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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Fred Blackwell

SUBJECT: OMSS LDDA and Ground Lease

DATE: October 22, 2013

City Administrator
Approval

Date

10-20-13

COUNCIL DISTRICT: #3

RECOMMENDATION

Staff recommends that the City Council adopt:

An Ordinance Authorizing the City Administrator to Negotiate and Execute a Lease Disposition and Development Agreement and Ground Lease Between the City of Oakland and Oakland Maritime Support Services, LLC, a California Limited Liability Company, or Its Affiliate, in a Form and Content Substantially in Conformance with the Attached Documents, for the Development of an Ancillary Maritime Support Facility to Provide Truck Parking and Truck-Related Services on Approximately 17 Acres in the Central and North Gateway Areas of the Former Oakland Army Base, Without Returning to the City Council

EXECUTIVE SUMMARY

The San Francisco Bay Conservation and Development Commission (BCDC) requires the City and the Port each to maintain 15 acres of ancillary maritime services (AMS) on their respective portions of the former Oakland Army Base (OAB). AMS refers to uses, such as logistics, warehousing, and trucking, that support port operations. BCDC and the West Oakland community anticipated that the acreage would be used primarily for truck parking to give truckers an alternative to parking in the West Oakland neighborhoods. In 2007, the Oakland Redevelopment Agency (the "Agency") undertook a competitive Request for Proposals (RFP) process to lease 15 acres in the East Gateway Area of the OAB for AMS uses. Out of the seven proposals received, the Agency determined that the one from Oakland Maritime Support Services (OMSS) would best fulfill BCDC's mandate and meet the Agency's economic development objectives. Staff and OMSS entered into negotiations for the development of a trucking center in the East Gateway and came to general agreement on the terms of a Lease Disposition and Development Agreement (LDDA).

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Following an RFP in 2009 to select a master developer for 105 acres of the OAB and subsequent discussions with the winning development team, the Agency determined that the entire OAB had to be master planned in order to provide the underlying infrastructure necessary for development. To allow the master planning process to move forward efficiently without limitation of pre-determined uses, the Agency asked OMSS to wait until the planning process identified an appropriate AMS site. After the OAB master plan, which was completed June 2012, located AMS uses on approximately 17 acres in the Central and North Gateway Areas, staff and OMSS resumed negotiations. Staff and OMSS have come to agreement on the real estate terms for the new AMS site. The proposed terms and LDDA are attached to this report as *Attachment A*.

OUTCOME

The LDDA allows OMSS to move ahead with development plans for an AMS facility, which will enable the City to fulfill its BCDC obligation and help reduce trucking activity in the West Oakland neighborhoods. In addition, the LDDA will give BCDC and the West Oakland community a timeline for when they can expect to see this highly anticipated facility will be completed.

BACKGROUND/LEGISLATIVE HISTORY

San Francisco Bay Conservation and Development Commission

The San Francisco Bay Conservation and Development Commission (BCDC) has jurisdiction over the San Francisco Bay, its shoreline, and certain related waterways, and exerts its authority through its regulatory program and two planning documents: the *San Francisco Bay Area Seaport Plan* (the "Seaport Plan") and the *San Francisco Bay Plan* (the "Bay Plan"). These plans define Port Priority Use Areas, which must be reserved for marine terminals and directly related AMS uses such as container freight stations, transit sheds and other temporary storage, railroad yards, and trucking. Until the plans were amended in April 2001, the entire OAB was designated a Port Priority Use Area.

In 2000, the Oakland Base Reuse Authority (OBRA) and the Port of Oakland (Port) filed a joint application to BCDC to amend the Seaport Plan and Bay Plan by removing the Port Priority Use Area and marine terminal designations from 189 acres of the OAB. Deletion of the designation would enable the Port and OBRA to reconfigure land at the Port and the former OAB so that the City could proceed with its Gateway Development project and the Port could reconfigure and expand its marine terminals and Joint Intermodal Terminal (JIT) to be more efficient for cargo movement.

A major issue that the proposed amendment to the Seaport Bay Plan raised was whether or not deletion of the Port Priority Use Area would leave sufficient land available at or adjacent to the

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Port for AMS uses for an efficient flow of cargo from the marine terminal to the cargo destination. A survey conducted by BCDC in 2000 demonstrated the need for such land. The survey identified more than 48 Port-related trucking businesses occupying approximately 128 acres in the vicinity of the Port. Many of the businesses were interspersed within the West Oakland residential neighborhoods where they generated diesel emissions, noise and traffic. In addition, during BCDC's public hearing on the amendment application, truck operators who transported container cargo to and from the Port requested that additional land be reserved for truck-related AMS uses at or adjacent to the OAB and the Port to serve their needs.

The Port had previously reserved 75 acres at the Port exclusively for AMS uses. Following the survey and public hearing, OBRA and the Port concurred that additional land was needed to reduce trucking impacts on West Oakland, and agreed to reserve 30 acres—15 acres each—of land on or adjacent to the OAB for truck-related AMS. BCDC amended the Seaport Plan and Bay Plan to: (1) delete the port priority designation from approximately 175 acres at the northern portion of the OAB; (2) retain for AMS uses 15 acres of land on the City's portion of the OAB; and (3) add an additional 15 acres of land within the Port area for AMS uses.

City Response to BCDC Mandate

After taking ownership of 170 acres of the OAB in 2006, the Agency proceeded to move forward with meeting the obligations attached to the property. In June 2007 staff issued an RFP for AMS industries to lease 15 acres within the East Gateway Area of the OAB. The East Gateway parcel was adjacent to land the Port had identified as the site of its 15-acre commitment. The Agency received seven proposals, which were analyzed by a technical advisory committee that included staff and consultant representatives in the fields of land use planning, historic preservation, real estate, civil engineering, traffic engineering, and redevelopment. The Tioga Group, a consulting firm specializing in port-related and maritime industrial development performed additional analysis. Two of the respondents were eliminated as being nonresponsive. A seven-person review panel, which consisted of representatives from the Mayor's Office, City Council District 3, Port of Oakland, WOCAG, and Agency/City staff representing Planning, Real Estate, and Redevelopment/Economic Development/Workforce Development, interviewed the remaining five respondents. The review panel ranked the proposals using a standardized scoring matrix and gave the highest score to OMSS' proposal to develop a facility providing truck parking and trucking services. As a result of this competitive process, the Agency in November 2007 entered into an Exclusive Negotiating Agreement (ENA) with OMSS.

Decision to Master Plan the OAB

Although staff and OMSS came to agreement on the general terms of an LDDA and ground lease, due to a number of factors—including a lawsuit filed by the East Bay Municipal Utility District (EBMUD) regarding a proposed auto mall in the North Gateway—negotiations with OMSS dragged on without resulting in an LDDA. In the meantime, the Agency entered into an ENA with AMB/CCG (now Prologis/CCIG through assignment and succession of the entities)

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for the development of 105 acres of the Gateway Development Area (GDA) of the OAB. Discussions with AMB/CCG, the subsequent GDA Master Developer, suggested higher and better uses than truck parking for the East Gateway parcel. The Agency also recognized that infrastructure improvements, which are integral to the development of the OAB, could not be piecemealed, but had to be master planned.

In view of these considerations, staff requested OMSS to wait until the master planning process was completed. Staff assured OMSS that we would resume negotiation of an LDDA once a more appropriate site for AMS uses had been identified. The master plan, which located the new AMS site on approximately 17 acres in the Central and North Gateway Areas of the OAB, was completed in June 2012, and staff and OMSS began renegotiating the terms of an LDDA in September 2012. The proposed LDDA and real estate terms are included in this report as *Attachment A*.

ANALYSIS

OMSS began providing truck parking and related services under a month-to-month lease with OBRA around 2002. The Agency assumed the lease in 2006 when OBRA dissolved and the Agency assumed ownership of the OAB property. Over the years, OMSS' operation, which at one point encompassed 17 acres of the OAB, enabled the City to meet its BCDC obligation. The City recently had to relocate OMSS to an approximately six-acre site in the North Gateway Area in order to undertake infrastructure improvements at the OAB. Consequently, the amount of truck parking and services OMSS can provide has been greatly reduced. Although the Port increased its truck parking area from 15 to 30 acres and took in many of the truckers dislocated by OMSS' move, the City cannot rely on the Port's expanded truck parking operation to meet BCDC's requirement that the City maintain 15 acres of AMS. Staff already has a number of options to increase the amount of space available for truck parking. These are, however, temporary solutions. An LDDA with OMSS would get the City started toward having a permanent AMS site and provide a timeframe for when that site will be ready.

PUBLIC OUTREACH/INTEREST

Public outreach has been conducted through monthly meetings with the West Oakland Community Advisory Group (WOCAG), the official citizen advisory for the development of the OAB. Membership is drawn from West Oakland residents, businesses, and community organizations. This body has repeatedly expressed its desire to remove incompatible uses such as trucking activities out of West Oakland. Several of WOCAG's members were among those who approached BCDC regarding the need for additional acreage on the OAB for truck parking and services. Staff continues to have an ongoing dialog with BCDC.

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Besides WOCAG's overarching concerns about the direction of OAB development, economic development, and trucking impacts, staff also addressed specific inquiries from East Bay Alliance for a Sustainable Economy (EBASE) and the Gateway Park Working Group (GPWG). EBASE wanted to find out whether or not OMSS would abide by the Jobs Policies that are part of the master developer's Community Benefits package. Those same policies will be attached to OMSS' LDDA. The GPWG was interested in the OMSS development as a potential landing spot for a bike path leading to the new Bay Bridge and regional park.

COORDINATION

The work on the proposed LDDA is being led by Army Base project staff from the Office of Neighborhood Investment. The Army Base staff coordinates with various City departments, including the Department of Planning, the City Attorney's Office, and the City Administrator's Office, as well as with California Capital and Investment Group, the City's agent coordinating the infrastructure improvements at the OAB. This report has also been reviewed by the Budget Office.

COST SUMMARY/IMPLICATIONS

The cost of Army Base project staff would be absorbed using existing staff resources

OMSS will be responsible for all project costs, estimated to be \$25 million. Costs include, but are not limited to, share of CEQA costs, design, permits, surveys, financing, insurance, and construction. In addition, OMSS will be required to contribute to a fair share of off-site mitigation costs. Staff is still working on the formula for how these off-site costs will be allocated.

To ensure that OMSS' cost obligations are met, the LDDA includes both security deposit requirements and a Guaranty in an amount and from a financially strong guarantor to sufficiently guarantee OMSS' LDDA obligations. The security deposit for the LDDA is \$50,000, and a separate deposit will be required for the Ground Lease.

SUSTAINABLE OPPORTUNITIES

Economic: OMSS' project would generate revenue for the City in the form of rent, participation in fuel sales, sales and parking taxes, and possessory interest tax. In addition, OMSS hopes to function as an incubator for small local businesses which provide services to truckers and need affordable spaces near the truckers.

Environmental: By providing services, such as food and fuel, that truckers often drive off the OAB to look for, OMSS' project would divert truckers out of the West Oakland neighborhoods and reduce the impact of diesel emissions and traffic on the community.

Social Equity: The development and operation of the project will be subject to the Jobs Policies which address OMSS' commitment to social equity by way of jobs for local residents, contracts for local businesses, and quality of life improvements for West Oakland residents.

CEQA

An Environmental Impact Report (EIR) was certified in 2002 when the Oakland Army Base Area Redevelopment Plan was adopted. An Initial Study/Addendum (IS/Addendum) was prepared in 2012 for the current master plan for the OAB which includes the OMSS project. The City Council approved the master plan in conjunction with the LDDA with Prologis CCIG Oakland Global, LLC.¹ The environmental analysis identified significant and unavoidable environmental impacts related to transportation, air quality, cultural resources, visual effects, and biological resources. The environmental analysis contains a number of standard conditions of approval and mitigation measures to reduce the potential impacts of the project. **Attachment B** contains a summary of the 2012 Initial Study/Addendum. **Attachment C** contains the CEQA findings. **Attachment D** contains the final standard conditions of approval and mitigation measures approved by the City Council in 2013.

Since the approval of the Initial Study/Addendum in 2012, none of the circumstances that require a supplemental or subsequent EIR pursuant to CEQA Guidelines Section 15162 have occurred, specifically:

- There are no substantial changes proposed in the project which would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- There are no substantial changes with respect to project circumstances which would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- There is no new information of substantial importance which would result in new significant environmental effects, a substantial increase in the severity of previously identified significant effects, previously infeasible mitigation measures or alternatives

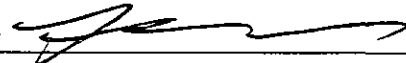
¹ The 2002 EIR and 2012 Addendum are available in the City Planning offices located at 250 Frank H. Ogawa Plaza, Suite 3315, and on the City's website at <http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009i57>.

now found to be feasible, or new mitigation measures or alternatives which are considerably different from previous ones that would substantially reduce environmental effects.

Since none of the circumstances described above have occurred since 2012, no further environmental review is required for the proposed LDDA and Ground Lease, and in fact, under CEQA the City is precluded from preparing a supplemental or subsequent EIR.

For questions regarding this report, please contact HUI WANG, URBAN ECONOMIC ANALYST, at (510) 238-7693.

