and F2b, F.3a, F.4a and 4b, F5.a**).
 - Two-Basin Alternate A: The Project Applicant sponsor shall construct a stormwater management system, that includes a 15.6 acre-foot lower

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detention basin and outlet works, capable of maintaining peak flows from the 24-hour, 25-year design storm at or below pre-project levels, and not fail structurally during a 100-year storm, as determined using the parameters resulting from the consensus process discussed in the SEIR. The basin shall be lined with an impermeable material to minimize leakage and contributions to local groundwater flow. The stormwater management system reviewed in the SEIR, with the 15.6 acre-foot lower detention basin, meets these performance standards. A surface drainage swale shall be constructed along the base of the western-most external berm slope of the detention basin to capture surface water runoff from the berm and convey it to appropriate stormwater outlets.

The Project sponsor shall also modify the existing Ridgmont Sub-watershed pond (Pond 4) by installing an emergency spillway. Improvements to the Ridgmont pond outflow structure shall include the following, or design elements that achieve an equivalent discharge rating curve using the parameters resulting from the consensus process discussed in this SEIR equivalent to that achieved by the following elements: replacing the existing 30-inch outlet pipe with a 42-inch outlet pipe, adding a single drop box with one rectangular orifice, and constructing an appropriate emergency spillway. The perimeter of the drop box would be comparable to a 36-inch riser and the rectangular orifice would be 2.75 feet by 2.0 feet in size. The replacement of the outlet pipe shall be consistent with standard engineering practice. A geotechnical evaluation of the existing detention basin levees and proposed modifications shall be completed to assess the overall integrity of the pond and recommendations from the evaluation shall become part of the Project design and be implemented as directed by a registered geotechnical engineer.

- Single-Basin Alternate B: The Project sponsor shall be required to construct a stormwater management system that will maintain peak flows from the 24-hour, 25-year design storm at or below pre-project levels, and not fail structurally during a 100-year storm, as determined using the parameters resulting from the consensus process discussed in the SEIR. The basin shall be lined with an impermeable material to minimize leakage and contributions to local groundwater flow. The stormwater management system reviewed in the SEIR, with a single 20.3 acre-foot lower detention basin, meets these performance standards. A surface drainage swale shall be constructed along the base of the western-most external berm slope of the detention basin to

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capture surface water runoff from the berm and convey it to appropriate stormwater outlets. The Project sponsor shall also modify the existing Ridgemont Sub-watershed pond (Pond 4) by installing adequately sized, flow-through pipe system to minimize the detention capabilities of that existing pond.

- b. The Project Applicant shall meet the revised Clean Water Act requirements as established by the Regional Water Quality Control Board ("RWQCB") in the most recent version of such requirements or, if approved as of the date the grading permit application is filed, any final version of such requirements. The detention basin shall meet the new Alameda County NPDES permit provision C3 requirements.
- c. The final plan for the detention basin (Parcel A) shall incorporate detailed landscaping and other specifications so that a water treatment area can be established within the basin including a planting plan based on the recommendations of a qualified hydrologist and biologist regarding contours that can support the proposed planting and not interfere with the design and detention capacity.
- d. Other specifications for the detention basin (Parcel A) shall also be provided, including measures for sediment storage, design of fencing, access, and clean out and maintenance specifications, liner monitoring specifications and repair procedures. The liner monitoring specifications and repair procedures shall be prepared by a registered geotechnical engineer with expertise in impermeable liner design, construction and maintenance.
- e. The site drainage plan shall include detailed measures to detain storm water run-off to the maximum feasible degree, given geotechnical and other constraints through infiltration opportunities, bio-swales or grassy swales, and creating a vegetated swale in the Village Green area.
- f. A hydrologic review and confirmation of seasonal wet weather conditions for conveyance of the storm water.
- g. A review and recommendations pertaining to the creation of a perennial creek through the site that drains into the lower detention basin, consistent with condition of Approval No. 19.
- h. A geotechnical investigation, including soil borings as necessary, of the stability of the detention basin (Parcel C-C). The investigation shall be

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prepared by a geotechnical engineer and shall evaluate the existing berms and consider the planned permanent use as a detention basin, the modified outlet works required for that function, and protection measures against overflows. The geotechnical review shall also analyze the permeability of the basin and make recommendations for modifications needed to meet stability, permeability and functional needs.

- i. Applicant shall fund the cost to prepare detailed construction documents and all construction costs to redirect existing storm drainage in Ridgemoor Drive away from the Leona Street basin and to connect it to the Project's drainage system.
- j. Provisions for an inspection, monitoring, certification and maintenance process throughout the course of grading, construction and post construction to assure that the approved drainage plan and other measures are functioning properly.

Prior to the issuance of a grading permit for the site, the plans, information and analysis required by the preceding Condition of Approval shall be independently reviewed by a qualified hydrologist and/or engineer hired by the City at the Project Applicant's expense and approved by the City Engineer.

Geologic Hazard Abatement District Requirements

24. Prior to and at the time of recordation of the first final map for the project, a Geologic Hazard Abatement District (GHAD) shall be fully operational, and all assessments, reserve funding and/or other long-term financing and other requirements necessary to fully fund the GHAD shall be established and authorized. If at any time the GHAD is dissolved or is otherwise unable to adequately perform specified functions, the Development Director may exercise his or her authority under COA 37. The GHAD Plan of Control shall specify, without limitation, that:
 - a. The GHAD will assume responsibility for the long-term maintenance of the slopes, all drainage facilities (including the detention basin) and all other surface and sub-surface stormwater runoff and drainage system improvements and maintenance, including street cleaning, within the Property.
 - b. The GHAD shall also maintain the open space areas, which include newly created areas of potential AWS habitat; providing minimal disturbance to such areas. The GHAD's regular maintenance activities shall act as fire

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protection and control through vegetation management in the semi-natural, Restored Slope Area of the site, erosion control and trail maintenance.

- c. A reserve fund shall be established in the GHAD budget to provide for restoration, maintenance, repair or other work associated with a catastrophic event, such as a landslide or detention basin bank failure.
- d. The applicant shall provide start-up funds for the GHAD in an amount to be determined by the City Engineer in accordance with the approved plan of control for the GHAD, which shall be no later than recordation of the first final map for the Project. The Project Applicant shall also assume financial responsibility for all geotechnical related work for a period of time determined by the City Engineer, such as the implementation of an initial set of site monitoring measures for moisture, lateral movement and vertical movement, including installation of piezometer(s), settlement pins and inclinometer casings. The City Engineer shall determine the specific monitoring measures that will be installed, and such measures shall be installed, to the satisfaction of the City Engineer, by the Project Applicant for a time certain.
- e. The GHAD shall include both on going maintenance activities as well as a plan for unexpected maintenance and event, including events or damages that could occur off-site as the result of site improvements associated with geotechnical, drainage or related matters within the GHAD jurisdiction. This work shall be based on the results of the minimum monitoring period, the final grading and specifications for slope restoration and repair on Parcels C-C and D-D and the results of the geotechnical information and analysis set forth in Condition of Approval No. 22.
- f. The GHAD budget shall separately identify the projected costs associated with (1) geotechnical/slope stability maintenance work; (2) drainage facilities (including detention basin) operation and maintenance; (3) storm water quality maintenance and monitoring; and (4) reserve fund
- g. The Project Applicant shall fund an independent, qualified engineer to serve as the GHAD manager for the GHAD. The GHAD shall provide the name, phone number and mailing address of the GHAD manager to all residents within the property covered by the GHAD.
- h. The GHAD shall submit an annual report to the City Public Works Director and the Executive Director of the Community and Economic Development Agency detailing (1) its efforts to satisfy the monitoring and

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reporting requirements specified in the Plan of Control; (2) budgetary and other financial information relevant to the GHAD's operations.