Respectfully submitted,



FRED BLACKWELL
Assistant City Administrator

Reviewed by:
Doug Cole, Project Manager

Prepared by:
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ONJ

Attachment A – Draft LDDA and real estate term sheet

Attachment B – Summary of 2012 Initial Study/Addendum

Attachment C – CEQA Findings

Attachment D – Standard Conditions of Approval/Mitigation Monitoring and Reporting Program

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ATTACHMENT A

**OMSS LEASE DISPOSITION AND DEVELOPMENT AGREEMENT
DRAFT REAL ESTATE TERMS**

1	LANDLORD:	City of Oakland
2	DEVELOPER:	Oakland Maritime Support Services, LLC or its Affiliate
3	LDDA GUARANTY:	Developer to provide Landlord a Guaranty as part of LDDA. Developer must be financially strong entity with significant assets to guarantee LDDA Project completion obligation, as determined by City.
4	PROPERTY:	Approximately 17 acres of Army Base Property owned by the City.
5	PROJECT DESCRIPTION:	The truck parking and truck-related services operation will include truck/trailer parking, container storage, transload services, truck maintenance and refueling, truck weigh stations, and commercial activities that include a convenience market, restaurant/café, and office space for medical, consultative, administrative and other such business services.
6	INITIAL BASE RENT:	\$0.047/sf of Property to be conveyed
7	TIME OF PAYMENT:	Not later than thirty (30) days after the commencement of each calendar quarter during each Lease Year, Developer shall pay to Landlord in advance the Base Rent for such quarter.
8	TERM OF LEASE:	55 years; one 10-year option to extend
9	PARKING TAX SURCHARGE ADJUSTMENT:	At the sunset of the 8.5% parking tax surcharge (PTS), the Base Rent shall be increased by \$0.006/sf. The PTS adjustment shall take effect the same date as the new parking tax rate. If the new parking tax rate takes effect at the commencement of a calendar quarter and prior to Developer's quarterly payment, then Developer shall pay the PTS adjusted rent within the time specified for payment of rent. If the new parking tax rate takes effect after Developer has made the quarterly rent payment, Developer shall pay to Landlord within 30 days of the effective date of the new parking tax rate the additional rent pro-rated for the calendar quarter.
10	ESCALATION:	The Base Rent shall be increased every five years by the cumulative and annually compounded CPI of the immediately preceding five Lease Years. The annual percentage increase shall not be less than 1.5% and not more than 3%.
11	FAIR MARKET ADJUSTMENT	<p>Base rent shall be adjusted on the first day of the 20th Year, on the first day of the 40th Year, and on the first day of the 10-year Option to Extend to an amount equal to the Fair Market Rent for the uses allowed under the Lease. In no event shall the FMR Adjusted Base Rent be less than the Pre-FMR Adjustment Base Rent applicable at the FMR Adjustment Date.</p> <p>In no event shall the FMR Adjusted Base Rent be greater than an amount equal to the Initial Base Rent increased each Lease Year on a cumulative and annually compounded basis at the rate of 4.0% for each Lease Year prior to the FMR Adjustment Date.</p>

12	PARTICIPATION	\$0.01/gal of truck fuel sold for first 850,000 gallons. Additional \$0.0025/gal of truck fuel sold for every gallon sold above 850,000. Participation shall be paid in arrears at the same time as payment of Base Rent, and shall be subject to annual reconciliation.
13	CONTINGENCIES:	<p>Conveyance of Property to be contingent upon completion of all LDDA terms and conditions including, but not limited to:</p> <ol style="list-style-type: none"> 1) Completion of Infrastructure Project improvements necessary for Property (Developer may waive this contingency at its own risk); 2) Completion of grading to elevation (Developer may waive this contingency at its own risk); 3) Full financing, approved by City, in place to develop the Project; 4) City approval of project plans and specifications; 5) Receipt of all government approvals for the Project; 6) City approval of any amendments to redevelopment and/or implementation plans that are needed to permit the Project; and 7) Developer to have obtained all necessary approvals from state or federal authorities or other agencies having jurisdiction over the Property.
14	TITLE INSURANCE:	Developer to secure title insurance policy, if desired, at its own cost and expense. City to provide certification if required by the title company for issuance of an ALTA policy.
15	CLOSING COSTS:	Parties to pay all costs related to the Close of Escrow per the custom and practice in the County of Alameda.
16	ARMY & DTSC RIGHT OF ENTRY	Developer acknowledges and consents to Army right of access to any and all portions of the Property for purposes of environmental investigation, remediation, or other corrective actions of environmental conditions that existed during Army's occupancy. Developer acknowledges and consents to California Department of Toxic Substances Control ("DTSC") right of access to Property under the Covenant to Restrict Use of Property to the Army Base ("CRUP") to perform inspections, monitoring and other activities consistent with the CRUP or as deemed necessary by DTSC.
17	NET LEASE	All rent shall be absolutely net to Landlord so that this Lease shall yield to Landlord the full amount of the rent at all times during the Term, without deduction, abatement or offset. Developer shall be responsible for any and all taxes, insurance, improvements, repairs, and maintenance associated with the Property.
18	CONDITION OF PROPERTY AT DELIVERY	Landlord to deliver the space rough graded and with utilities(except for water) stubbed to property line

19	ENVIRONMENTAL REMEDIATION	<p>At Pre-Close of Escrow, Developer may conduct environmental testing of the Property at Developer's own expense to confirm the presence or absence of additional conditions that may require remediation pursuant to the RAP/RMP. If the inspection reveals conditions that require remediation per RAP/RMP, then the City and Developer shall meet and confer. If the City determines sufficient funding is available in the Joint Environmental Remediation Account Fund (JERAF) to cover remediation costs, Developer shall perform remediation under the City's direction and the City shall reimburse Developer for remediation costs. If the City determines there is insufficient funding in the JERAF to reimburse Developer, Developer may elect to perform the remediation without reimbursement or Developer has the option to terminate the agreement. After Close of Escrow, Developer shall be responsible for completion of any and all environmental remediation discovered at, on, under or in the Property, including, but not limited to, remediating and removing existing utility infrastructure, and receiving closure letters from environmental regulatory agencies.</p>
20	INDEMNIFICATION	<p>Developer shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City, the Oakland City Council, the Oakland City Planning Commission and their respective agents, officers, employees and volunteers (hereafter collectively called "City Parties") from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Agreement or any CEQA related City Approvals or any Subsequent Approval or the implementation of the same. The City may elect, in its sole discretion, to participate in the defense of said Action and Developer shall reimburse the City for its reasonable legal costs and attorneys' fees.</p> <p>Developer shall agree to provide standard commercial hold harmless and defend provisions to the City of Oakland and its employees, officers, directors, shareholders, partners and agents. City and Developer to negotiate the various levels of indemnification and project stages as part of the LDDA and ground lease.</p>
21	DEED RESTRICTIONS & ENVIRONMENTAL USE RESTRICTITONS	<p>Developers accept and acknowledge the Property is subject to: 1) deed restrictions in the transfer deeds, 2) a recorded covenant to restrict use of property, and 3) right of access across the Property to allow construction and maintenance of a billboard, or for remediation or monitoring by federal and state agencies.</p>

22	PUBLIC IMPROVEMENTS MAINTENANCE & INSURANCE	City Army Base Infrastructure Project to construct new Wake Avenue, new West Burna Road (names of road are preliminary only) and trunk line utility systems in these roads to the edge of the Property. Developer is responsible for connecting Property utility systems to the trunk line infrastructure, including, but not limited to, any and all expense and costs for this obligation.
23	MAINTENANCE	Developer is responsible for all maintenance within the Property. Developer agrees to be subject to, part of and sign agreements for a Community Facilities District (CFD) at the Army Base and to pay its fair share of CFD costs and expenses based on respective Property acreage.
24	NO COMMISSION	Landlord shall not pay or be liable for any commissions or brokerage fees. Developer shall hold harmless and defend Landlord against any claims for commissions or brokerage fees.
25	SIGNAGE	Developer may not install or place signage on any existing City street on the Property or within any City street to be created or the public corridor. Developer may install and place signage on the remaining Property in compliance with City codes, Gateway Zoning or other applicable codes or regulations. The definitional issue of billboard versus signage to be discussed.
26	STANDARD OF PROPERTY	Developers to maintain the Property and Project in first-class condition and will ensure at no time does the Property violate the City Blight Ordinance.
27	FAIR SHARE	Developer shall be responsible for paying a fair share of any required off-site traffic improvements and/or other mitigations, as determined by the City, pursuant to the Standard Conditions of Approval/Mitigation Monitoring & Reporting Report of the 2012 Oakland Army Base Project.
28	COMMUNITY FUND	Developer shall pay Sixteen Thousand dollars (\$16,000) per acre into the City-designated Community Fund upon execution of the Ground Lease. Developer shall contribute to the Community Fund an additional \$0.0025/gal for every gallon of truck fuel sold above 850,000 gallons.
29	RESOURCE CENTER FUNDING	Developer shall contribute to the Job Resource Center \$0.0025/gal for every gallon truck fuel sold above 850,000 gallons.
30	CITY PROGRAMS & COMMUNITY BENEFITS	In addition to helping to minimize truck traffic in West Oakland, Developer voluntarily agrees to comply with Army Base Community Benefits and City social programs in both construction and operations including, without limitation, labor peace agreement, prevailing wages, living wages, local and small local business, equal benefits, disabled access, and apprenticeship/job training/first source hiring programs. Developer will agree to comply with compliance monitoring by City.

31	SECURITY DEPOSIT	Developer shall deposit with the Landlord an LDDA Security Deposit of \$50,000 within 30 days of Developer's receipt of the six-months Notice of Completion of public improvements applicable to the Property. If Developer fails to fulfill the conditions or meet the obligations set forth in the LDDA as reasonably determined by Landlord, Landlord may exercise its option to retain the LDDA Deposit as liquidated damages. Upon execution of the Ground Lease, the LDDA Deposit shall be applied to the Ground Lease Deposit, and Developer shall within 10 business days deposit with Landlord another estimated \$54,946 (three months Initial Base Rent in total) for the Ground Lease Deposit.
32	PROJECT EXPENSE PAYMENTS:	Developer shall pay the City agency(s) / department(s) directly for City approvals/services required for the project, including, but not limited to, engineering review, inspections, plan review, plan checks, permits. Evidence of the required payment(s) shall be submitted concomitant with the Final Construction Documents.
33	PAYMENT & PERFORMANCE BONDS	Developer shall obtain payment and performance bonds in an amount not less than 100% of the cost of construction of the Project pursuant to the Construction Contract to be executed by Developer.
34	EBMUD MOA	Developer agrees to comply with any and all applicable terms and conditions of the Memorandum of Agreement between the City and East Bay Municipal Utility District and to become a party to the MOA if the City determines it is necessary.
35	ARMY BASE EIR REIMBURSEMENT	Developer agrees to reimburse City for its fair share of 2012 Army Base CEQA Addendum costs and expense. Terms to be negotiated and detailed in the LDDA.
36	PARKING TAX	Developer shall be current in parking taxes as condition to Closing and to remain in compliance under the ground lease.

SUMMARY OF THE 2012 OARB PROJECT INITIAL STUDY/ADDENDUM

A. Overview

This Initial Study/Addendum assesses the extent to which significant new information, changes in circumstances, or changes in the project (from what was evaluated in the 2002 *OARB Redevelopment Plan Area EIR* as compared to what is proposed as part of the 2012 OARB Project) may result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the previous CEQA documents approved by the City.¹

The *OARB Redevelopment Plan* incorporated the program for the former Army Base set forth in the 2002 *Final Reuse Plan for the OARB* (“*Final Reuse Plan*”). The *Final Reuse Plan* put forth a “Conceptual Reuse Strategy” that identified a menu of intended land uses for future reuse of the former OARB or “Gateway Development Area” under the concept of what was called the “Flexible Alternative.” The preferred menu of land uses envisioned a mixed-use waterfront commercial development in the former OARB containing a variety of land uses ranging from light industrial, research and development, flex-office, retail, and possibly a high-end hotel complex; and marine terminal uses in the area to be developed by the Port, including wharves, container yards, railroad facilities and street improvements.

While there are some differences between the 2012 Project and what was proposed for the same geographic location in the 2002 Project, as noted in Section 1.0 Introduction and Section 2.0 Project Description of the 2012 Oakland Army Base Project Initial Study/Addendum (hereafter the “IS/Addendum”), the proposed uses would be consistent with the Conceptual Reuse Strategy and Flexible Alternative set forth in the *Final Reuse Plan*. The intent of the Flexible Alternative was to establish a broad envelope of probable land uses/market activities that could change over time in order to reflect market and economic conditions. Figures 1-1 and 1-2 of the IS/Addendum show the Conceptual Land Use Strategy of the 2002 Project and the 2012 Project, respectively.

The primary difference between the 2012 Project and what was proposed for the same geographic location in the 2002 Project is a shift from office/R&D to a greater amount of warehouse/distribution and maritime-related logistics uses as the predominant use. The 2012 Project proposes up to approximately 2.5 million square feet of warehouse/distribution and maritime-related logistics uses and 175,000 square feet of office/R&D, as compared to 300,000 square feet of warehouse/distribution and approximately 1.5 million square feet of office/R&D identified for the 2002 Project.

Additional components of the 2002 Project and the 2012 Project are summarized in Table 1-1 of the IS/Addendum and listed below:²

¹ The IS/Addendum and its appendices, as well as the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program are available at the Office of the City Clerk, the Planning, Budgeting and Neighborhood Preservation Department, and on the Web at <http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157>

² The areas proposed by the 2002 Project for Gateway Park and new Berth 21 are not part of the 2012 Project.

- Approximately 22 to 24 acres north of Grand Avenue for 407,160 square feet of indoor recycling facilities are proposed to be located in the North Gateway, as compared to 494,000 square feet proposed for light industrial uses in the 2002 Project.
- Both the 2002 Project and the 2012 Project include the BCDC-required acreage for Ancillary Maritime Services (AMS) for the City and Port. However, in the 2012 Project, the 15-acres of BCDC-required AMS in the City-owned portion of the OARB is now being provided in three different locations within the project area. As part of the proposed truck parking facilities, there would be fueling services, which would include biodiesel. The BCDC-required fifteen (15) acres of AMS for the Port are now being provided in the 2012 Project as truck parking.
- A commemorative area is proposed within the Central Gateway, in the vicinity of the intersection of Maritime Street and Burma Road, to memorialize the contributions of civilians and the military in the Bay Area to World War II, and Korean and Vietnam Wars.
- Demolition, site preparation, and remediation are generally the same in both the 2002 and 2012 Projects.
- Up to nine billboards are proposed to the north of West Burma Road, along Grand Avenue and along I-880 (Figure 2-6) as part of the 2012 Project; no billboards were proposed as part of the 2002 Project.
- The Port-owned Joint Intermodal Terminal (JIT) will remain in operation as a rail yard.
- Berth/Wharf 7 will remain in operation as a bulk terminal.
- The railroad intermodal terminal in the OARB sub-district Port Development Area and associated right-of-way to support maritime uses that were proposed in the 2002 Project will be constructed as part of the 2012 Project, but will be smaller (approximately 61 acres).
- Maritime Street is proposed to be improved with intersection controls, bicycle and pedestrian paths, repaving and landscaping, and includes a minor reconfiguration. The street will not be relocated 400-600 feet to the east as was proposed in the 2002 Project (see Port's 2006 Addendum that looked at the impacts of not relocating Maritime Street to the east onto OARB property). Roadway improvements also include options to improve Burma Road, Engineers Road and relocated Wake Avenue, and to rebuild and grade separate 7th Street west of I-880.
- Installation of new utility systems that meet current standards, such as water distribution (both domestic and reclaimed water), wastewater collection, stormwater collection/discharge, gas distribution, electrical systems, security, telecommunication and similar systems.³
- Port container cargo throughput totaling 4.05 million twenty-foot equivalent units (TEUs) was analyzed and cleared through the 2002 OARB EIR, and is considered a cumulative project.

In addition to being consistent with the Final Base Reuse Plan and the 2002 Oakland Redevelopment Plan Area EIR, the IS/Addendum found that the 2012 OARB Project is

³ No new connections will be made to EBMUD's existing 15" sewer line. Please see Chapter 2, Project Description, and Section 3 17, Utilities and Service Systems, for additional descriptions.

consistent with the General Plan (including the Land Use and Transportation Element (LUTE) of the General Plan, for which an EIR was certified in March 1998, and the Historic Preservation Element, for which an EIR was certified in 1998, among other General Plan Elements).