- i. The GHAD shall defend, hold harmless and indemnify the Indemnified Parties (as that term is defined in Condition of Approval No. 9) and their insurers against any and all liability, damages, claims, demands, judgments, losses ("Indemnified GHAD Claims") or other forms of legal or equitable relief related to the formation and operation (including, without limitation, maintenance of GHAD-owned property) of a Geologic Hazard Abatement District ("GHAD") and in the case of the City Council members, actions taken by said members while acting as the GHAD Board of Directors. 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 GHAD's expense, in the defense of any action specified in this Condition of Approval No. 24(j). The Indemnified Parties shall take all reasonable steps to promptly notify the GHAD of any claim, demand, or legal actions that may create a claim for indemnification under these Conditions of Approval. Within 90 days of formation of the GHAD, the GHAD shall be required to enter into an Indemnification Agreement in a form acceptable to the City Attorney to establish in more specific detail the terms and conditions of the GHAD's indemnification obligations set forth herein. Any failure of any party to timely execute such Indemnification Agreement shall not be construed to limit any right or obligation otherwise specified in these Conditions of Approval except that it shall not limit Development Director authority as set forth in Condition of Approval No. 37.

- j. The GHAD shall obtain general liability insurance and directors' insurance for the GHAD Board of Directors to the extent that the GHAD Board determines in its sole discretion that such insurance is available at commercially reasonable rates. In the event subsidence insurance becomes available, the GHAD also shall obtain such insurance provided that the GHAD Board of Directors determines that the premiums for such insurance are a prudent expenditure of the GHAD's financial resources.

- k. The assessments authorized for the GHAD must be determined by the GHAD Board following a thorough financial analysis and must include adequate funding for the indemnity and insurance obligations set forth in this Condition of Approval No. 24. The GHAD's attorney and the City's attorney shall also review the adequacy of the funding for the indemnity and insurance and may make recommendations regarding such funding.

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- i. The GHAD will be responsible for hiring its own staff (or contracting with non-City parties to perform such staff services), including all workers who will undertake operation, maintenance, replacement, repair and other activities of the GHAD, and no City employees, including employees of the City Attorney's office, shall perform such services for GHAD facilities and improvements. Further, the City shall not fund or otherwise administer any of the GHAD's operations, property or facilities.

Transportation, Circulation, and Parking

25. The Project Applicant shall implement all of the mitigation measures described in "Section K. Transportation, Circulation and Parking" of the MMRP. The Project Applicant shall prepare and submit to the City for its approval a Traffic Improvement Plan for all traffic improvements that are to be funded by the Project Applicant pursuant to Mitigation Measures K.2a, K.2b, K.2c, K.2f, K.6a as set forth in the MMRP. The plan shall be prepared in accordance with the MMRP and shall, among other items, include a schedule for obtaining Caltrans' approval, where needed, as well as a schedule for completing such improvements. For purposes of the schedule, the applicant shall comply with Condition of Approval 13 for the completion of these improvements.

As set forth in the MMRP and refined below, the plan shall include the following improvements:

- a. The Project Applicant shall install traffic signals at the unsignalized intersection of *Edwards Avenue / I-580 westbound on-ramp – Mountain Boulevard [1]*, to reconfigure traffic lanes on Edwards Avenue between the I-580 eastbound off-ramp and Mountain Boulevard, and to widen the freeway on-ramp to provide two lanes (**MM #K.2a**), including the installation of traffic signals at the unsignalized intersection of *Edwards Avenue / I-580 eastbound off-ramp [2]* (**MM #K.2b**). The Project Applicant shall be responsible for making necessary geometric changes on Edwards Avenue, improvements to the Burckhalter Park access driveway, (along with improvements to the parking lot and adjacent areas such as the existing pathway), Mountain Boulevard and the I-580 on and off-ramps to accommodate the projected traffic increases, along with incorporating an interconnection between the two new signals and the existing signal at the Edwards/Greenly intersection and providing lighting under the I-580 overpass. The Project Applicant shall work in good faith with both the City and Caltrans to maintain the existing sidewalk and on-street parking along the south side of Edwards by concurrently analyzing the feasibility of a three-lane rather than a four-lane configuration for this improvement,

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with a final confirmation through a traffic assessment performed by a traffic engineer hired by the City at the Project Applicant's expense that the three-lane configuration provides an equivalent level of mitigation pursuant to CEQA Guidelines Section 15126.4 (a)(1)(B).

- b. The Project Applicant shall restripe Edwards Avenue to provide a separate westbound left-turn lane at *Edwards Avenue / Greenly Drive [4]*. (MM #K.2c). The left turn lane shall be 50 feet in length with a 60-foot bay taper. All above ground utilities, guardrails, signs and other objects shall maintain a minimum 2-foot clear from the face-of-curb within the widened section of Edwards Avenue and Greenly, as well as maintaining the width of the existing sidewalks. The changes shall be designed such that passenger cars can make the right turn maneuver from Greenly Avenue (northbound) to Edwards Avenue (eastbound) efficiently without encroaching into the opposing lane of travel. The final design shall also be such that buses may make the right turn maneuver from Edwards (eastbound) to Greenly (southbound) efficiently.
- c. The Project Applicant shall install traffic signals at the unsignalized intersection of *Mountain Boulevard / I-580 westbound off-ramp – Sanford Avenue [8]*, and convert the right lane of the two-lane freeway off-ramp from an exclusive right-turn lane to a shared left-turn/right-turn lane. (MM #K.2f)
- d. The Project Applicant shall construct the project site's main EVA via a 25-foot-wide, "Gateway EVA", connecting the Project site's new roadway network at "A" Street to Mountain Boulevard, and the supplemental emergency accesses to Altura Place and Leona Street pursuant to Mitigation Measure K.6a as set forth in the MMRP. (MM #K.6a)

Prior to implementation of these improvements, the Project Applicant shall submit final design plans and other specifications to the City and any other responsible agency, for their review and approval, including a traffic management and detour plan to be implemented during construction of the improvements. At the City's discretion, an independent traffic engineer shall be hired at the Project Applicant's expense to assist the City in their review process.