The IS/Addendum analyzes the project and cumulative effects of the following 17 environmental topics of the 2012 OARB Project against existing physical conditions⁴: Aesthetics; Agriculture and Forest Resources; Air Quality; Biological Resources; Cultural Resources; Geology and Soils; Greenhouse Gas Emissions; Hazards and Hazardous Materials; Hydrology and Water Quality; Land Use and Planning; Mineral Resources; Noise; Population and Housing; Public Services; Recreation; Transportation/ Traffic; Utilities and Service Systems. In addition, the IS/Addendum compares the effects of the 2012 Project with those effects identified in the 2002 EIR.

The Initial Study/Addendum found (1) there are no substantial changes to the 2012 OARB Project which would result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the 2002 Oakland Army Base Redevelopment Plan Environmental Impact Report, which was a “project level” EIR pursuant to CEQA Guidelines section 15180(b) (“2002 EIR”), the 2006 OARB Auto Mall Supplemental EIR and 2007 Addendum, the 2009 Addendum for the Central Gateway Aggregate Recycling and Fill Project, and the Port’s 2006 Maritime Street Addendum (collectively called “Previous CEQA Documents”); (2) there are no substantial changes in circumstances that would result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the Previous CEQA Documents; and (3) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Previous CEQA Documents were certified, which is expected to result in (a) new significant environmental effects or a substantial increase in the severity of significant environmental effects already identified in the Previous CEQA Documents or (b) mitigation measures which were previously determined not to be feasible would in fact be feasible, or which are considerably different from those recommended in the Previous CEQA Documents, and which would substantially reduce significant effects of the 2012 OARB Project, but the City declines to adopt them. Thus, in considering approval of the 2012 OARB Project, the City can rely on the Previous CEQA Documents and the 2012 Initial Study/Addendum. A summary of the key issues of the IS/Addendum is provided below.

B. Summary of Key Issues

Out of the 17 environmental topic areas evaluated in the IS/Addendum, eight topic areas, aesthetics, air quality, biology, cultural resources, greenhouse gas emissions, land use and planning, noise and traffic and transportation are highlighted and discussed.

1. **Aesthetics.** As described in more detail in Section 2.0 Project Description of the IS/Addendum, the 2012 Project would result in the redevelopment of the OARB sub-

⁴ The 2002 EIR utilized an “Alternative Baseline” (pursuant to CEQA Guidelines section 15229 and Public Resources Code section 21083 8.1) assessing impacts against physical conditions existing at time of the military base closure (1995) rather than existing at the time of the commencement of CEQA review (2001) for the following environmental topics: traffic, water consumption, wastewater, energy consumption, noise, air quality, schools, and population/employment. This Addendum also utilizes the Alternative Baseline.

district's Gateway Development Area and Port Development Area with single to multi-story buildings, roadways, parking areas, a rail terminal, associated rail right-of-way, road improvements, a road/rail grade separation, and varying amounts of public access/open space. The 2012 Project would also include a type of development not previously contemplated in the 2002 Project consisting of the construction of up to nine billboards in locations near the 1-80 Toll Plaza, and along 1-880 at West Grand Avenue, 12th, 13th, and 15th Streets.

The IS/Addendum included an analysis of photos of existing viewpoints and photo simulations with the proposed billboards; it found that the proposed billboards would not have a substantial adverse effect on a scenic vista or substantially degrade the existing visual character or quality of the Project site or surroundings because the views are toward the industrialized portion of the San Francisco Bay and do not constitute important views or scenic vistas; or, they would only partially obstruct panoramic views of mountains, hills, Bay waters, and city skylines, and only for several seconds at a time; specifically, billboards 6, 7, 8 and 9 (Figures 3.1-n and 3.1-o in the IS/Addendum) and billboards 3, 4, and 5 (Figures 3.1-f, 3.1-i and 3.1-h in the IS/Addendum), taken together constitute a series of billboards that would intermittently block views towards the hills for several seconds at a time. Moreover, the City has a billboard amortization program that has removed in excess of about 148 billboards over the past 12 years. The amortization program is ongoing and is anticipated to remove more billboards in the future. In addition, about 70 billboards have been removed through billboard relocation agreements over the same time period.

The IS/Addendum found that the 2012 OARB Project would not result in any new or substantial increase in impacts regarding new sources of substantial light and glare affecting daytime or nighttime views in the area because the project site is located in a highly industrialized area and, when viewed from a distance during daytime and nighttime, increased lighting on the site would generally blend with existing development. Particularly, daytime lighting would generally blend with existing light industrial uses within the project area, and nighttime lighting would blend with existing maritime operation lighting visible along the shoreline, as well as highway safety and roadway lighting and vehicle headlights visible along Maritime Street, the elevated portion of West Grand Avenue, and the 1-880 and 1-80 corridors. Although the proposed billboards along the eastern edge of the project site (billboards 7, 8, and 9) may create a new source of light in the residential area of West Oakland in proximity to the project site, these billboards would be separated from the residential areas by 1-880, and existing buildings, fences and vegetation (including street trees), would reduce potential impacts associated with the new source of light. Certain residents currently have views over 1-880 and are therefore likely to be able to see the billboards from their homes. However, these residents already have a substantial amount of ambient light from existing port-related activities in views toward the north in which the billboards would be visible. Therefore the billboards will not likely create a substantial new source of light in these areas. Furthermore, the 2012 would be subject to Mitigation Measure 4.11-1 which would require new lighting to be designed to minimize off-site "spillage" and prohibit "stadium-style" lighting, and to SCA AES-1 and the Port's Exterior Lighting Policy.

Implementation of previously imposed mitigation measures (Mitigation Measures 4.11-1 through 4.11-6), SCA AES-1, compliance with the Port of Oakland Exterior Lighting

Policy, Caltrans permitting, the State's OAA, and the City's design review would ensure the 2012 Project would not make a significant cumulative contribution to aesthetics. Thus, the IS/Addendum found that the 2012 OARB Project would not result in significant new aesthetics impacts or a substantial increase in the severity of previously identified significant aesthetics impacts compared to the 2002 EIR. Therefore, impacts would be similar to those addressed in the 2002 EIR, and would continue to have no impact or be less than significant or less than significant with applicable City Standard Conditions of Approval (SCAs) or previously identified mitigation measures, except for demolition of historic resources (which is found to be significant and unavoidable in both 2002 and 2012 Projects; see Cultural Resources, below, for more information on historical resources.)

2. **Air Quality.** As noted in the IS/Addendum, since information on air quality issues was known, or could have been known when the 2002 EIR was being prepared, it is not legally "new information" as specifically defined under CEQA. However, an analysis of the proposed 2012 Project relying on the previously recommended May 2011 revision of the BAAQMD *CEQA Guidelines* and the 2011 significance Thresholds⁵ was nevertheless conducted in order to provide more information to the public and decision makers, and in the interest of being conservative. Although the analysis in the IS/Addendum evaluates air quality using both the 2002 EIR thresholds (based upon BAAQMD 1999 *CEQA Thresholds*) and the BAAQMD May 2011 *CEQA Guidelines* and Thresholds, significance determinations are solely based on the 1999 thresholds from the 2002 EIR. Nevertheless, the City will impose its Standard Conditions of Approval, previously approved mitigation measures from the 2002 EIR (revised and clarified as applicable) and other Recommended Measures (that are not legally required mitigation measures), as detailed below.
 - a. **Construction Criteria Pollutant Emissions.** For both the 2002 Project and the 2012 Project, construction criteria pollutant emissions would be mitigated to less-than-significant levels. Construction emissions were not quantitatively evaluated in the 2002 EIR because the 1999 BAAQMD Guidelines do not contain quantitative construction thresholds; under the 1999 Guidelines, BAAQMD considers construction-related dust emissions from all construction projects to be potentially significant, but mitigated to a less-than-significant level if BAAQMD-recommended dust controls are implemented. Thus, in the 2002 EIR, the Project would be mitigated to a less-than-significant level with implementation of Mitigation Measures 4.4-1 and 4.4-2 which required contractors to implement all BAAQMD "basic" and "optional" control measures at all sites and "enhanced" control measures for sites greater than four (4) acres, as well as exhaust control measures.

For the 2012 Project, implementation of the City's SCA AIR-1 and SCA AIR-2 supersede 2002 EIR Mitigation Measures 4.4-1 and 4.4-2, as they are generally

⁵ On March 5, 2012, the Alameda County Superior Court issued a Judgment invalidating the May 2011 BAAQMD Thresholds and BAAQMD recommends that the Thresholds not be used. Nevertheless, in the absence of further technical guidance, the City is generally continuing to use the May 2011 BAAQMD Guidelines in its CEQA review.

Table 1. 2002 and 2012 Project Construction Criteria Pollutant Average Daily Emissions [lbs/day]^a

	Reactive Organic Gases (ROG) ^b	Carbon Monoxide (CO)	Nitrogen Oxides (NOx)	Exhaust PM _{2.5}	Fugitive Dust PM _{2.5}	Total PM _{2.5} ^c	Exhaust PM ₁₀	Fugitive Dust PM ₁₀	Total PM ₁₀ ^c
2002 Project	66.2	245.7	616.9	25.9	NA	26.6	28.1	NA	29.8
2012 Project	23.9	107.1	298.8	8.8	NA	9.5	9.4	NA	11.2
1999 BAAQMD Significance Threshold	BMP	BMP	BMP	BMP	BMP	BMP	BMP	BMP	BMP
2011 BAAQMD Significance Thresholds	54.0	NA	54.0	54.0	BMP	NA	82.0	BMP	NA

^a Average daily emissions are defined as total emissions over entire period of construction (e.g. 2002 - 2010 or Jul 2012 - Dec 2019 for the 2002 Project and the 2012 Project, respectively) divided by the number of days within this period.

^b ROG emissions include exhaust ROG from all sources and evaporative running loss ROG from employee commute vehicles (modeled as light-duty cars).

^c Total PM₁₀ and PM_{2.5} include exhaust PM from all sources and tire wear and brake wear from on-road vehicles; road dust and fugitive dust are not evaluated and not included in the total.

Table 2. 2002 and 2012 Project Operational Regional Emissions

	ROG	NOx	PM ₁₀	PM _{2.5}
2002 EIR Operational Emissions (tons/year) ^a	101	167	12	12
2012 Project Operational Emissions (tons/year)				
<i>With Variant A – Working Waterfront^b</i>	-3.1	146.5	0.8	0.7
<i>With Variant B – R&D and Open Space^b</i>	-4.7	106	0.3	0.6
1999 BAAQMD Significance Threshold	10	10	10	NA
2011 BAAQMD Significance Threshold	10	10	15	10

^a Emissions are based on the calculations prepared for the 2002 EIR prepared by URS for the geographic area representing the proposed project.

^b Alternative Baseline Emissions were calculated in 2001 using emission factors from mobile sources current at the time. 2012 Project emissions were calculated for opening year of the Project (2020) using current emission factors which account for emission reductions due to increased regulatory requirements for mobile sources. Therefore, as shown in this table, total Project operational emissions result in no net increase in reactive organic gas emissions.

Source: Environ, 2012 and LSA Associates, Inc.

similar but the SCAs are considered more up-to-date and more stringent than those recommended in the 1999 Guidelines. For the purposes of comparison, construction emission levels for both the 2002 Project and 2012 Project were quantitatively assessed in the IS/Addendum. As shown in Table 1 above, the 2012 Project would result in much lower construction emissions of criteria pollutants than the 2002 Project.

- b. **Operational Regional Emissions.** Similar to the 2002 Project, the 2012 Project would result in a significant and unavoidable impact with respect to operational emissions even with the implementation of required mitigation measures and

Standard Conditions of Approval, although the 2012 Project would not result in any new or substantial increase in the severity of such impacts. The IS/Addendum imposes the City's SCA AIR-2 and four mitigation measures previously identified from the 2002 EIR (Mitigation Measures 4.4-3, 4.4-4, 4.4-5 and 4.4-6) on the 2012 Project. The 2012 Project would generate less ROG, NO_x, PM₁₀, and PM_{2.5} emissions than identified in 2002 as shown in Table 2 above.

As noted in the IS/Addendum, according to 1999 and 2011 guidance from the BAAQMD, regional air pollution is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. Thus, if the project region is in nonattainment under applicable federal or State ambient air quality standards, then a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. Therefore, similar to the 2002 Project, the 2012 Project would also contribute to any cumulatively significant air pollution impact since it would exceed the significance thresholds at the individual level for NO_x; however, there would be no new impact and no substantial increase in severity of the previously identified impact from the 2012 Project.

- c. **Project Construction Health Risk.** Similar to the 2002 Project, the 2012 Project would result in a significant and unavoidable impact with respect to construction diesel emissions and health risk even with the implementation of required mitigation measures and Standard Conditions of Approval, although the 2012 Project would not result in any new significant impact or substantial increase in the severity of previously identified significant impacts. At the time of the 2002 EIR, the BAAQMD had not identified a numeric toxic air contaminant (TAC) risk threshold for construction emissions; using emission rates from the 2002 Project and 2012 Project construction operations, air dispersion modeling was conducted to determine the health risk associated with construction of both the 2002 and 2012 Projects. As identified in the 2002 EIR and as confirmed in this recreation of the 2002 analysis, construction of the 2002 Project would result in a substantial increase in diesel emissions which would expose persons to substantial levels of TACs. As shown in Table 3 below, construction of the 2012 Project would result in substantially lower risk than would have been anticipated under the 2002 Project. The 2012 Project is subject to today's more stringent on-road and off-road diesel equipment emission regulations which reduce health risk impacts substantially over those that would have occurred in 2002. Nevertheless, this impact would remain significant and unavoidable.

Table 3. Project Construction Health Risk Assessment Results (Source: ENVIRON, 2012)

	Population	Excess Lifetime Cancer Risk in a million	Chronic Health Index	Acute Health Index	Annual PM _{2.5} Concentration µg/m ³
2002 Project	Resident Child	107	0.077	12	0.35
	Resident Adult	12			
2012 Project	Resident Child	42	0.030	4	0.14
	Resident Adult	4			
1999 BAAQMD Threshold		None	None	None	None
2011 BAAQMD Threshold		10	1	1	0.3

Table 4: Operational Health Risk Assessment Results (Cancer Cases in 1 Million)

	2002 Project	2012 Project	Increment
Maximum Cancer Risk 2002 Approach	84	31	-53
Maximum Cancer Risk 2012 Approach	278	96	-182
1999 BAAQMD Thresholds	10	10	
2011 BAAQMD Thresholds	10	10	

Source: ENVIRON, 2012.