Implementation of Funding Mechanism for Traffic Improvements Required to Mitigate Cumulative Traffic Impacts

26. The City shall use its best, good faith efforts, to prepare and implement a Traffic Improvement Program ("TIP") and a Traffic Improvement Fee ("TIF") for the

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Edwards Avenue Corridor, which may include the improvements listed below. Prior to the issuance of a building permit for the 351st unit excluding the Gateway Senior Residential and Lots 1-19 (the "Trigger Date"), the Project Applicant shall pay a fair share of the cost for the following traffic improvements in the amounts set forth in the Leona Quarry Fee Schedule to be provided pursuant to Condition No. 6. If the TIP and TIF have not been implemented as of the Trigger Date and other future projects that cumulatively trigger the need for the traffic improvements listed below have been approved, then the Project Applicant shall provide an acceptably rated bond or other security satisfactory to the City Attorney to ensure funding of the entire cost of such traffic improvements. City shall use its best, good faith efforts to reimburse the Project Applicant with funds raised from these future projects for amounts in excess of the Project's fair share. If as of the Trigger Date a TIP and TIF have not been adopted and the Project Applicant does not agree that the other approved projects have triggered cumulatively the need for such improvements, the Project Applicant may request that the City conduct a traffic study to determine whether the traffic improvements listed below are required. The Project Applicant shall pay for the cost of the traffic study, as established by the City with regard to scope of work and selection of a qualified traffic engineer. The City agrees to perform the traffic study and agrees to reasonably consider amending the list of improvements to implement the conclusions of the traffic study. If the study determines that certain of the improvements are not required, then upon this determination, the Project Applicant shall pay the City only the Project's fair share of the cost for each such improvement, based upon the lower of the amounts set forth in Attachment A to these conditions of approval or a revised cost for such improvements approved by the City in its sole discretion. In the event the Project Applicant installs or otherwise pays for the entirety of any of the traffic improvements listed below, the Project Applicant shall receive a credit or reimbursement for such work or costs that exceed its fair share. This Condition of Approval applies to the following traffic improvements and studies:

- a. Modification at the west leg of the signalized intersection of *73rd Avenue / MacArthur Boulevard [6]* to add a second left-turn lane on eastbound 73rd Avenue. **(MM #K.2d)**
- b. Installation of traffic signals and restriping of the eastbound Keller Avenue approach to provide two through-lanes at the unsignalized intersection of Mountain Boulevard / *Keller Avenue [7]*. **(MM #K.2e)**
- c. Installation of traffic signals at the unsignalized intersection of *Keller Avenue / I-580 eastbound off-ramp [9]*. **(MM #K.2g)**

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- d. Installation of traffic signals and the addition of a second eastbound left-turn lane at the unsignalized intersection of *I-580 westbound off-ramp / Mountain Boulevard – Kuhnle Avenue [16]*. (MM #K.2h)
- e. installation of traffic signals at the unsignalized intersection of *Seminary Avenue / I-580 eastbound off-ramp – Overdale Avenue [18]*. (MM #K.2i)
- f. The improvements described in Conditions of Approval Nos. 25.b and 25.c.
- g. If a TIF and TIP are approved, the City as part of the TIF and TIP shall include and fund a study of other long-term operational traffic improvements along the Edwards Avenue/82nd and Seminary Avenue routes, particularly the Foothill-82nd Avenue segment and the MacArthur-Seminary segment.
- h. If a TIF and TIP are approved, the City as part of the TIF and TIP shall include and fund a study of any further intersection improvements in the Edwards Avenue corridor area, beyond those identified in the EIR, that should be included as part of the TIP.

Vesting Tentative Map Requirements

- 27. The maximum number of residential units for the approved project is 477. Any minor revision of the internal circulation plan or lot layout shall be subject to the review and approval of the Development Director at least 45 days prior to filing each final map.
- 28. As set forth in Condition of Approval No. 3.d., multiple final maps may be filed subject to the phasing plan set forth in Condition of Approval No. 13. Modifications to the phasing program are subject to the review and approval of the Development Director, and at his/her sole discretion, any modifications may be subject to review of the Planning Commission.
- 29. For lots 1-19, the development standards and requirements used shall be the R-30, - One Family Residential Zone Regulations (Chapter 17.16 of the Oakland Municipal Code) and Special design requirements for such lots contained in OMC Chapter 17.102.380. Each residential unit proposed for these lots shall be individually subject to the design review requirements set forth in the Design Review Chapter 17.160. For Lot 19, a written evaluation and confirmation of the areas of potential habitat for the Alameda Whipsnake shall be submitted prior to or concurrent with the design review application, along with recommended measures, as required to avoid disturbance of this area during construction and post construction activities.

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30. Prior to the approval of each Final Map, a site plan shall be submitted for the review and approval of the Development Director or his/her designee demonstrating substantial compliance with the approved VTM and the approved "PUD Design and Specification Document for the Leona Quarry Project."
31. Prior the submittal of the first Final Map for the project, the covenants, conditions and restrictions ("CC&Rs") for the attached units within the VTM Phase I and II Areas shall be submitted for review by the City. The CC&R's shall provide for the establishment of a homeowners association for the maintenance and operation of all sidewalks, common open space areas, the community center, all common area improvements and common structure improvements that are not within the purview of the GHAD. Similarly, prior to the issuance of the building permit for Parcel Z (Gateway Senior Housing), the Project Applicant shall provide assurances for maintenance and operation of the improvements within Parcel Z.
32. Concurrent with the submittal of the last Final Map for the approved project, an open space and conservation easement shall be submitted to the City for Parcels A-A, B-B, C-C, and D-D, providing that no grading or other development activity or removal of trees or other vegetation may occur in these areas except as necessary for maintenance and operation of the GHAD.
33. At least 45 days prior to recording each Final Map, plans shall be submitted for review by the City Building Services Department to obtain addresses and for street name approval. Alternate street names should be submitted in the event of duplication and to avoid similarity with existing street names. Final Maps shall not be certified as ready for approval without the approved street names.
34. 34. The Project Applicant shall revise the VTM prior to approval becoming effective, as follows:
 - a. Note 9 : Proposed Zoning – R-50 Planned Unit Development
 - b. Note 14: Roadways – All roadways shown on this plan are proposed to be public and offered for dedication to the City of Oakland
 - c. Note 17: Dimensions - Dimensions shown are minimum and may change during final design.
 - d. Note 20: Erosion Control: Erosion control measures shall be prepared as set forth in the Conditions of Approval and Mitigation Monitoring and Reporting Program for the PUD approved by the Oakland City Council on February 3, 2004

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- e. Note 21: Maps: Multiple Final Maps may be filed on the lands shown on this map subject to all the Conditions of Approval and Mitigation Monitoring Program as set forth in the PUD approved by the Oakland City Council on February 3, 2004
 - f. Note 22: Phasing: This project is proposed to be constructed in Phases as set forth in the Conditions of Approval and Mitigation Monitoring and Reporting Program as approved by the Oakland City Council on February 3, 2004. Phasing boundaries may be approved only upon written permission from the Development Director.
 - g. Note 23: Street Names: Final street names shall be approved as set forth in the Conditions of Approval for the PUD as approved by the Oakland City Council on February 3, 2004.
 - h. Note 25: Dedications, Easements and Right of Entry: Additional and specified dedication of property rights and rights of entry as necessary to accommodate all drainage facilities, sewer facilities, public utility easements and other easements as may be necessary to properly serve the lots created shall be dedicated as part of the filing of future final maps.
 - i. Note 26: All utilities shall be installed underground according to the standards and requirements of the City of Oakland and the applicable utility.
35. Prior to the issuance of a grading permit, as set forth in Condition of Approval 13, the applicant shall submit a detailed master improvement plan for the site prepared by a licensed Civil Engineer, with all conditions and requirements as set forth in these Conditions of Approval for the private property and the public rights of way, including but not limited to curbs, gutters, pedestrian ways, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design, specifications and locations of the water pumping facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking and accessibility improvements required to comply with all applicable City standards, including the approved landscape plans for the "I" and "J" Street landscaped pockets, the design of the pedestrian stairway paths and the street tree locations and planting specifications. This information shall include a capacity analysis in designated areas of the sub-basin from the point of discharge to MacArthur Blvd to confirm the improvements required to the downstream sewer system to meet Public Works Department requirements.