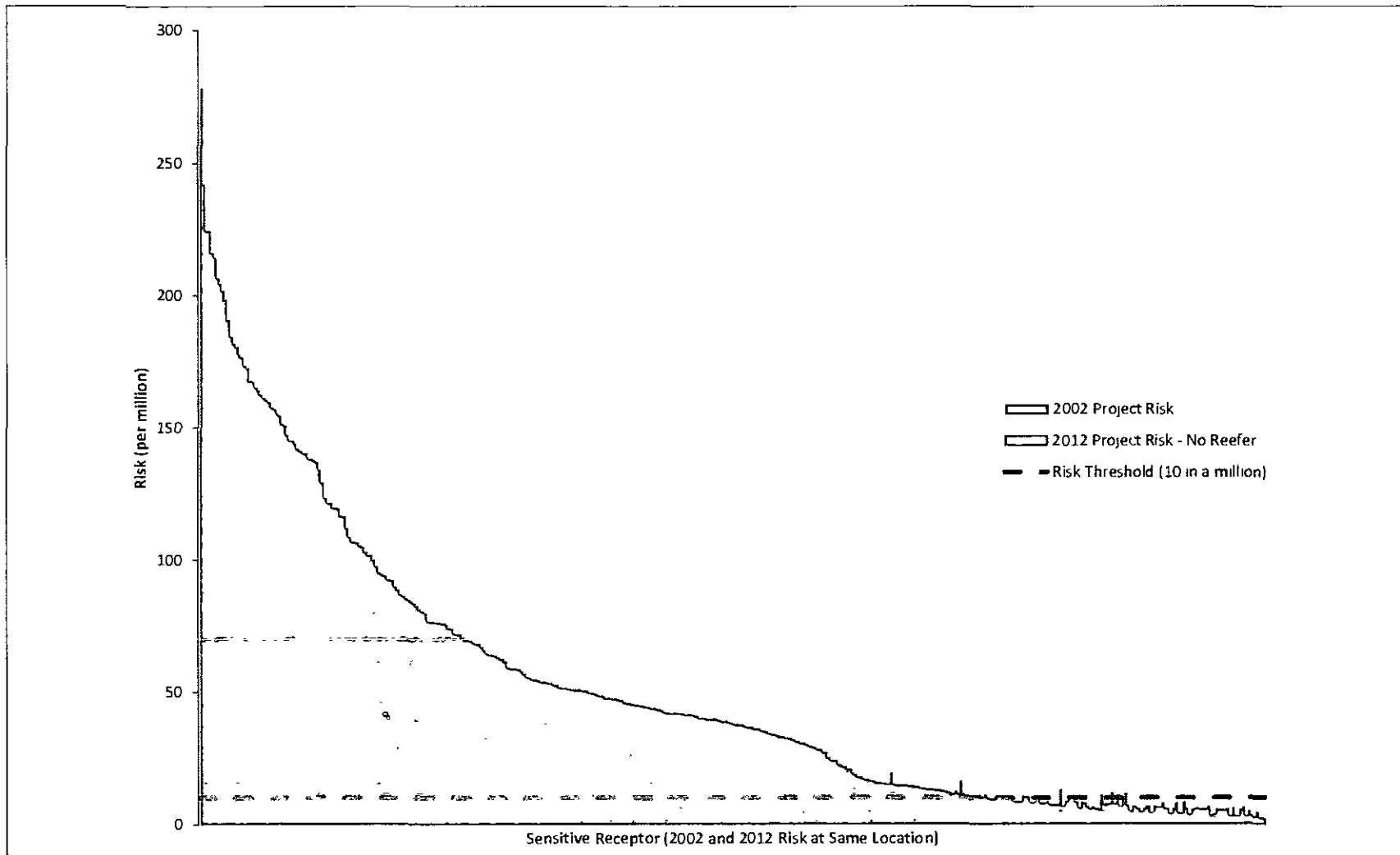
- d. **Project Operational Health Risk.** Similar to the 2002 Project, the 2012 Project would result in a significant and unavoidable impact with respect to operational diesel emissions and health risk even with the implementation of required mitigation measures and Standard Conditions of Approval, although the 2012 Project would not result in any new or substantial increase in the severity of such impacts.

The 2002 EIR concluded that, even after mitigation, the operational health risk impact of the 2002 Project would be significant and unavoidable. The operational health risk assessment prepared in the 2002 Final EIR estimated excess lifetime cancer risks of 80 in one million at the project boundary and 10 in one million in West Oakland.

Results of the 2012 Project operational health risk assessment are shown in Table 4 above. As explained in the methodology section below, the assessment was conducted for two scenarios using both the methodology standard to the 2002 project analysis and the methodology presented in the 2011 BAAQMD guidance documents. Results indicate that the maximum excess lifetime cancer risk estimated for the proposed project would be less than the maximum risk levels for the 2002 project under both the 2002 analysis standards and the 2012 analysis standards. At most receptor locations, incremental model results of the 2012 Project are equal to or less than the results of the 2002 Project. However, this is not the case at all modeled locations, as described below.

As shown in Table 4 above, with the 2012 Project, the Maximally Exposed Individual (MEI) would have a lower estimated excess lifetime cancer risk when compared with the impacts of the 2002 Project. However, even with implementation of mitigation measures and the City's Standard Conditions of Approval, implementation of the 2012 Project would have a significant and unavoidable impact related to the exposure of sensitive receptors to substantial toxic air contaminants.

Estimated excess lifetime cancer risks for the 2002 and 2012 Projects were compared by rank ordering the off-site sensitive receptor locations according to the calculated 2002 Project cancer risk and comparing them to the 2012 Project cancer risk at the same location as shown in Figure 1 below. For purposes of this comparison, cancer risks from the 2012 Project were calculated exclusive of refrigerated cargo container generator set (reefer genset) emissions since reefer genset emissions were not included in 2002 Project cancer risk calculations. Reefer gensets contribute between 10 percent (at locations further from the Project in West Oakland and Emeryville) and 30 percent (at locations close to the Project in West Oakland) to total 2012 Project cancer risk and reefer genset activity is expected to be in approximately the same location for the 2012 Project as the 2002 Project. Estimated excess lifetime cancer risks from the 2012 Project are substantially less than estimated risks from the 2002



LSA

Figure 1

2012 Oakland Army Base Project
Comparison of Excess Lifetime Cancer Risk

Attachment B

Project at locations with the highest calculated risks. This means that the 2012 Project reduces risks where the 2002 Project had its greatest impacts. Where the 2012 Project estimated excess lifetime cancer risk does exceed the 2002 Project risk, all increases are less than 10 in a million, which corresponds to the BAAQMD's cancer risk significance threshold. Furthermore, as can be seen in Figure 1, those instances where risks from the 2012 Project exceed cancer risks from the 2002 Project occur at locations where risks from both projects are close to 10 in a million.

5. **Biological Resources.** The 2012 Project would not result in any new or substantial increase in previously identified significant and unavoidable impacts. Similar to the 2002 Project, the 2012 Project would result in significant and unavoidable impacts to special-status species and the spread of non-indigenous aquatic organisms through the discharge of ballast water or other means (e.g., anchors, anchor chains, anchor lines, bilge pumps, drains, and through-hull connections), which could impact estuarine habitat including Essential Fish Habitat as designated by the National Marine Fisheries Service. The 2012 Project would increase shipping traffic through the development of Wharf 7. This increase could result in a greater risk of introduction of non-indigenous aquatic organisms.

Impacts to special-status species would not result in any new or more significant environmental impacts than were described in the 2002 EIR. Impacts to special-status species would likely be less than were described in the 2002 EIR because the 2012 Project does not involve loss of open water habitat or water quality impacts associated with the New Berth 21 till that was proposed in the 2002 EIR. Impacts to special-status fish species remain potentially significant due to construction-related disturbance associated with construction of a new storm water outfall. The impact related to potential increased predation on California Least Terns by raptors remains significant and unavoidable.

6. **Cultural Resources.** The 2012 OARB Project would not result in significant new impacts to cultural resources or a substantial increase in the severity of previously identified impacts compared to the 2002 EIR. Thus, impacts would be similar to those addressed in the 2002 EIR, and would continue to be less than significant for subsurface cultural resources and significant and unavoidable for the removal of contributing elements of the OARB Historic District despite ongoing implementation of required mitigation measures and/or SCAs.

As in 2002, the 2012 OARB Project land use program necessitates the removal of all existing buildings, including those that contribute to the OARB Historic District. The 2002 EIR recognized that this would be a significant and unavoidable impact. Since there was no actual development program for the former Oakland Army Base at the time, the 2002 EIR required that a reuse feasibility study be undertaken prior to any proposal to remove a historic building. Since 2002, remediation activities have been ongoing and will continue; Building 1 was deconstructed; and reuse feasibility studies have been prepared, reviewed and approved determining that the reuse of all of the existing buildings is

infeasible for the proposed warehouse and rail oriented logistics facilities contemplated for the 2012 Project.⁶

One of the mitigation measures previously identified in the 2002 EIR, Mitigation Measure 4.6-14 is modified in the IS/Addendum; instead of the mitigation requirement for demolishing/deconstructing buildings being subject to a specific building permit, Mitigation Measure 4.6-14 is modified as follows for the City:

No demolition or deconstruction of contributing structures to the OARB Historic District shall occur until a master plan and/or Lease Disposition and Development Agreement has been approved by the City, and demolition or deconstruction of a building is required to realize the master infrastructure development plan necessary for approved redevelopment activities, in conformity with applicable General Plan Historic Preservation Element and City of Oakland Planning requirements.

The reason for this is that the 2002 EIR mitigation measure, which specifies that no City demolition or deconstruction may occur until a building permit is obtained, is not feasible. Geological studies prepared during the master planning process for the project area have determined that the entire OARB site requires significant and time consuming grading work. As noted in Section 2, Project Description, every site needs to be dynamically compacted, surcharged with as much as 8 feet of soil, wicked of its water content, and then regraded to a new grade which will raise the sites from 2 to 3 feet above the current elevation. This is only feasible if done on a large scale, such as all of the Central Gateway or at least one third of the East Gateway. This activity cannot be performed around the existing buildings. All buildings must be taken down in advance of the required grading. All buildings must be relocated pursuant to SCA CULT-4 or deconstructed pursuant Mitigation Measure 4.6-9 in advance of the required grading.

The original mitigation measure 3.6-14 states that the Port shall not demolish or deconstruct structures until it has approved a final development plan for the relevant new facility or facilities. This requirement shall continue to apply to the Port in the absence of a Lease Disposition and Development Agreement.

7. **Greenhouse Gases (GHG).** Climate change and greenhouse gas emissions were not expressly addressed in the 2002 EIR. However, since information on climate change and greenhouse gas emissions was known, or could have been known in 2002, it is not legally “new information” as specifically defined under CEQA and thus is not legally required to be analyzed as part of the IS/Addendum. However, an analysis of the proposed 2012 Project, using the previously recommended May 2011 BAAQMD CEQA Guidelines and Thresholds, was conducted in order to provide more information to the public and decision-makers, and in the interest of being conservative.

The IS/Addendum analysis concludes that the 2012 OARB Project would result in the generation of greenhouse gas emissions from construction as well as operations (passenger vehicles, ships, trains, tugs, trucks and operation of buildings on-site), as

⁶ Appendix L: Feasibility Study for Adaptive Reuse of the Existing Oakland Army Base Warehouses.

would the 2002 Project. Total emissions resulting from the 2002 and 2012 Projects are shown below in Table 5.

Table 5. Project Greenhouse Gas Emissions in Metric Tons Per Year

	Total Annual CO ₂ e Emissions
2002 Project	171,292
2012 Project	17,869

Source: ENVIRON and LSA, Associates, Inc., 2012.

However, as noted above, the analysis evaluating climate change and greenhouse gas emissions provided in the IS/Addendum is for informational purposes only, there is no resulting significant CEQA impact.⁷ Moreover, the 2012 Project generates substantially less greenhouse gases than the 2002 Project. Nevertheless, the City will impose a modified version of its Standard Condition of Approval requiring the Project Applicant to submit a Greenhouse Gas Reduction Plan to the City for review and approval (as part of the Planned Unit Development process and ongoing as specified) that has a goal to increase energy efficiency and reduce greenhouse gas emissions by at least 20 percent, and a goal of 36 percent below the project's "adjusted" baseline GHG emissions to help achieve the City's goal of reducing GHG emissions. The IS/Addendum also includes a "Recommended Measure" (not required by CEQA) relating to climate change (included in Section 3.9 Hydrology and Water Quality of the IS/Addendum that the Project Applicant submit a Sea Level Rise Adaptation Plan for the 2012 Project to the City of Oakland for review and approval as part of the Planned Unit Development process.

8. **Land Use and Planning.** The 2002 EIR identified three impacts with respect to policy inconsistencies would result from the 2002 Project. Two of these impacts, and their associated mitigation measures, are not applicable to the 2012 Project (Impacts 4.1-1, 4.1-2 and 4.1-3; Mitigation Measures 4.2-1 and 4.2-3). The 2002 and 2012 Project would result in the same significant and unavoidable impact with respect to the loss of all structures contributing to a historic district; however, the 2012 Project would not result in any new or substantial increase in previously identified significant impacts. The 2012 Project is consistent with the intent of key plans and policies, as discussed below:
- **San Francisco Bay Plan:** Redevelopment of the Gateway and Port development areas of the OARB as proposed by the 2012 Project would be consistent with the intent of Bay Plan policies regarding water-related industry, ports, and public access.
 - **San Francisco Bay Area Seaport Plan:** Redevelopment of the Port development area as proposed by the 2012 Project would be consistent with the intent of Seaport Plan policies regarding cargo forecasts, Port priority use areas, and specific policies designated for the Port of Oakland.

⁷ On March 5, 2012, the Alameda County Superior Court issued a Judgment invalidating the May 2011 BAAQMD Thresholds and BAAQMD recommends that the Thresholds not be used. Nevertheless, in the absence of further technical guidance, the City is generally continuing to use the May 2011 BAAQMD Guidelines in its CEQA review.

- **San Francisco Bay Trail Plan:** Redevelopment of the project site as proposed by the 2012 Project would be consistent with the intent of Bay Trail Plan policies regarding trail alignment and transportation access.
- **State Lands Commission (SLC) Tidelands Trust Exchange Agreement:** As shown in Figure 2-5b of the IS/A, the Project proposes permanent vehicular, bicycle and pedestrian access within OARB Sub-district Gateway Development Area and to the adjoining future Gateway Regional Park to the west of the project area. Per letter dated May 18, 2012, the SLC has approved that the 2012 Project satisfies the requirement stipulated by the Exchange Agreement (This letter is included in Appendix D of the IS/Addendum).
- **Long Term Management Strategy (LTMS) Program:** No dredging would be required for the continued operation of the wharf, beyond the occasional maintenance that already occurs. The 2012 Project would conform to the LTMS Program.
- **City of Oakland General Plan:**
 - Land Use and Transportation Element (LUTE). The 2012 Project would be consistent with the objectives and associated policies of the LUTE regarding the following: expansion and retention of the Oakland job base and economic strength; provision of adequate infrastructure; reduction of truck effects on local neighborhoods; encouragement of waterfront access; creation of a high-quality natural and built waterfront environment; promotion of the Port of Oakland; provision of commercial areas; and reduction or elimination of hazardous wastes. Although the proposed project is not expected to require new hazardous waste storage, treatment, or disposal facilities in the area, any such facilities shall comply with applicable requirements.

Nine billboards are proposed as part of the 2012 Project. LUTE Policy I/C4.3, which encourages but does not require billboard removal in commercial and residential zones, does not apply here because the project site is located in industrial zones. Moreover, the City has a billboard amortization program which has removed in excess of 148 billboards over the past 12 years. The amortization program is ongoing and is anticipated to remove more billboards in the future. In addition, about 70 billboards have been removed through billboard relocation agreements over the same time period.

- Bicycle and Pedestrian Master Plans. The 2012 Project would be consistent with the Bicycle and Pedestrian Master Plans, as it proposes to enhance bicyclist and pedestrian safety by providing designated bicycle facilities and sidewalks (where none currently exist) on Maritime Street and Burma Road, as discussed in detail in Section 3.16 Transportation/Traffic of the IS/Addendum.
- Open Space, Conservation and Recreation Element (OSCAR). The 2012 Project would be consistent with objectives and associated policies of the OSCAR regarding the improving physical and visual access to the shoreline, including the Bay Trail and protecting and promoting the beneficial use of nearshore waters, as discussed further in Sections 3.1 Aesthetics, 3.15 Recreation, and 3.16 Transportation and Traffic of the IS/Addendum.

- Noise Element. As noted in the noise analysis provided in Section 3.12 Noise of the IS/Addendum, the increased noise resulting from the 2012 Project (traffic related, construction and operational) would result in a less-than-significant impact and mitigation is not warranted. Moreover, consistent with the City's Noise Ordinance and the Oakland Noise Element, the relevant SCA that would be required would further ensure that any potential impacts would be reduced to a less-than-significant level.
- Safety Element. The 2012 Project would not conflict with any of the above Safety Element policies. The project's specific effects regarding subjecting people and property to hazardous conditions are addressed in Sections 3.8 Hazards and Hazardous Materials and 3.9 Hydrology and Water Quality of the IS/Addendum), all of which are less than significant or reduced to a less-than-significant level after implementation of mitigation measures or SCA.
- Historic Preservation Element (HPE). The policies from the Historic Preservation Element generally encourage, but do not mandate, the preservation of Oakland's historic resources, within the context of and consistent with other General Plan goals, objectives, and policies. There was one impact found to be potentially significant. Despite the imposition of a number of mitigation measures and SCA, it was still found to be significant and unavoidable, as it was for the project evaluated in the 2002 EIR. A more detailed discussion can be found in Section 3.5 Cultural Resources of the IS/Addendum.
- Scenic Highways Element. The 2012 Project site is located within the MacArthur Freeway Scenic Corridor. As concluded in the 2002 EIR, development of the 2012 Project would eliminate visual evidence of a specific period in the history of West Oakland military transportation, and this impact would be considered significant and unavoidable. The 2012 Project would not result in any new or more significant impacts related to scenic resources than were described in the 2002 EIR, as discussed in detail in Section 3.1 Aesthetics.

Scenic Highways Element Policies 1-4: a) discourage new billboards or other obstructions within Scenic Corridors; b) provide that interesting views should not be "obliterated"; and c) new construction within the Scenic Corridor should have architectural merit and be harmonious with the surrounding landscape. None of these policies are fundamental, mandatory policies, but are directive in nature; and, as such, must be balanced against other policies that may compete with them (such as economic development and reuse of former military bases). Although views will be somewhat obscured, no interesting views will be obliterated. Moreover, the surrounding area is mostly devoid of any landscaping and is industrial in nature. The billboards will be constructed of quality materials and will have architectural merit. As such, the proposed billboards do not fundamentally conflict with the General Plan.
- **City of Oakland OARB Redevelopment Plan and Final Reuse Plan for the Oakland Army Base**. The *OARB Redevelopment Plan* incorporated the program for the former Army Base set forth in the *Final Reuse Plan for the OARB*. While there are some differences between the 2012 Project and what was proposed for the same

geographic location in the 2002 Project, as noted in Section 1.0 Introduction and Section 2.0 Project Description of the IS/Addendum, the proposed uses would be consistent with the Conceptual Reuse Strategy and Flexible Alternative set forth in the *Final Reuse Plan*. As noted above, the intent of the Flexible Alternative was to establish a broad envelope of probable land uses/market activities that could change over time in order to reflect market and economic conditions.

9. **Noise.** Similar to the 2002 EIR, the only significant noise impact identified for the 2012 Project would occur from construction activities associated with build out of the project. However, implementation of the applicable Standard Conditions of Approval (SCA NOI 1, 2, 3, 4 and 6) would ensure that construction noise impacts associated with build out of the project would be reduced to less-than-significant levels for all receiving land uses in the project vicinity. SCA NOI-1, limiting days/hours and construction operation, required on an on-going basis throughout demolition, grading and/or construction was modified for the 2012 Project to allow for construction between 7:00 a.m. to 7:00 p.m. Monday through Saturday, except for the barging and unloading of soil, which shall be allowed 24 hours per day, seven days per week for about 15 months; typically, only limited construction activities are permitted on Saturdays, however, given the location of the Project (distance to existing residences, the closest of which are about 750 feet away to construction activities, separated by a freeway) and existing noise conditions, Saturday construction, as well as barging, is appropriate. Also, the developer can request to operate outside of the above mentioned hours if an air quality report is submitted (since the air quality analysis assumed a 7am-11pm, Monday –Saturday construction period).
10. **Traffic.** The IS/Addendum concluded that the 2012 OARB Project would not result in significant new transportation impacts or a substantial increase in the severity of previously identified significant impacts compared to the 2002 EIR. The 2002 EIR project included substantial amount of research and development facilities and offices in the project site, which generate higher number of employee trips; while the 2012 project proposed a higher amount of port-supporting land uses that would complement existing and proposed adjacent uses in the project area.

Construction and/or remediation would generate haul, delivery and employee trips, which would involve large transport trucks and movement of hazardous materials or hazardous waste through city streets. Furthermore, the construction of the proposed 7th Street grade separation and related improvements may require closure of 7th Street during construction, which would result in the need to divert traffic onto other roadways. As partial implementation of the City's Transportation SCA TRANS-2, an analysis was conducted to determine the impacts of closing 7th Street during construction (see Appendix K: Technical Memorandum – Draft 7th Street Grade Separation Traffic Analysis for Detour). This study indicates that improvements at Adeline Street/5th Street and Adeline/3rd Streets would maintain existing traffic service levels. The study and the improvements are partial implementation of SCA TRANS-2, which will require further development of a detailed traffic management plan prior to issuance of the first construction-related permit (grading, demolition) and consultation and coordination with other public agencies (such as the Port, EBMUD and Caltrans). The Project would be

constructed over a multi-year period and in a number of construction phases; the timing, amount and route of truck and vehicle movements are not currently known. Although construction activities could result in traffic disruptions and potential level of service degradation on area roadways, implementation of SCA TRANS-2 would mitigate any construction traffic impacts to a less-than-significant level. In addition, a Transportation Demand Management Plan is required for both construction (prior to the issuance of the first permit related to construction) and operations (prior to issuance of a final building permit) as part of implementation of SCA TRANS-1. The Community Benefits Program being considered also includes a provision to provide public or private transit connection for construction workers (connecting to BART and at least two West Oakland locations).

Different intersections would be impacted in the 2002 and the 2012 Projects. For the 2012 Project: a total of five intersections would be impacted when the Project comes online and would require signal optimization to mitigate potentially significant impacts to less than significant levels; another 12 intersections would require signal optimization later, in the next 10 to 20 years; and one intersection would require geometric changes, in addition to signal optimization, in the next 10-20 years. Both the 2002 and the 2012 Projects would result in significant and unavoidable impacts to freeway segments of the Congestion Management Program (CMP) as a result of the project and in the cumulative plus project conditions, however, far fewer freeway segments would be impacted as a result of the 2012 Project. Moreover, the 2012 OARB Project would generate over 6,800 fewer daily trips than the 2002 EIR project including 1,400 fewer trips in the AM peak hour and 1,200 fewer trips in the PM peak hour. Thus, impacts would be substantially reduced or similar to those addressed in the 2002 EIR.

As identified in the 2002 EIR, adequate emergency access would be a potentially significant impact for the 2012 Project; the 2002 EIR Mitigation Measure 4.3-8 to provide an emergency service program and emergency evacuation plan using waterborne vessels would still be applicable for the 2012 Project. In addition, the 2012 Project includes new mitigations requiring an emergency response plan be developed and coordinated with adjacent property owners, including EBMUD and Caltrans, and a requirement that West Burma Road be designed with appropriate turnouts and turnarounds, as determined by the City of Oakland Fire Department, in order to ensure adequate ingress and egress for emergency vehicles.

C. Conclusions

In considering approval of the 2012 OARB Project, the City can rely on the Previous CEQA Documents and the 2012 IS/Addendum.

2012 OAKLAND ARMY BASE PROJECT

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) Findings

Addendum Findings

The City Council, based upon its own independent review, consideration, and exercise of its independent judgment, hereby finds and determines, on the basis of substantial evidence in the entire record before the City, that none of the circumstances necessitating further California Environmental Quality Act ("CEQA") review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163, are present in that (1) there are no substantial changes to the 2012 Oakland Army Base Project as described in the Initial Study/Addendum ("2012 OARB Project") that would result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the 2002 Oakland Army Base Redevelopment Plan Environmental Impact Report, which was a "project level" EIR pursuant to CEQA Guidelines section 15180(b) ("2002 EIR"), the 2006 OARB Auto Mall Supplemental EIR and 2007 Addendum, the 2009 Addendum for the Central Gateway Aggregate Recycling and Fill Project, and the Port's 2006 Maritime Street Addendum (collectively called "Previous CEQA Documents"); (2) there are no substantial changes in circumstances that would result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the Previous CEQA Documents; and (3) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Previous CEQA Documents were certified, which is expected to result in (a) new significant environmental effects or a substantial increase in the severity of significant environmental effects already identified in the Previous CEQA Documents or (b) mitigation measures which were previously determined not to be feasible would in fact be feasible, or which are considerably different from those recommended in the Previous CEQA Documents, and which would substantially reduce significant effects of the 2012 OARB Project, but the City declines to adopt them. Thus, in considering approval of the 2012 OARB Project, the City can rely on the Previous CEQA Documents and the 2012 Addendum.

Public Resources Code section 21083.3 and Guidelines Section 15183 Findings

Although the City Council can rely on the Previous CEQA Documents for the reasons stated above, and thus an Addendum is the appropriate CEQA document for the 2012 OARB Project, as an alternative, separate, and independent basis, the City Council also hereby makes the following findings:

As a separate and independent basis for providing CEQA clearance, pursuant to Public Resources Code section 21083.3 and Guidelines section 15183, the City Council finds: (a) the 2012 OARB Project is consistent with Land Use and Transportation Element (LUTE) of the General Plan, for which an EIR was certified in March 1998, and the Historic Preservation Element, for which an EIR was certified in 1998; (b) feasible mitigation measures identified in the LUTE and Historic Preservation Element EIRs were adopted and have been, or will be, undertaken; (c) Previous CEQA Documents and the 2012 Addendum, evaluated impacts peculiar to the 2012 OARB Project and/or Project site, as well as off-site and cumulative impacts; (d) uniformly applied development policies and/or standards (hereafter called "Standard Conditions of Approval") have previously been adopted (by the City Council on November 3, 2008, via Ordinance No. 12899 C.M.S., which was not legally challenged, and was later revised by City Staff) and found to, that when applied to future projects, substantially mitigate impacts, and to the extent that no such findings were previously made,

the City hereby finds and determines that the Standard Conditions of Approval substantially mitigate environmental impacts of the 2012 OARB Project; and (e) no substantial new information exists to show that the Standard Conditions of Approval will not substantially mitigate 2012 OARB Project and cumulative impacts.

Other CEQA Findings

- a. The monitoring and reporting of CEQA mitigation measures in connection with the 2012 OARB Project will be conducted in accordance with the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program. Adoption of this Program will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of CEQA. All proposed mitigation measures are capable of being fully implemented by the efforts of the City of Oakland or other identified public agencies of responsibility.
- b. That the record before the City Council includes, without limitation, the following for the 2012 OARB Project:
 1. the Final Master Plan, including all accompanying maps and papers, submitted to the City;
 2. all final plans and reports submitted by the Master Developer and his/her representatives to the City;
 3. all final staff reports, decision letters, and other documentation and information produced by or on behalf of the City.
 4. all oral and written evidence received by the City staff, before and during the public hearings on the 2012 OARB Project;
 5. the Previous CEQA Documents and related materials, including the Redevelopment Plan and Base Reuse Plan; and
 6. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations; (c) Oakland Fire Code; (d) Oakland Planning Code; (e) other applicable City policies and regulations; and, (f) all applicable state and federal laws, rules and regulations.
- c. That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council decision on the 2012 OARB Project is based is the Office of Planning, Building & Neighborhood Preservation, 250 Frank H. Ogawa Plaza, Suite 3115, Oakland, CA. 94612 and the Office of the City Clerk, One Frank H. Ogawa Plaza, First Floor, Oakland, CA. 94612.

ATTACHMENT D
Standard Conditions Of Approval/Mitigation Monitoring and Reporting Program
City/Developer Allocation of Responsibility/Cost

Standard Conditions of Approval/Mitigation Measures ¹	Responsibility/Cost
Aesthetics, Wind and Shadows	
SCA-AES-1: Lighting Plan	Developer
Mitigation 4.11-1: Lighting Design.	Developer
Mitigation 4.11-3: Active and passive solar systems	Developer
Mitigation 4.11-4: New construction within the Gateway development area adjacent to parcels containing permitted or existing active or passive solar systems	Developer
Mitigation 4.11-5: Design of new, permanent buildings constructed along the Port/Gateway boundary to minimize conflicts over solar access	Developer
Mitigation 4.11-6: Design of new construction adjacent to a public park or open space	Developer
Air Quality	
SCA AIR-2: Construction-Related Air Pollution Controls (Dust and Equipment Emissions)	Developer
Mitigation 4.4-3b: Maritime and port-related emission reduction plan.	N/A ²
Mitigation 4.4-4: Truck diesel emission reduction program.	Developer
Mitigation Measure 4.4-5: Transportation Control Measures (TCMs).	Developer
SCA AIR-1: Construction Management Plan.	Developer
Mitigation 4.4-6: Title 24 compliance re new construction	Developer
Mitigation Measure 5.4-1: Emission reduction demonstration projects that promote technological advances in improving air quality.	Developer
SCA AIR-3: Exposure to Air Pollution (Toxic Air Contaminants, Particulate Matter) Indoor/Outdoor	N/A
Biological Resources	
SCA BIO-1: Tree removal during breeding season	City
SCA BIO-5: Regulatory permits and authorizations for construction in or near the water	Developer
Mitigation Measure 4.12-5: Qualified observer for in-water construction activities near potential herring spawning areas between December 1 and March 1.	Developer
Mitigation Measure 4.12-6: Redirection of construction if spawning is observed	Developer
Modified Mitigation Measure 4.12-11: For Berths 7 and 8 (Wharves 6/8 and 7), development and implementation of carrier ballast water education program.	N/A

¹ Standard Conditions of Approval/Mitigation Measures listed herein reference the 2012 OARB Project (Final and Corrected) SCA/MMRP 10-15-2012(Revised by City Council 7-16-13).