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This plan shall be reviewed and approved by the City Engineer and used as the confirmation of compliance with subsequent phased final improvement plans submitted during the phased development requirements in Condition of Approval 13.

36. The final maps that are filed for the approved project shall include all easements necessary to provide access for public utility connections, the Ridgmont sub-basin connection, if required, public access easements for the park and pathways through the site and the emergency access routes (Gateway EVA, and the Altura and the Northwestern supplemental routes).
37. For the duration of the project, the City Development Director shall have the authority to determine whether the Project Applicant and the Project substantially comply with terms and conditions of this approval, including, without limitation, these Conditions of Approval, or any conditions or requirements of the GHAD. 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 and the SEIR, or as reasonably necessary to promote architectural integrity and the purpose of integrated development as set forth in the PUD. 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 Applicant of any request (including a request by City staff or by the public) that the City Development Director make a determination of noncompliance, and shall provide the Project Applicant with written notice of any non-compliance determination by the City Development Director. The City shall provide the Project Applicant a copy of all documents used or relied upon in making such determination. On or before October 15 of each year, the Project Applicant shall submit to the City Development Director a report demonstrating the Project Applicant's and the Project's compliance with the terms and conditions of the Approval, including, without limitation, these Conditions of Approval. This report may be used by the City Development Director to evaluate the Project Applicant's and the Project's compliance with the terms and conditions of this Approval. Project Applicant's obligation to submit this annual report shall terminate upon the City's written determination that the Project is complete.

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Project Sustainability Requirements

38. The applicant shall comply with all sustainability measures as proposed in the document submitted October 11, 2002, entitled "Leona Quarry Development Project; Sustainability Measures; Conditions for Approval", produced for The DeSilva Group by Adam Berman, Tilden Consulting, Inc., Geof Syphers, Xenergy Inc. and shall also incorporate the following additional sustainability measures:
- a. Install Hardwired Compact Fluorescent Fixtures in Bathrooms, Kitchens, and for Outdoor Lighting.
 - b. Specify Low-VOC (volatile organic compounds) paint for all interior applications.
 - c. Use Formaldehyde Free Fiberglass insulation in the walls and ceilings.
 - d. For all interior flooring materials, offer the buyer the choice of linoleum and tile in addition to other flooring materials, and prepare a brochure that highlights the environmental and maintenance issues of all the materials offered. The City of Oakland shall review and approve the brochure prior to publication.
 - e. For all framing timber, obtain a valid price quote and availability schedule for lumber certified by the Forest Stewardship Council (FSC), which certifies that wood has been grown using sustainable forestry practices. Obtain a price quote and availability schedule for the same products and at the same time as a price quote for other framing timber. Use FSC certified framing timber for at least 50 percent of the framing timber if the price quote for the FSC certified timber is no greater than the price quote for the other comparable framing timber and the availability is the same for both.
 - f. The Project Applicant shall install solar panels to be the primary source of energy for at least 15 percent of the living units within the total project. The solar panel arrays shall be installed on the hill area immediately behind the terrace units on "K" street. Stability and safety of the proposed installation shall be reviewed and confirmed as part of compliance with the geotechnical requirements as set forth in Condition of Approval 22. Other locations may be acceptable, but shall be reviewed and approved by the Development Director prior to installation. The landscape plan requirements as set forth in Condition of Approval shall incorporate trees and other planting such that the panels are screened from distant views to

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the maximum extent feasible while still allowing full sun access to the panels.

Fire and Life Safety Requirements

39. As part of the public improvement plans for the site as required by Condition of Approval 35, the Project Applicant shall provide detailed specifications and design information including but not limited to:
- a. The road surface and pathway surface design for the Northwestern and Altura supplemental access routes as well as the routes from "I" Street to "J" Street and from "H" Street to "B" Street, demonstrating that these routes meet Fire Department standards with reference to NFPA standards, 1998 CFC Article 9.
 - b. The design specifications for the gates at the Northwestern and Altura supplemental access routes, including provisions for the Knox Box lock system.
 - c. Schematic plans for providing adequate emergency access routes into and around the residential buildings on the site and other fire protection and fire fighting measures.
 - d. All final designs for buildings shall include safety locks on doors and windows, lighted house numbers, project street and directory signs and outdoor lighting.

Payment of Fees for Independent Technical Reviews and Project Coordination and Management

40. Within 90 days following the Effective Date, the Project Applicant shall enter into an agreement to establish the terms and conditions of this Condition of Approval. The City and the Project Applicant acknowledge that the large scale, complexity and phased schedule for the approved project require a level of expertise and monitoring that are beyond the standard practices of the City for a development project. Further, the MMRP requires a number of independent experts monitoring grading and construction activities including but not limited to biologists, geotechnical engineers, hydrologists, air quality and noise monitors, etc. The Project Applicant shall fund the full costs of all independent technical and other consultants the City deems is required to comply with the Conditions of Approval and the mitigation monitoring requirements as set forth in the MMRP. All work performed pursuant to this Condition of Approval shall be under the direct supervision of the City. Accordingly, the applicant shall establish an "evergreen"

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deposit fund with the City in order to cover the full costs of independent technical and other types of review, monitoring and inspection, including, without limitation, third party plan check fees. The payment of standard plan check fees, building permit fees, special inspection deposits and other required fees shall, to an extent determined by the City, be credited as part of this evergreen fund. The City shall provide the Project Applicant with quarterly detailed statements, including staff names, time entries and description of work performed, as to the amount of funds used and the amount of deposit required to sustain the fund. City retains the right to halt work on the project if Project Applicant fails to make requested payments to the fund within the time period specified. The Project Applicant may conduct an annual audit of the funds used. Any failure of any party to timely execute such Agreement shall not be construed to limit any right or obligation otherwise specified in these Conditions of Approval, including, without limitation, Conditions of Approval Nos. 9 and 10, except that it shall not limit Development Director authority as set forth in Condition of Approval 37.

Construction Management and Phasing

41. As a requirement of Pre-construction Phase A as set forth in Condition of Approval 13, the Project Applicant shall submit a Construction Phasing and Management Plan, incorporating all applicable mitigation measures in the MMRP including Air Quality (**MM A.1a**); Biological Resources (**MM B.1a, B.5a, B.6a, B.8a**); Cultural Resources (**MM C.1a, C.2a, 2b, 2C and 3.a**); Erosion Control and Storm Water Management (**MM F.2a, 2b**); Solid Waste Reduction and Recycling (**MM L.1a**); Noise (**MM H.1a and b**); Traffic, Circulation and Parking (**MM K.8**) The plan shall also include the following additional measures and standards:
- a. A site security and safety plan to assure that grading and construction activities are adequately secured during off-work hours.
 - b. A fire safety management plan for all phases of work, including provisions for access, water, and other protection measures during grading and construction activities.
 - c. A plan to provide temporary access to the model units during active construction activities, including path of travel, securing the active construction areas and parking.

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Affordability Requirement for Gateway Senior Housing Project

42. Prior to the issuance of an occupancy permit for the Gateway Senior Housing Project, written documentation shall be submitted to the Development Director, for review and approval confirming that a deed restriction or other legal commitments have been secured to ensure the continued availability and use of the residential units for low income persons, as defined in Section 50079.5 of the California Health and Safety Code.

14.1-2

ORA/COUNCIL

FEB 17 2004

**EXHIBIT D
GENERAL FINDINGS
RELATED TO APPROVAL OF LEONA QUARRY
BY THE OAKLAND CITY COUNCIL**

I. INTRODUCTION

1. These general findings are adopted by the City of Oakland (the "City") for the Leona Quarry project. These findings refer to the original EIR prepared for that project, as revised and supplemented by the SEIR, SCH #1999042052 (collectively, the "EIR"), and are based upon that EIR. These findings are also based upon the staff reports presented for all hearings related to the project, and all materials contained in the record of proceedings, as identified in the CEQA findings for the Leona Quarry Modified Plan (described below). Some findings are based especially upon specific geotechnical and other scientific 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 the Resolution Approving the Applications of the Desilva Group to Close the Leona Quarry, Reclaim it and Redevelop the Site for 477 Residential Units at 7100 Mountain Boulevard in Compliance with Alameda Superior Court Order (Action No. RG-03077607), regarding re-approval of the Leona Quarry Modified Plan. Attached to that same resolution is an Exhibit A that contains CEQA findings. Also attached to that resolution 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 to that resolution is an Exhibit C that contains the conditions of approval. This Exhibit D contains findings regarding General Plan Consistency, zoning consistency, a Planned Unit Development permit, Preliminary and Final Development Plans, a Vesting Tentative Map, Design Review, and miscellaneous matters. All Exhibits are incorporated by reference into each other, and into the resolution.

3. These findings use capitalized terms (including "Lower Development Area") as they are used in the EIR. 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 exhibits attached to the resolution.

II. GENERAL PLAN AND ZONING CONSISTENCY

4. The consistency between the Modified Plan and the General Plan is discussed in the EIR, especially at Draft EIR pages IV.G-1 et seq., and Final EIR pages III-13 and V-16 to V-17. Consistency with the General Plan is also discussed in the October 2, and October 23, 2002 staff reports presented to the Planning Commission, which are part of the record for the project. These findings have been specifically reviewed by the City Council and the Council hereby adopts the conclusions, analysis and explanations contained in the EIR and staff reports, and finds the Modified Plan consistent with the General Plan. The various land uses authorized for the Modified Plan are compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The Modified Plan is compatible with and

conforms to the objectives, policies, general land uses and programs specified in the General Plan. The Modified Plan will further the objectives and policies of the General Plan and not obstruct their attainment. The Modified Plan is compatible with, and does not frustrate, General Plan goals and policies. The Modified Plan is in harmony with the policies of the General Plan. The Modified Plan is in harmony with surrounding neighborhoods, and the site is physically suitable for the development proposed.

5. The General Plan comprises many objectives, policies, principles, programs, standards, proposals and action plans (collectively “policies”), as well as performance standards. The Council finds and 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 resources that exist because land is undeveloped (such as open space and visual resources). The Council has considered all applicable General Plan policies and the extent to which the Modified Plan conforms to each of those policies.

6. The Council has fully evaluated the extent to which the Modified Plan 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, and protection of archeological and historical resources. The Council has also fully considered the Modified Plan’s compliance with all performance standards in the General Plan, and finds the Modified Plan in compliance with those standards.

7. The Council finds the Modified Plan compatible with neighboring development. The Council reaches this determination after full and careful review of public comments contending that the multi-family units are not compatible with the surrounding existing development. The Council bases this determination on the full Planning Commission record of the discussion of zoning and land use compatibility in the EIR and in staff reports, as well as the December 3, 200 City Council staff report pertaining to the appeal. The project site is already zoned R-50 to allow multi-family units, and the Zoning Boundary Adjustment enacted in Ordinance 12457 already moved the boundary between the R-30 zone into the R-50 zone in a manner that accommodates the Modified Plan. Multi-family housing already exists in the area, along Mountain and Keller. Also, the General Plan (including its Land Use and Transportation Element) already contemplates multi-family development. Accordingly, the Modified Plan does not introduce the concept of multi-family housing into this area, but rather is well within the permitted density for the mixed housing type residential general plan Land Use designation (30 units/gross maximum permitted; 10 units/gross acre proposed in the lower development area.) Further, the overall of the character and design of the project is consistent with the objectives of the mixed housing type residential of creating a mix of unit types and sizes.

8. The Modified Plan is compatible with and implements the zoning for the project site, including the ZBA enacted in Ordinance 12457. The Modified Plan implements a goals of the ZBA to promote local and regional welfare by allowing multi-family housing to be clustered on the portion of the site most suited for development. The Modified Plan promotes

the public welfare goals in that multi-family housing will help satisfy local and regional housing needs. Further, the attached townhome building type implements zoning and General Plan policies by allowing more efficient use of the site, and providing a variety of housing types serving a range of needs in the market, while still leaving a substantial buffer between the edge of the development envelope for the Modified Plan and existing development. The Modified Plan preserves approximately 70 acres in permanent open space, and clusters development in the disturbed, less sensitive areas of the site. The Modified Plan embodies a comprehensive, integrated and clustered development plan. The Modified Plan allows a comprehensive development plan that accommodates a reclamation plan that will promote public health, safety and welfare by eliminating an incompatible existing land use, improving the surrounding visual, noise and air quality environments once the project is completed, adding to habitat value in the area by restoring and revegetating damaged hillside areas and reestablishing a connection of potential habitat for the Alameda County Whipsnake.

9. For the reasons stated in the EIR, and in staff reports, in these findings, and in the CEQA findings for the Modified Plan (Exhibit A to resolution), the Council finds that the balance achieved by the Modified Plan among competing General Plan policies is acceptable, and that the Modified Plan complies with all performance standards in the General Plan. The Modified Plan represents a reasonable accommodation of all applicable competing policies in the General Plan. The Modified Plan provides an appropriate level of protection of resources while also promoting the General Plan goals referenced in the CEQA statement of overriding considerations (Exhibit A to resolution). Specifically, the implementation of the approved project will result in the fulfillment of several important General Plan policies including improving slope stability, restoring habitat and improving open space and reclamation of the quarry. Restoration of slopes and clustering of development in the lower area of the site result in substantial improvements to the overall visual quality of this portion of the Oakland Hills. These policies and objectives, along with others, have been set forth in detail in the public record for the project, specifically in the October 2, and October 23, 2002 Planning Commission staff reports.