² Responsibility/Cost marked "N/A" does not pertain to the Ancillary Maritime Support (AMS) site and/or the impacts of development on the AMS site

ATTACHMENT D
Standard Conditions Of Approval/Mitigation Monitoring and Reporting Program
City/Developer Allocation of Responsibility/Cost

Modified Mitigation Measure 4.12-12: For Berths 7 and 8 (Wharves 6% and 7), support international and U.S. efforts to adopt uniform international or national standards to avoid introduction of exotic species through shipping activities.	N/A
Mitigation Measure 3.4-1a: Landscape Plan.	Developer
Mitigation Measure 3.4-1b: Lighting Plan with raptor deterrents as required	
SCA BIO-2: Tree Removal Permit	City
SCA BIO-3: Tree Replacement Plantings.	Developer
SCA BIO-4: Tree Protection During Construction	Developer
Cultural Resources³	
SCA CULT-4: Compliance with Policy 3.7 of the Historic Preservation Element (Property Relocation Rather than Demolition).	City
Mitigation Measure 4.6-2: Commemoration site, including preparation of a Master Plan for such a site, at a public place located within the Gateway development area.	Developer
Mitigation Measure 4.6-3: Public access to commemoration site.	City
Mitigation Measure 4.6-5: Military history web site.	Developer
Mitigation Measure 4.6-7: Distribution of copies of "A Job Well Done" documentary video published by the Army.	Developer
Mitigation Measure 4.6-9: Salvage as whole timber posts, beams, trusses and siding of warehouses to be deconstructed.	City
Mitigation Measure 4.6-10: Brochure describing history and architectural history of the OARB.	Developer
Modified Mitigation Measure 4.6-14: Limits on demolition or deconstruction of contributing structures to the OARB Historic District.	City
SCA CULT-1: Archaeological Resources	Developer
SCA CULT-2: Human Remains	Developer
SCA CULT-3: Paleontological Resources.	Developer
Geology and Soils	
SCA GEO-2: Soils Reports.	Developer
SCA-GEO-3: Geotechnical Reports	Developer
Mitigation 4.13-1: Conformance with IBC, soil investigation and construction requirements established in the Oakland General Plan, the Bay Conservation and Development Commission Safety of Fill Policy, and wharf design criteria established by the Port or City of Oakland (depending on the location of the wharf)	Developer
Mitigation 4.13-2: Conformance with site-specific geotechnical evaluation.	Developer
SCA GEO-1: Erosion and Sedimentation Control Plan	Developer
Mitigation 4.13-4: Review of available building and environmental records	Developer
Mitigation 4.13-5: Due diligence regarding underground utilities and facilities	Developer
Greenhouse Gas	
SCA GCC-1: Greenhouse Gas (GHG) Reduction Plan	Developer
Hazards and Hazardous Materials⁴	
SCA HAZ-1: Best Management Practices for Soil and Groundwater Hazards.	Developer
SCA HAZ-2: Hazards Best Management Practices.	Developer
SCA HAZ-3: Hazardous Materials Business Plan	Developer

³ The Fair Share cost of Cultural Mitigations is still to be determined

⁴ The parties' allocation of environmental obligations may be more specifically addressed in other written agreements, which are controlling

ATTACHMENT D
Standard Conditions Of Approval/Mitigation Monitoring and Reporting Program
City/Developer Allocation of Responsibility/Cost

SCA HAZ-4: Asbestos Removal in Structures.	City
SCA HAZ-5: Lead-Based Paint/Coatings, Asbestos, or PCB Occurrence Assessment.	City
SCA HAZ-6: Lead-Based Paint Remediation.	City
SCA HAZ-7: Other Materials Classified as Hazardous Waste	Developer
SCA HAZ-8: Health and Safety Plan per Assessment	Developer
Mitigation 4.7-3: Implement RAP/RMP.	City Developer
Mitigation 4.7-4: For the project areas not covered by the DTSC-approved RAP/RMP, investigate potentially contaminated sites.	City Developer
Mitigation 4.7-5: For the project areas not covered by the DTSC-approved RAP/RMP, remediate soil and groundwater contamination consistent with the City of Oakland ULR Program	City Developer
Mitigation 4.7-6: LBP sampling prior to demolition	City
Mitigation 4.7-7: ACM sampling prior to demolition.	City
Mitigation 4.7-8: PCB sampling prior to demolition.	City
Mitigation 4.7-9: Implement RAP/RMP for above-ground and underground storage tanks.	City Developer
Mitigation 4.7-11 Sampling and management of LBP-impacted soil, ground area.	City Developer
Mitigation 4.7-12 Annual ACM assessment.	N/A
Mitigation 4.7-13 Use consistent with Reuse Plan.	Developer
Mitigation 4.7-16 Investigation of oil-filled electrical equipment.	Developer
Mitigation 4.7-17 Disposal of PCB-containing equipment	Developer
Hydrology and Water Quality	
SCA HYO-1: Stormwater Pollution Prevention Plan (SWPPP)	Developer
Mitigation 4.15-1: Prior to in-water construction, water quality protection plan	Developer
Mitigation 4.15-2: Comply with permit conditions from the Corps, RWQCB and BCDC.	Developer
Mitigation 3.9-1: Coordinate and consult with EBMUD and if necessary construct storm drain improvements resulting from increased elevation in the North Gateway area	City
SCA HYD-2: Post-Construction Stormwater Management Plan.	Developer
SCA HYD-3: Maintenance Agreement for Stormwater Treatment Measures.	Developer
SCA HYO-4: Stormwater and Sewer Improvements and Maintenance.	Developer
Mitigation 4.15-5: Post-construction controls of stormwater shall be incorporated into the design of new redevelopment elements to reduce pollutant loads	Developer
Mitigation 4.14-1 Prohibition on installation of groundwater extraction wells into the shallow water-bearing zone or Merritt Sand aquifer for any purpose other than construction de-watering and remediation.	Developer
Mitigation 4.14-2 Minimize extraction of groundwater for construction de-watering or remediation.	Developer
Mitigation 4.15-6. Site-specific design and best management practices shall be implemented to prevent runoff of recycled water to receiving waters	Developer
Recommended Measure. Prepare a Sea Level Rise Adaptation Plan for City of Oakland for review and approval	Developer

ATTACHMENT D
Standard Conditions Of Approval/Mitigation Monitoring and Reporting Program
City/Developer Allocation of Responsibility/Cost

Noise	
SCA NOI-1: Days/Hours of Construction Operation.	Developer
SCA NOI-2: Noise Control	Developer
SCA NOI-3: Noise Complaint Procedures	Developer
SCA NOI-6: Pile Driving and Other Extreme Noise Generators.	Developer
SCA NOI-4: Interior Noise.	Developer
SCA NOI-5: Operational Noise-General.	Developer
Public Outreach	
Mitigation PO-1: Stakeholder review of Air Quality and Trucking Plans.	NA ⁵
Public Utilities	
SCA PSU-1. Underground Utilities.	Developer
SCA PSU-2: Fire Safety Phasing Plan.	Developer
Mitigation 4.9-1: Increased firefighting and medical emergency response services via fireboat to serve the OARB sub-district	Developer
Mitigation 4.9-2: Work with OES to ensure changes in local area circulation are reflected in the revised Response Concept	Developer
Mitigation 4.9-3: Requirement to notify OES of plans in advance of construction or remediation activities.	Developer
Traffic and Transportation	
Mitigation Measure 3.16-1: 7th Street S. I-880 Northbound Off-Ramp (#12) ⁶ .	City
Mitigation Measure 3.16-2: San Pablo Ave & Ashby Avenue (#42)	City
Mitigation Measure 3.16-3: 7 th Street & Harrison Street (#18)	City
Mitigation Measure 3.16-4: 12 th Street & Castro Street (#29). Submit plans specifications and estimates (PSS&E) as detailed in Mitigation Measure 3.16-1 that are consistent with the City's standards to City of Oakland's Transportation Engineering Division for review and approval.	City
SCA TRANS-1: Parking and Transportation Demand Management.	Developer
Mitigation 4.3-5: Design of roadways, bicycle and pedestrian facilities, parking lots, and other transportation features.	Developer
Mitigation 4.3-7: Truck management plan.	Developer
Mitigation 4.3-8: Emergency service program and emergency evacuation plan using waterborne vessels	Developer
With regard to Maritime Street between 7th Street and West Grand Avenue:	
Mitigation Measure 3.16-5 Shoulder with a minimum width of 8 feet on the west side of Maritime Street.	City
Mitigation Measure 3.16-6 9-foot wide area along the entire west side of Maritime Street.	

⁵ Mitigation PO-1 requires the City and Prologis CCIG Oakland, LLC, to conduct a public process concerning the development of plans related to air quality and trucking that are required by the SCA/MMRP. OMSS would not be required to conduct this process but it must still comply with the standard conditions of approval and mitigation measures requiring plans related to air quality and trucking.

⁶ The numbers appearing after the location of the intersection listed refer to Figure 3.16-1 in the IS/Addendum that illustrates the study intersections

ATTACHMENT D

Standard Conditions Of Approval/Mitigation Monitoring and Reporting Program
City/Developer Allocation of Responsibility/Cost

Mitigation Measure 3.16-7: 18-foot wide area along the entire east side of Maritime Street. <u>With regard to North Maritime (formerly Wake Avenue).</u>	City
Mitigation Measure 3.16-8: 2 travel lanes in each direction <u>With regard to Burma Road between Maritime Street and West Oakland (Burma East):</u>	City
Mitigation Measure 3.16-9: 9-foot wide area along the entire north side of Burma Street.	City
Mitigation Measure 3.16-10: 7-foot wide area along the entire south side of Burma Street	City
<u>With regard to Burma Road between Maritime Street and Railroad Tracks (Burma West)</u>	City
Mitigation Measure 3.16-11: 9-foot wide area along the entire south side of Burma Street	City
Mitigation Measure 3.16-12: 20-foot wide area along the entire north side of Burma Street.	City
<u>With regard to Burma Road between Railroad Tracks and Gateway Park (Burma Far West).</u>	City
Mitigation Measure 3.16-13: 8-foot wide area along the entire south side of Burma Street.	City
Mitigation Measure 3.16-14: Shoulder along the entire north side of Burma Street.	City
<u>With regard to Emergency Access:</u>	City
Mitigation Measure 3.16-15a: Emergency response plan for the 2012 Army Base Project addressing emergency ingress/egress.	City
Mitigation Measure 3.16-15b: include West Burma Road turn-outs and turn-arounds at the appropriate locations and dimensions as required by the Fire Department.	City
SCA TRANS-3: Railroad Crossings.	City
Mitigation Measure 3.16-16: Engineers Road, crosswalk just west of the rail crossing on West Burma Road, "KEEP CLEAR," rail crossing angles	City
Mitigation 4.3-9: Conformance with City of Oakland or Port development standards with facilities that support transportation alternatives to the single-occupant automobile.	Developer
Mitigation 4.3-10: Developer-sponsored parking demand study	Developer
SCA TRANS-2: Construction Traffic and Parking.	Developer
Mitigation 4.3-13: Traffic Control Plan (TCP).	Developer
Mitigation Measure 3.16-17: West Grand Avenue & I-880 Frontage Road (#2)	Developer ⁷
Mitigation Measure 3.16-18: San Pablo Ave & Ashby Ave (#42)	Developer
Mitigation Measure 3.16-19: West Grand Avenue & Maritime Street (#1)	Developer
Mitigation Measure 3.16-2D: 7th Street & Union Street (#15)	Developer
Mitigation Measure 3.16-21: West Grand Avenue & Northgate Avenue (#8)	Developer
Mitigation Measure 3.16-22: 5th Street & Union Street / I-880 North Ramps (#21)	Developer
Mitigation Measure 3.16-23: MacArthur Boulevard & Market Street (#33).	Developer
Mitigation Measure 3.16- 24: West Grand Avenue & I-880 Frontage Road (#2)	Developer

⁷ The Fair Share cost of Mitigation Measures 3.17-17 through 3.16-33 attributable to the AMS project is still to be determined.