III. PLANNED UNIT DEVELOPMENT

10. The Modified Plan includes a Planned Unit Development (PUD) permit under Chapters 17.122 and 17.140. The City's previous decision to find compliance with Chapters 17.122 and 17.140 of the Oakland Municipal Code was not challenged in court, and no objections relating to compliance with those requirements have been raised since Resolution 77544 was initially adopted. The City Council again confirms the Planning Commission's October 23, 2002 decisions and approves both a preliminary and final development plan.

11. The Modified Plan complies with all PUD regulations set forth in Chapters 17.122 and 17.140, except those requirements for which variances are granted, as noted below. The Modified Plan embodies a large, integrated development project that adheres to a comprehensive plan, and which is located on adjacent tracts of land that comprise one, continuous project site. The Leona Quarry project is the subject of an application submitted by owners of all the property included. The Modified Plan has undergone design review, in which the professional services of an architect licensed by the State of California, a landscape architect

licensed by the State of California, and an urban planner holding or capable of holding membership in the American Institute of Certified Planners were used.

12. Under section 17.122.060, suitable areas have been set aside for public facilities and open space, as set forth in the record for the project, including a 2 acre park and village green area. Common open space within the Lower Development Area will be maintained by a Homeowners' Association (HOA), which will be created to ensure that all property owners within the site, excluding Lots 1-19 and The Gateway Senior Homes are automatically made members of the HOA and are subject to assessments levied to maintain the open space. The HOA will exist for at least 20 years and will continue to exist thereafter until a majority vote of the members shall terminate it. The site is not suitable for location of a school and so no dedication of land for school purposes has been required. As discussed in the EIR, the project is conditioned upon payment of school impact mitigation fees as required by State Law.

13. Under section 17.122.070, acceptably rated performance bonds, in the amount of the estimated cost of the work, have been required. These bonds are conditioned upon faithful performance of the work within the time period specified, and will be approved by the City Attorney. These bonds pertain to reclamation work and infrastructure, landscaping and other requirements as set forth in more detail in the Conditions of Approval (Exhibit C to the staff report).

14. Except as expressly noted in these findings, the Modified Plan meets all development standards, including those set forth in section 17.122.110.

15. All the requirements for action set forth in Chapter 17.140 have been complied with. The Planning Commission held two public hearings on the application, for which notice was properly given. The Council is approving both a preliminary and final development plan for the entire Modified Plan, and the final development plan will not be submitted in stages. Both the preliminary and final development plans contain all information required by Chapters 17.122 and 17.140, including specifically sections 17.140.020 and 17.140.040. The final development plan conforms in all major respects with the preliminary development plan. Its level of detail is sufficient to indicate fully the ultimate operation and appearance of the Modified Plan. Copies of legal documents required for dedication or reservation of common space, for the creation of a nonprofit homeowners' association and for performance bonds will be submitted before final map approval as set forth in the conditions of approval (Exhibit C). The final development plan was forwarded to the City Engineer for review pursuant to section 17.140.050, and the Commission has reviewed the plan and finds that it conforms to acceptable City standard as set forth and further specified in the conditions of approval.

16. The Modified Plan meets the requirements of section 17.140.80 and the planned unit development regulations in Chapter 17.122. Specifically, the Modified Plan has been designed in compliance with the requirements of section 17.122.110 relating to maximum number of dwelling units, floor area ratios, height limitations, provision of yards and courts, provision of usable open space, standards for usable open space, undergrounding of electronic and telephone facilities, fire alarm conduits, and electrical wiring (including that required for

street lights), standards for electric and telephone facilities, and standards for street lighting and fire alarm facilities.

17. The Modified Plan PUD permit includes the following set of exceptions, bonuses and waivers (collectively “exceptions”) of the residential thirty foot height requirements, as allowed by Chapter 17.122:

Product 1 – Phase 1 downhill condos	38’ maximum from projected finish grade-allow up to 4’ variation to accomplish roof breaks; allow 36’ of height above front street pavement.
Product 2 – Phase 1 uphill townhomes	36’ maximum from projected finish grade; allow 31’ of wall height within 20’ of the front lot line
Product 3 – Phase 1 downhill townhomes	36’ maximum from projected finish grade - allow up to 2’ variation to accomplish roof breaks
Product 4 – Phase 1 Village Green condos (uphill)	40’ maximum from projected finish grade; allow 38’ of wall height within 20’ of the front lot line
Product 5 – Phase 1 downhill townhomes	40’ maximum from projected finish grade; allow 27’ of height within 20’ of the front lot line
Product 6 – Phase 2 downhill townhomes	36’ maximum from projected finish grade – allow up to 4’ variation to accomplish roof breaks
Product 7 – Phase 2 uphill townhomes	36’ maximum from projected finish grade; allow 26’ of wall height within 18’ of the front lot line
Product 8 – Phase 2 Terrace unit condos (downhill)	48’ maximum from projected finish grade; allow 31’ of wall height measured from the top of foundation
Product 9 – Gateway Senior Apts. (uphill)	60’ maximum from projected finish grade, except elevator towers and architectural treatments

The maximum heights noted above may be exceeded by up to 8’ for only gable ends and dormers 15’ wide or less.

18. The City Council finds these exceptions are appropriate. The topography creates a setting where there are no views that may be obstructed by this development, and so the height exceptions do not cause the type of problems the general development standards are intended to protect against. Through an integrated development design, each street offers different view potentials and each new homeowner will be made aware of the height of the approved design. In viewing the development from downhill, the amount of hillside located above even the highest neighborhood (Phase 2 Terrace Units) completely diminishes the overall massing. The height exceptions have also been mitigated to achieve the purposes of the general height restrictions. The design features that have been incorporated include: utilizing as much under-roof area as possible for living space; introducing dormers for roof line interest and to better utilize these under-roof areas; using stepped facades on uphill and downhill slopes; minimizing skirt walls; using taller facades purposely designed on the street side of the downhill structures where no view from above is impacted (Product 5 and 8); and using various roof structures, such as on buildings 6A, 6B-1, and 6B-2, to create variety in the street scene and the downhill view.

19. As explained above, the Modified Plan is consistent with the Oakland Comprehensive Plan (General Plan) and all applicable planning and zoning enactments. The location, design and size of the Modified Plan are well integrated with its surroundings. The project has been designed to incorporate mitigation of impacts to the surrounding existing development and to include buffers between the project and the development, all of which adequately reduces the impacts of development of the Modified Plan, as set forth in the MMRP, Exhibit B.

20. As explained in detail in the EIR, traffic generated by the Modified Plan can be accommodated safely and without congestion on major streets, and will not unduly burden local streets with the implementation of the traffic improvements as set forth in the MMRP Exhibit B. The future occupants of the Modified Plan will be adequately served by existing facilities and services, in combination with the facilities and services to be funded by the Modified Plan. The Modified Plan is an attractive, healthful, efficient and stable environment for living, shopping, or working. The comprehensive, integrated, clustered development plan for the Modified Plan results in the benefits described in the overriding considerations identified in the CEQA Findings (Exhibit A). The Modified Plan is well integrated into its setting. The earth-moving required for the project is necessary to reclaim the quarry site and replace its adverse appearance with a visually appealing, geologically stable and improved site. The reclamation of the site, and development of the Modified Plan will replace the scar created by quarrying activities with an attractive project that will not be visually obtrusive, will harmonize with surrounding areas and facilities, will improve views for surrounding residents, and will provide sufficient buffering in the form of spatial separation, revegetation of the quarry site, repair of topographic features in the site, and other means as explained in detail in the EIR, the staff reports and the record for the project.

IV. VARIANCES

21. The Modified Plan includes some variances the City previously granted in Resolution 77544. The City's previous decision to find the variances lawful and appropriate was not challenged in court, and no objections relating to compliance with the requirements for the variances have been raised since Resolution 77544 was initially adopted. The City Council again confirms the Planning Commission's October 23, 2002 decisions and approves the following variances.

22. The Modified Plan includes some garages that exceed 50% of the building frontage, some retaining walls higher than six feet, and some paved driveways that occupy more than 50% of the front yard. The Council approves these variances, pursuant to Chapter 17.148 and especially section 17.148.050. These exceptions to a limited set of development standards are required to address the unusual topography created by the quarrying operations at the project site, while still allowing the densities enjoyed by other owners of property zoned R-50 and subject to a PUD permit. In order to enjoy the privileges enjoyed by owners of other property zoned R-50 and subject to a PUD permit, the owners of the project site must be permitted to develop a comprehensive, integrated development plan that is fitted to the unique geologic and topographical constraints on the site. The Modified Plan could not achieve the desired clustered development in strict compliance with the development standards. Strict compliance with the development standards would require essentially as much grading and disruption of the site as

does the Modified Plan, but would produce gaps in the project and other undesirable aspects, resulting in a more disjointed and chaotic development plan for the site. The integrated, comprehensive nature of the Modified Plan satisfies the purposes of the development standards, and strict compliance with those standards would present practical difficulties, unnecessary hardships and inefficient development patterns. The variances thus do not grant special privileges inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.

23. The variances will not adversely affect the character, livability or development of abutting properties or the surrounding area, since those areas are already developed. On the contrary, the requested variances help to achieve a superior design for the site by creating a unified and consistent set of design standards that have been developed with respect to the steep slopes, existing topography and other constraints on the site. As stated elsewhere in these findings (Exhibit D), the Modified Plan is compatible with the surrounding area. As also stated elsewhere in these findings (Exhibit D), the Modified Plan promotes public welfare, and is consistent with, and not detrimental to, adopted plans and development policies.

24. *Garage Width.* A variance is granted to achieve the following exceptions to the development standards pertaining to the width of garages:

Product 2 – Phase 1 uphill townhomes	Building types 2A(3-plex), 2B(4-plex), 2C(5-plex) and 2D(6-plex) utilize 18 tandem garages, an 8’ wide door in a 17’ wide plan and only the 14 end units have a 16’ wide door in a 27’-6” wide plan that is recessed approx. 9’ from the front façade
Product 3 – Phase 1 downhill townhomes	Building type 3A (2-plex) – the 20’-8” wide garage is 71% of building frontage. Garage doors have been recessed behind entry roofs and there are large sideyard set-backs for landscaping
Product 5 – Phase 1 downhill townhomes	Building types 5A(2-plex) and 5B(4-plex) – the 20’-8” wide garage is 75% of building frontage. Garage doors have been recessed and trellis structures introduced to highlight entries and reduce impact of garage doors. In the entire street length, the garages are 58% of the length.
Product 6 – Phase 2 downhill townhomes	Building types 6A and 6B – the 20’-8” wide garage is 73% of building frontage. Garage doors have been recessed, shifted and trellis structures introduced to highlight entries and reduce impact of garage doors. In the entire street length, the garages are 55%-60% of the length.
Product 7 – Phase 2 uphill townhomes	Building types 7A, 7D and 7E – the appearance of the garage at 18’ wide is 69% of building frontage. The garage doors have been recessed approx. 7’ from upper floor. Building types 7B and 7C – the appearance of the garage at 18’ wide (3 of 4 plans) is 76% of building frontage. The garage doors have been staggered and set-back with entry stairs pulled forward in the street scene. In the entire street length, the garages are 63% of the length.

25. The garage variance is needed because the steep slopes in these neighborhoods allow only a certain amount of buildable area for garage structures. To facilitate

the integrated nature of the Modified Plan, and wherever possible (such as in the Village Green and Terrace Units), garages have been turned and placed in motor courts entirely off the street. The garage variance facilitates overall project design, and was not addressed as a specific building type design issue. The garage width variance has been mitigated to achieve the purposes of the regular garage width development standards. The design features that have been incorporated to mitigate the garage width variance include trellis features at entry areas that project in front of the face of garage, additional landscape areas in the right of way to soften the street scene, varying styles of garage doors, recessed doors from 2' to 9' to create shadow, and varying door colors – typically in the deeper, more muted ranges.

26. *Retaining Wall Height.* A variance is granted for the following exceptions to the general development standards limiting retaining walls to six feet in height: Uphill side of Gateway EVA; Supplemental emergency access from “I” to “A” Street; terminus of “A” Street; supplemental emergency access to Altura; and other walls, including behind the Village Green unit and units behind B Street. This variance is needed for these retaining walls. Topography of the site adjacent to Mountain Boulevard is such that the new Gateway emergency vehicle access could not be incorporated with appropriate turning radius without a steep cut into the existing slope, necessitate a major retaining wall. Views of this wall will be buffered by both the new Gateway Senior Housing Project and landscaping requirements. The internal street layout, in light of the given slopes, necessitates walls higher than six feet in certain locations throughout the site, including some of the Village Green units, the terminus of Street “A”, the Altura Supplemental EVA, and the supplemental access from “I” to “A” Streets.

27. *Front Yard Paving.* A variance is approved to implement the following exceptions to the front yard paving development standards:

Product 1 – Phase 1 downhill condos	Approx. 60 % paved
Product 2 – Phase 1 uphill townhomes	Approx. 74% paved
Product 3 – Phase 1 downhill townhomes	Approx. 66% paved
Product 5 – Phase 1 Downhill Townhomes	Approx. 78% paved
Product 6 – Phase 2 downhill townhomes	Approx. 80% paved
Product 7 – Phase 2 uphill townhomes	Approx. 80% paved

28. The front yard paving variance is needed for the same reasons the garage width variance is needed. The front yard paving variance facilitates overall project design, and was not addressed as a specific building type design issue. The amount of paving in the front yards allowed by this variance has been mitigated to achieve the purposes of the front yard paving development standards. Separations between buildings have been increased to allow for greater landscaped set-backs to offset the paved area. The design features that have been incorporated to mitigate the paving area variance include colored or enhanced paving in the driveways, additional landscape areas in the right of way (8' deep bulb-outs), and use of trellis elements with vine planting over walkways. In addition, the overall streetscape, public

improvements and front yard landscaping have been coordinated to provide a unified set of design standards.

V. VESTING TENTATIVE MAP

29. The Modified Plan includes a Vesting Tentative Map and certain exceptions to design standards previously approved in Resolution 77544. The City's previous decision to find the VTM and exceptions lawful and appropriate was not challenged in court, and no objections relating to compliance with the requirements for approval of the map and exceptions have been raised since Resolution 77544 was initially adopted. The City Council again confirms the Planning Commission's October 23, 2002 decisions, approves the Vesting Tentative Map (VTM) 7351 for the Modified Plan, pursuant to Title 16 of the Oakland Municipal Code, subject to the Conditions of Approval (Exhibit C), and grants certain exceptions from design standards pursuant to section 16.04.060.