ATTACHMENT D
Standard Conditions Of Approval/Mitigation Monitoring and Reporting Program
City/Developer Allocation of Responsibility/Cost

Mitigation Measure 3.16- 25: West Grand Avenue & Adeline Street (#4).	Developer
Mitigation Measure 3.16- 26: West Grand Avenue & Market Street (#5).	Developer
Mitigation Measure 3.16- 27: West Grand Avenue & San Pablo Avenue (#6)	Developer
Mitigation Measure 3.16- 28: West Grand Avenue & Harrison Street (#9)	Developer
Mitigation Measure 3.16- 29: 7th Street & Harrison Street (#15).	Developer
Mitigation Measure 3.16- 30: 6th Street & Jackson Street (#20)	Developer
Mitigation Measure 3.16- 31: 12th Street & Brush Street (#28)	Developer
Mitigation Measure 3.16- 32: Powell Street & Hollis Street (#37).	Developer
Mitigation Measure 3.16- 33: Powell Street/Stanford Avenue & San Pablo Avenue (#38)	Developer
Recommended Measures (Project and Cumulative): W. Grand Avenue & Maritime Street (#1) 7 th Street & Maritime Street (#10) 7 th Street & I-880 northbound off-ramp (#12)	City
Underground Utilities	
SCA UTL-3: Underground Utilities.	Developer
SCA UTL-5: Improvements in the Public Right-of Way (Specific)	Developer
SCA UTL-6: Payment for Public Improvements	Developer
Mitigation 4 9-4: Individual actions with landscaping requirements of one or more acres	Developer
Mitigation 4.9-5: Dual plumbing	Developer
Mitigation 4 9-6: Use of recycled water	Developer
SCA UTL-1a, UTL-1b: Compliance with the Green Building Ordinance, OMC Chapter 18 02.	Developer
SCA UTL-2: Waste Reduction and Recycling	Developer
Mitigation. 4.9-7: Deconstruction program.	City
Mitigation 4 9-8: Concrete and asphalt removed during demolition/construction.	City

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OAKLAND

2013 OCT 31 PM 3:36

Approved as to form and legality



Deputy City Attorney

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT AND GROUND LEASE BETWEEN THE CITY OF OAKLAND AND OAKLAND MARITIME SUPPORT SERVICES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, OR ITS AFFILIATE, IN A FORM AND CONTENT SUBSTANTIALLY IN CONFORMANCE WITH THE ATTACHED DOCUMENTS, FOR THE DEVELOPMENT OF AN ANCILLARY MARITIME SUPPORT FACILITY TO PROVIDE TRUCK PARKING AND TRUCK-RELATED SERVICES ON APPROXIMATELY 17 ACRES IN THE CENTRAL AND NORTH GATEWAY AREAS OF THE FORMER OAKLAND ARMY BASE, WITHOUT RETURNING TO THE CITY COUNCIL

WHEREAS, the San Francisco Bay Conservation and Development Commission ("BCDC") has jurisdiction over the San Francisco Bay, its shoreline, and certain related waterways, and exerts its authority through the State of California's Coastal Zone Management Program which includes two planning documents: the *San Francisco Bay Area Seaport Plan* (the "Seaport Plan") and the *San Francisco Bay Plan* (the "Bay Plan"). These plans define Port Priority Use Areas, which must be reserved for marine terminals and directly related ancillary maritime support ("AMS") uses such as container freight stations, transit sheds and other temporary storage, railroad yards, and trucking; and

WHEREAS, the Bay Plan and the Seaport Plan designated the entire Oakland Army Base as a Port Priority Use Area to ensure the Port of Oakland ("Port") would meet projected cargo container through-put requirements for 2020; and

WHEREAS, the Oakland Base Reuse Authority ("OBRA"), a joint powers authority composed of the City of Oakland ("City") and the Redevelopment Agency of the City of Oakland ("Agency"), was established for the purpose of planning for the closure and reuse of the former Oakland Army Base ("Army Base"), which officially ceased operations in 1999; and

WHEREAS, the OBRA at its meeting of July 27, 1998 passed Resolution No. 98-15 thereby adopting the *Draft Final Reuse Plan for the Oakland Army Base* ("Reuse Plan"), which set forth a land use plan for the 422 acres constituting the Army Base, which included, among other things, maritime uses for the area west of Maritime Street ("OAB-West") and industrial activities, among other things, for the area east of Maritime Street ("OAB-East"); and

WHEREAS, BCDC found that some of the proposed land uses for OAB-East, as contained in the Reuse Plan, appeared not to be consistent with the Port Priority Use designation; and

WHEREAS, OBRA worked with the Port to reconfigure the proposed land use plan for the Army Base to ensure consistency with the requirements of the Bay and Seaport Plans and to enable the Port and OBRA to achieve their respective goals of developing OAB-East to meet through-put requirements and to include 75 acres of land for AMS; and planning the development of OAB-West to maximize Oakland job and business creation; and

WHEREAS, in September 2000, OBRA and the Port submitted a joint application to BCDC to amend the Bay and Seaport Plans to eliminate the Port Priority Use designation for OAB-West so as to allow the development set forth in the proposed reconfigured land use plan; and

WHEREAS, BCDC held a public hearing on the joint application on December 7, 2000 and received written and oral comments from interested parties, including governmental entities, regarding the proposed amendments to the Bay and Seaport Plans, and on January 4, 2001 adopted Resolution No. 00-10 thereby amending the Bay and Seaport Plans to: (1) delete approximately 175 acres of Port Priority Use Area at the northern part of the Army Base, (2) retain 15 acres of land on the Army Base for AMS, and (3) add an additional 15 acres of land within or near the Port for AMS; and

WHEREAS, in 2003, the Army transferred via a No-Cost Economic Development Conveyance ("EDC") certain portions of the Army Base (the "EDC Property") to OBRA, and when OBRA conveyed the land to the Agency and the Port in 2006, OBRA also transferred to each entity the BCDC obligation to maintain 15 acres of land for AMS uses; and

WHEREAS, on May 15, 2007, the Agency Board approved a staff recommendation to designate a 15-acre area within the East Gateway Area of the Army Base for the future development of AMS uses, and authorized staff to issue a Request for Proposals ("RFP") for AMS industries to lease space within the East Gateway Area; and

WHEREAS, on June 22, 2007, the Agency issued an RFP for the development of an AMS facility on 15 acres of the East Gateway Area specifically focused on trucking and trucking-related activities, such as parking, transloading, office and/or services targeting the local trucking sector; and

WHEREAS, the Agency selected Oakland Maritime Support Services ("Developer") to negotiate with regarding development of the 15-acre parcel in the East Gateway Area and entered into an Exclusive Negotiating Agreement ("OMSS ENA") with Developer on November 7, 2007, a first amendment thereto on August 8, 2008, and a second amendment thereto on February 28, 2009; and

WHEREAS, during the ENA period, Agency staff and Developer evaluated the design and financial feasibility of Developer's proposed project, which would include tractor and trailer parking, container storage, office space, fueling stations, project-serving retail, and truck maintenance (the "Project") on the 15-acre parcel in the East Gateway Area, and arrived at a general agreement on terms for the development of the Project; and

WHEREAS, in 2007, the East Bay Municipal Utilities District (EBMUD) initiated proceedings challenging the City's environmental analysis for a planned auto mall in the North Gateway Area of the Army Base; and

WHEREAS, in March 2009, the California Superior Court found in favor of EBMUD and required the City to decertify certain environmental approvals related to the auto mall, including approval to discharge into a 15-inch sanitary sewer line, thereby preventing the use of the line for any new development on the Army Base, including the Project; and

WHEREAS, in 2008, the Agency issued a Request for Qualifications ("RFQ") to identify potential development teams for redevelopment of certain portions of the Army Base exclusive of the 15 acres designated for AMS uses, and on January 22, 2010 executed an ENA with Prologis, L.P. (then named AMB Property, L.P.), and CCIG Oakland Global, LLC (successor-in-interest to California Capital Group) ("Prologis CCIG ENA") to negotiate the master development of the Army Base, including all aspects of planning, site preparation, and related public improvements; and

WHEREAS, pursuant to the Prologis CCIG ENA, CCIG agreed to prepare a master plan for the EDC Property which would take into account the projects under consideration by the Agency and the Port, including the development contemplated by Developer; and

WHEREAS, to enable the Master Plan to move forward efficiently without limitation of predetermined uses, the Agency and Developer allowed the OMSS ENA to expire without entering into a binding agreement for the Project on the East Gateway parcel; and

WHEREAS, the Oakland Army Base Master Plan Design Set, dated April 2, 2012, prepared by Architecture Dimensions Master Design Team ("Master Plan") and approved by the City Council on June 19, 2012, identified for AMS uses an approximately seventeen (17)-acre portion of the EDC Property in the Central and North Gateway Areas (identified as "AMS Site" in Exhibit A); and

WHEREAS, pursuant to a March 3, 2011 Purchase and Sale Agreement, the Agency sold and conveyed the Agency-owned portions of the EDC Property (the "Gateway Development Area") to the City by grant deed recorded January 31, 2012 as Doc. 2012-30757 in the Official Records; and the City desires to continue the redevelopment efforts in the Gateway Development Area; and

WHEREAS, on June 29, 2011, the California Legislature passed, and Governor Jerry Brown signed, Assembly Bill 1x26, and on June 27, 2012, the Governor also signed Assembly Bill 1484; which amended Assembly Bill 1x26, which require the dissolution of all redevelopment agencies (collectively, "AB 26"); and

WHEREAS, on January 31, 2012, the City closed escrow under the Agency-City PSA and took title to the Agency-owned portions of the EDC Property pursuant to the grant deed recorded January 31, 2012 as Document No. 2012-30757 in the Official Records and assumed all of the Agency's rights and obligations under the EDC Property Agreements with respect to such property; and

WHEREAS, Developer desires to lease the AMS Site for development of the Project;
and

WHEREAS, staff and Developer have negotiated the general terms of a Lease Disposition and Development Agreement (“LDDA”) and its exhibits, including the general terms of the Ground Lease for the lease of the AMS Site for development of the Project, and related documents which set forth the terms and conditions of the development of the Project and the use of the Property by the Developer and any successors to the Property; copies of the general LDDA terms and its attachments are attached hereto as Exhibit B; and

WHEREAS, consistent with the purposes of the EDC transfer from the Army to create local jobs, the City and Developer desire to implement a Community Benefits Program to be set forth in the LDDA that commits to, among other things, creating jobs for the local community in West Oakland, and to that end will include employment policies and procedures that are intended to strengthen existing City policies and expressly supersede the employment portions of City Council Ordinance No. 12389 (12/18/01), as amended by City Council Ordinance 13101 (12/20/11), and the program Guidelines in the Local and Small Local Business Enterprise Program guidance dated February 1, 2012 with regard to Local Employment Program, Local Construction Employment Referral Program, and Apprenticeship Program; and

WHEREAS, consistent with the purposes of the EDC transfer from the Army, the City amended the Reuse Plan to reflect development contemplated in the Master Plan, including the Project; and

WHEREAS, the City finds that the Project will implement the goals and objectives of the Redevelopment Plan and the Reuse Plan; and

WHEREAS, the City previously prepared and certified/adopted the 2002 Oakland Army Base (“OARB”) Redevelopment Plan Environmental Impact Report, which was a “project level” EIR pursuant to California Environmental Quality Act (“CEQA”) Guidelines section 15180(b); the 2006 OARB Auto Mall Supplemental EIR and 2007 Addendum; and the 2009 Addendum for the Central Gateway Aggregate Recycling and Fill Project; while the Port prepared and adopted the Port’s 2006 Maritime Street Addendum (collectively called “Previous CEQA Documents”); and

WHEREAS, in return for the City’s lease of the Property to Developer, Developer is required to pay rent to the City on the terms and conditions as set forth in the terms for the Ground Lease; and

WHEREAS, the initial term of the Ground Lease shall commence on the date possession is delivered under the LDDA, and continue for 55 years from the commencement date, with a 10-year option to extend, all on the terms and conditions as described in the Ground Lease terms; and

WHEREAS, under the Ground Lease, the City shall retain ownership of the AMS Site at all times; and

WHEREAS, the LDDA will require that the Developer construct and operate the Project consistent with the Redevelopment Plan and restrict the use of the Property to specified uses as set forth in the “Scope of Development” to be attached to the LDDA; and

WHEREAS, the LDDA will incorporate a Community Benefits Program that addresses

environmental, contracting and jobs requirements consistent with the so-called "Areas of Agreement" as set forth in that certain City Council meeting report dated December 13, 2011;

NOW, THEREFORE THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1: The City Council, based upon its own independent review, consideration, and exercise of its independent judgment, hereby finds and determines, on the basis of substantial evidence in the entire record before the City, that none of the circumstances necessitating further CEQA review are present. Thus, prior to approving the Project, the City can rely on the Previous CEQA Documents and the 2012 OARB Initial Study/Addendum.

Section 2: Specifically, the City Council affirms and adopts as its own, the findings and determinations the November 12, 2013, City Council Agenda Report, including without limitation the discussion, findings, conclusions, specified conditions of approval (including the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program ("SCA/MMRP")), and the CEQA findings contained in *Attachment C* to the Agenda Report, each of which is hereby separately and independently adopted by this Council in full, as if fully set forth herein.

Section 3: The City Council finds and determines that this action complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies.

Section 4: The record before this Council relating to this action, includes without limitation those items listed in *Attachment C* to the Agenda Report for this item, as if fully set forth herein, which are available at the locations listed in said Exhibit.

Section 5: The City hereby finds and determines that the lease of the Property through the Ground Lease by the City to the Developer for the Project furthers economic development in the City, conforms to and furthers the goals and objectives of the City in that the Project, once developed will: (1) satisfy the BCDC mandate to the City to reserve 15 acres for port-related trucking services; (2) relocate existing trucking uses out of residential areas to improve the quality of life for West Oakland residents; (3) retain and create high quality jobs in trucking, logistics, and services targeting the local trucking sector; and (4) support modernization and expansion of the Port of Oakland.

Section 6: The City Administrator or her designee is authorized to lease the Property to Developer, subject to and on the terms and conditions of the LDDA and the Ground Lease to be negotiated and executed pursuant to Section 8 of this Ordinance.

Section 7: The City and the Developer have agreed to a Community Benefits Program that includes environmental, contracting and jobs provisions to be set forth in the LDDA. The environmental requirements are set forth in the SCA/MMRP to be attached to the LDDA. The contracting requirements follow the City's Contracting Policy (Council Ordinance 13101 (12/20/11)), as amended by this LDDA to provide for a capacity study/good faith compliance provisions and special conditions for contracting with West Oakland businesses. The Developer has agreed to implement a Construction Jobs Policy and an Operations Job Policy, both of which strengthen existing City employment policies. The Constmction Jobs Policy and the Operations Job Policy expressly supersede the employment portions of City Ordinance No. 12389, as amended by Council Ordinance 13101 (12/20/11), and the program Guidelines in the Local and

Small Local Business Enterprise Program guidance dated February 1, 2012 with regard to Local Employment Program, Local Construction Employment Referral Program, and Apprenticeship Program.

Section 8: The City Administrator or her designee is hereby authorized to negotiate and execute, in form and content substantially in conformance with the terms of the LDDA and its attachments, including the terms of the Ground Lease, as set forth in Exhibit B, without returning to City Council: (1) the LDDA with the Developer for the Project, (2) upon satisfaction or waiver of the conditions precedent, the Ground Lease; and (3) such other additions, amendments or other modifications to the LDDA (including, without limitation, preparation and attachment of, or changes to, any or all of the exhibits) that the City Administrator, in consultation with the City Attorney's Office, determines are in the best interests of the City, do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transactions which the LDDA contemplates to be conclusively evidenced by the execution and delivery by the City Administrator of the LDDA and any such amendments thereto; and (4) such other documents as necessary or appropriate, in consultation with the City Attorney's Office, to facilitate the lease and development of the Property for the Project in order to consummate the transaction under the LDDA in accordance with this Ordinance, or to otherwise effectuate the purpose and intent of this Ordinance and its basic purpose.

Section 9: The City Administrator shall determine satisfaction of conditions precedent under the LDDA to the conveyance of the leasehold estate in the Project, such determination to be conclusively evidenced by the execution and delivery by the City Administrator of the Ground Lease.