30. VTM 7351 contains all information required by State Law and by the Oakland Municipal Code, including all information referenced in section 16.08.010. The VTM provides to the extent feasible for future passive or natural heating or cooling opportunities. The VTM is constrained by the geology and topography of the project site, but within those constraints orients structures in an east-west alignment for southern exposure, and orients structures in a way that takes advantage of shade and prevailing breezes.

31. Final maps may be filed in phases, as set forth in the VTM and in the Conditions of Approval (Exhibit C).

32. The VTM meets all design standards of Chapter 16.16. The VTM meets all improvement standards of Chapter 16.20. Pursuant to section 16.16.030, the Council approves the grades of all streets in the VTM. The Council acknowledges that Street A and part of Street K have grades that exceed the grades generally required by fire department regulations. Pursuant to section 16.04.060, the Council grants an exception from those regulations. The fire department has required a series of emergency access routes that provide a redundancy as follows: The Gateway EVA will be the main route and meet all dimensions and specifications; the Altura and northwest routes will provide additional means of egress in an emergency; the supplemental connections have been designed from "I" to "A" Street and "H" to "C" Street, and the Gateway EVA intersection with "A" Street has been off-set with "B" Street. This emergency access network, in its entirety, represents a level of redundancy that off-sets the three segments of the street network that exceed 18 percent extending over 150 feet. The Council also grants an exception from the requirement of section 16.16.170 that each lot have the minimum area prescribed by the zoning district within which it lies because the PUD presents a unified overall site plan.

33. Pursuant to section 16.20.040, the Council has given due consideration of the allocation of suitable areas for open space, schools, parks and playgrounds. Because the VTM proposes to cluster most of the development into the Lower Development Area while leaving more than 70 acres in open space and conservation uses, the areas provided for in the VTM are extensive and appropriate.

34. The conditions of approval require submittal of a preliminary soils report, in accordance with section 16.20.060 and, as indicated in the preliminary report, a soil investigation for all lots under section 16.020.080. 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.

VI. RECLAMATION PLAN

35. Carlson, Barbee & Gibson, Inc. has prepared a detailed specific site plan for the existing quarry that is based upon site-specific geotechnical studies produced by Berlogar Geotechnical Consultants. (*Berlogar 2000, 2002, 2003*) The site plan was and is subject to peer review by a geotechnical consultant selected by the City. The reclamation measures include restoring the main quarry face to an overall gradient no steeper than 2.3H:1V. The 440-foot tall slope will be segmented into sections of slope with gradients of 2H:1V. Between sections there will be five 10-foot-wide level drainage benches and three 30-foot-wide level hillside trail benches that will serve a dual purpose of providing drainage and recreation. Slope stability, grading and revegetation measures are adequate for the Project and will create safe and stable slopes adjacent to the proposed residential development.

36. The north slope of the site will be subject to mitigation measures that ensure appropriate slope stability. These measures include removal and rock bolting of identified outcrops, improving drainage to prevent future degradation of the slope, and utilizing retaining walls, barrier fences and catchment areas as additional protection. A Geologic Hazard Abatement District ("GHAD") has been created for the site and has responsibility for future geologic monitoring and maintenance activities. All final cut slopes will have a minimum factor of safety that is appropriate for the Project and will conform with the Project. (*Berlogar 2000, 2002, 2003*) All proposed unreinforced fill slopes do not exceed 2:1 and will be compacted in accordance with the Uniform Building Code. (*Berlogar 2000, 2002, 2003*) At closure, the fill slopes will conform to the final end use in that they will create a development area upon which the Project may commence.

37. Surface and ground water will be protected in accordance with California and federal laws. Site-specific surface water and ground water analyses have been performed and identified specific hydrologic concerns and constraints at the site. (*Balance Hydrologics 2001, Philip Williams & Associates, 2002, 2003*). The project applicant will prepare a Storm Water Pollution Prevention Plan ("SWPPP") prior to construction activities as required by the State Water Resource Control Board's General Permit for Construction Activities. Compliance with the SWPPP will ensure that surface and ground water will be protected throughout the first phase of the Project.

38. On-site test plots will be used to determine vegetation response of several different revegetation techniques. (*Harvey 2001a*) Revegetation will occur on the restored slope and a portion of the north slope with three different native habitat types including a California sagebrush plant association, a chamise plant association, and an oak woodland plant association. Revegetation will occur on the slopes that will provide self-sustaining cover appropriate for the Project. (*Harvey 2001*) Planted trees shall be maintained during a five-year establishment period. Maintenance activities include irrigation, weed control, maintenance of foliage

protectors, and dead plant replacement. Monitoring will occur on an annual basis for the first five years of plant establishment to ensure survival rates. All dead plants will be replanted if survival drops below 80%.

39. The existing GHAD will provide long-term funding to ensure that slope stability will be maintained and that revegetation will be successful. The GHAD will also help ensure that the costs of the Modified Plan are borne by the project, and not passed on to other Oakland residents.

VII. DESIGN REVIEW

40. The Modified Plan includes Design Review approval previously granted in Resolution 77544. The City's previous decision to find compliance with all requirements for Design Review, and to approve Design Review, was not challenged in court, and no objections relating to these matters have been raised since Resolution 77544 was initially adopted. The City Council again confirms the Planning Commission's October 23, 2002 decisions, and, pursuant to Chapter 17.136 and Chapter 17.142, the Council grants design review approval for the Modified Plan. All procedures for regular design review have been followed, and the design review has been processed and considered as part of the PUD permit, pursuant to section 17.136.120.

41. The Modified Plan will create buildings that are well-related to the surrounding area in their setting, scale, bulk, height, materials and textures, and that are within the parameters of the R-50 zone and PUD standards. The design proposed by the Modified Plan will protect desirable neighborhood characteristics by providing a cohesive, integrated project that will have no significant visual impacts. The Modified Plan design will enhance desirable neighborhood characteristics by replacing an existing quarry with an attractive residential development project.

42. Under section 17.136.070, the Council finds that the Modified Plan design is sensitive to the topography, landscape and neighboring uses. The Modified Plan has been designed to correct landslides, accommodate faults and otherwise improve the geological stability of the site. The Modified Plan places housing units in the Lower Development Area, where they are least likely to be visible, and calls for attractive revegetation of most of the highly visible upper slope areas. The design and massing of the proposed buildings are therefore sensitive to the grade of the terrain. The Modified Plan is consistent with the Oakland Comprehensive Plan (General Plan) and all applicable planning and zoning enactments.

43. The non-residential facilities of the Modified Plan, including the community center, tot lots, and signage, are well-related to each other and to the residential units. The non-residential facilities help make the Modified Plan a well-composed design, which gives consideration to site, landscape, bulk, height, arrangement, texture, materials, colors and appurtenances. The Modified Plan proposes to replace steep, barren and denuded slopes and an ongoing quarry operation with a well-composed design that will improve the look and feel of the area and that will be of a quality and character that harmonizes with, and serves to protect the value of private and public investments in the area.

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