Section 10: All documents related to this transaction shall be reviewed and approved by the City Attorney's Office prior to execution, and copies will be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, and PRESIDENT KERNIGHAN

NOES-

ABSENT-

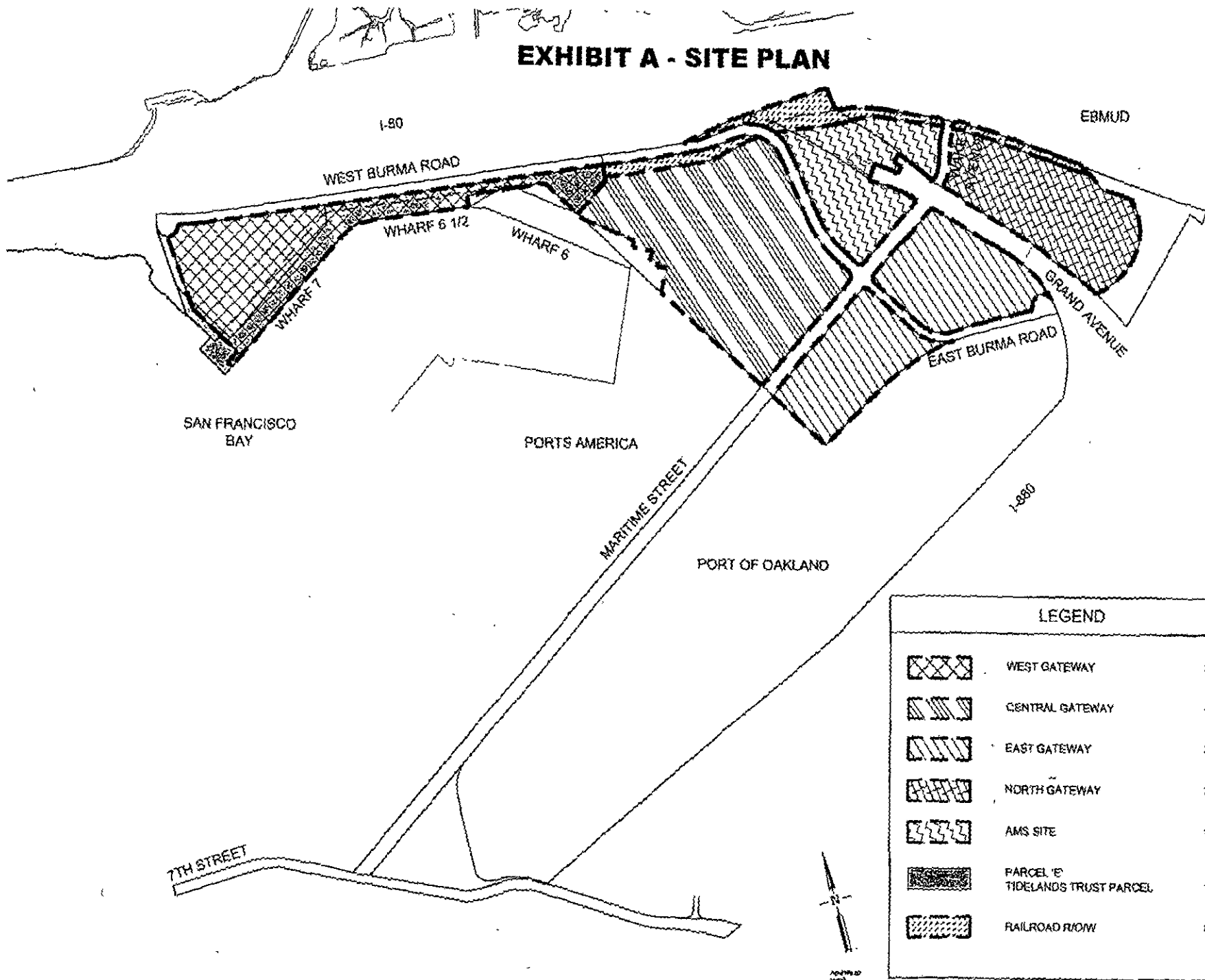
ABSTENTION-

ATTEST: _____

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

DATE OF ATTESTATION: _____

EXHIBIT A - SITE PLAN










LEGEND		
	WEST GATEWAY	26.09 A.C.
	CENTRAL GATEWAY	42.5 A.C.
	EAST GATEWAY	36.33 A.C.
	NORTH GATEWAY	22.09 A.C.
	AMS SITE	17.04 A.C.
	PARCEL 'E' TIDELANDS TRUST PARCEL	13.2 A.C.
	RAILROAD ROW	8.45 A.C.

EXHIBIT B

**OMSS LEASE DISPOSITION AND DEVELOPMENT AGREEMENT
DRAFT REAL ESTATE TERMS**

1	LANDLORD:	City of Oakland
2	DEVELOPER:	Oakland Maritime Support Services, LLC or its Affiliate
3	LDDA GUARANTY:	Developer to provide Landlord a Guaranty as part of LDDA. Developer must be financially strong entity with significant assets to guarantee LDDA Project completion obligation, as determined by City.
4	PROPERTY:	Approximately 17 acres of Army Base Property owned by the City.
5	PROJECT DESCRIPTION:	The truck parking and truck-related services operation will include truck/trailer parking, container storage, transload services, truck maintenance and refueling, truck weigh stations, and commercial activities that include a convenience market, restaurant/café, and office space for medical, consultative, administrative and other such business services.
6	INITIAL BASE RENT:	\$0.047/sf of Property to be conveyed
7	TIME OF PAYMENT:	Not later than thirty (30) days after the commencement of each calendar quarter during each Lease Year, Developer shall pay to Landlord in advance the Base Rent for such quarter.
8	TERM OF LEASE:	55 years; one 10-year option to extend
9	PARKING TAX SURCHARGE ADJUSTMENT:	At the sunset of the 8.5% parking tax surcharge (PTS), the Base Rent shall be increased by \$0.006/sf. The PTS adjustment shall take effect the same date as the new parking tax rate. If the new parking tax rate takes effect at the commencement of a calendar quarter and prior to Developer's quarterly payment, then Developer shall pay the PTS adjusted rent within the time specified for payment of rent. If the new parking tax rate takes effect after Developer has made the quarterly rent payment, Developer shall pay to Landlord within 30 days of the effective date of the new parking tax rate the additional rent pro-rated for the calendar quarter.
10	ESCALATION:	The Base Rent shall be increased every five years by the cumulative and annually compounded CPI of the immediately preceding five Lease Years. The annual percentage increase shall not be less than 1.5% and not more than 3%.
11	FAIR MARKET ADJUSTMENT	<p>Base rent shall be adjusted on the first day of the 20th Year, on the first day of the 40th Year, and on the first day of the 10-year Option to Extend to an amount equal to the Fair Market Rent for the uses allowed under the Lease. In no event shall the FMR Adjusted Base Rent be less than the Pre-FMR Adjustment Base Rent applicable at the FMR Adjustment Date.</p> <p>In no event shall the FMR Adjusted Base Rent be greater than an amount equal to the Initial Base Rent increased each Lease Year on a cumulative and annually compounded basis at the rate of 4.0% for each Lease Year prior to the FMR Adjustment Date.</p>

12	PARTICIPATION	\$0.01/gal of truck fuel sold for first 850,000 gallons. Additional \$0.0025/gal of truck fuel sold for every gallon sold above 850,000. Participation shall be paid in arrears at the same time as payment of Base Rent, and shall be subject to annual reconciliation.
13	CONTINGENCIES:	<p>Conveyance of Property to be contingent upon completion of all LDDA terms and conditions including, but not limited to:</p> <ol style="list-style-type: none"> 1) Completion of Infrastructure Project improvements necessary for Property (Developer may waive this contingency at its own risk); 2) Completion of grading to elevation (Developer may waive this contingency at its own risk); 3) Full financing, approved by City, in place to develop the Project; 4) City approval of project plans and specifications; 5) Receipt of all government approvals for the Project; 6) City approval of any amendments to redevelopment and/or implementation plans that are needed to permit the Project; and 7) Developer to have obtained all necessary approvals from state or federal authorities or other agencies having jurisdiction over the Property.
14	TITLE INSURANCE:	Developer to secure title insurance policy, if desired, at its own cost and expense. City to provide certification if required by the title company for issuance of an ALTA policy.
15	CLOSING COSTS:	Parties to pay all costs related to the Close of Escrow per the custom and practice in the County of Alameda.
16	ARMY & DTSC RIGHT OF ENTRY	Developer acknowledges and consents to Army right of access to any and all portions of the Property for purposes of environmental investigation, remediation, or other corrective actions of environmental conditions that existed during Army's occupancy. Developer acknowledges and consents to California Department of Toxic Substances Control ("DTSC") right of access to Property under the Covenant to Restrict Use of Property to the Army Base ("CRUP") to perform inspections, monitoring and other activities consistent with the CRUP or as deemed necessary by DTSC.
17	NET LEASE	All rent shall be absolutely net to Landlord so that this Lease shall yield to Landlord the full amount of the rent at all times during the Term, without deduction, abatement or offset. Developer shall be responsible for any and all taxes, insurance, improvements, repairs, and maintenance associated with the Property.
18	CONDITION OF PROPERTY AT DELIVERY	Landlord to deliver the space rough graded and with utilities(except for water) stubbed to property line

19	ENVIRONMENTAL REMEDIATION	<p>At Pre-Close of Escrow, Developer may conduct environmental testing of the Property at Developer's own expense to confirm the presence or absence of additional conditions that may require remediation pursuant to the RAP/RMP. If the inspection reveals conditions that require remediation per RAP/RMP, then the City and Developer shall meet and confer. If the City determines sufficient funding is available in the Joint Environmental Remediation Account Fund (JERAF) to cover remediation costs, Developer shall perform remediation under the City's direction and the City shall reimburse Developer for remediation costs. If the City determines there is insufficient funding in the JERAF to reimburse Developer, Developer may elect to perform the remediation without reimbursement or Developer has the option to terminate the agreement. After Close of Escrow, Developer shall be responsible for completion of any and all environmental remediation discovered at, on, under or in the Property, including, but not limited to, remediating and removing existing utility infrastructure, and receiving closure letters from environmental regulatory agencies.</p>
20	INDEMNIFICATION	<p>Developer shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City, the Oakland City Council, the Oakland City Planning Commission and their respective agents, officers, employees and volunteers (hereafter collectively called "City Parties") from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Agreement or any CEQA related City Approvals or any Subsequent Approval or the implementation of the same. The City may elect, in its sole discretion, to participate in the defense of said Action and Developer shall reimburse the City for its reasonable legal costs and attorneys' fees.</p> <p>Developer shall agree to provide standard commercial hold harmless and defend provisions to the City of Oakland and its employees, officers, directors, shareholders, partners and agents. City and Developer to negotiate the various levels of indemnification and project stages as part of the LDDA and ground lease.</p>
21	DEED RESTRICTIONS & ENVIRONMENTAL USE RESTRICTITONS	<p>Developers accept and acknowledge the Property is subject to: 1) deed restrictions in the transfer deeds, 2) a recorded covenant to restrict use of property, and 3) right of access across the Property to allow construction and maintenance of a billboard, or for remediation or monitoring by federal and state agencies.</p>

22	PUBLIC IMPROVEMENTS MAINTENANCE & INSURANCE	City Army Base Infrastructure Project to construct new Wake Avenue, new West Burma Road (names of road are preliminary only) and trunk line utility systems in these roads to the edge of the Property. Developer is responsible for connecting Property utility systems to the trunk line infrastructure, including, but not limited to, any and all expense and costs for this obligation.
23	MAINTENANCE	Developer is responsible for all maintenance within the Property. Developer agrees to be subject to, part of and sign agreements for a Community Facilities District (CFD) at the Army Base and to pay its fair share of CFD costs and expenses based on respective Property acreage.
24	NO COMMISSION	Landlord shall not pay or be liable for any commissions or brokerage fees. Developer shall hold harmless and defend Landlord against any claims for commissions or brokerage fees.
25	SIGNAGE	Developer may not install or place signage on any existing City street on the Property or within any City street to be created or the public corridor. Developer may install and place signage on the remaining Property in compliance with City codes, Gateway Zoning or other applicable codes or regulations. The definitional issue of billboard versus signage to be discussed.
26	STANDARD OF PROPERTY	Developers to maintain the Property and Project in first-class condition and will ensure at no time does the Property violate the City Blight Ordinance.
27	FAIR SHARE	Developer shall be responsible for paying a fair share of any required off-site traffic improvements and/or other mitigations, as determined by the City, pursuant to the Standard Conditions of Approval/Mitigation Monitoring & Reporting Report of the 2012 Oakland Army Base Project.
28	COMMUNITY FUND	Developer shall pay Sixteen Thousand dollars (\$16,000) per acre into the City-designated Community Fund upon execution of the Ground Lease. Developer shall contribute to the Community Fund an additional \$0.0025/gal for every gallon of truck fuel sold above 850,000 gallons.
29	RESOURCE CENTER FUNDING	Developer shall contribute to the Job Resource Center \$0.0025/gal for every gallon truck fuel sold above 850,000 gallons.
30	CITY PROGRAMS & COMMUNITY BENEFITS	In addition to helping to minimize truck traffic in West Oakland, Developer voluntarily agrees to comply with Army Base Community Benefits and City social programs in both construction and operations including, without limitation, labor peace agreement, prevailing wages, living wages, local and small local business, equal benefits, disabled access, and apprenticeship/job training/first source hiring programs. Developer will agree to comply with compliance monitoring by City.

31	SECURITY DEPOSIT	Developer shall deposit with the Landlord an LDDA Security Deposit of \$50,000 within 30 days of Developer's receipt of the six-months Notice of Completion of public improvements applicable to the Property. If Developer fails to fulfill the conditions or meet the obligations set forth in the LDDA as reasonably determined by Landlord, Landlord may exercise its option to retain the LDDA Deposit as liquidated damages. Upon execution of the Ground Lease, the LDDA Deposit shall be applied to the Ground Lease Deposit, and Developer shall within 10 business days deposit with Landlord another estimated \$54,946 (three months Initial Base Rent in total) for the Ground Lease Deposit.
32	PROJECT EXPENSE PAYMENTS:	Developer shall pay the City agency(s) / department(s) directly for City approvals/services required for the project, including, but not limited to, engineering review, inspections, plan review, plan checks, permits. Evidence of the required payment(s) shall be submitted concomitant with the Final Construction Documents.
33	PAYMENT & PERFORMANCE BONDS	Developer shall obtain payment and performance bonds in an amount not less than 100% of the cost of construction of the Project pursuant to the Construction Contract to be executed by Developer.
34	EBMUD MOA	Developer agrees to comply with any and all applicable terms and conditions of the Memorandum of Agreement between the City and East Bay Municipal Utility District and to become a party to the MOA if the City determines it is necessary.
35	ARMY BASE EIR REIMBURSEMENT	Developer agrees to reimburse City for its fair share of 2012 Army Base CEQA Addendum costs and expense. Terms to be negotiated and detailed in the LDDA.
36	PARKING TAX	Developer shall be current in parking taxes as condition to Closing and to remain in compliance under the ground lease.