

**December 16, 2020**

<b>Location:</b>	<b>Citywide</b>
<b>Proposal</b>	1) Update the City of Oakland’s California Environmental Quality Act (CEQA) Thresholds of Significance Guidelines related to greenhouse gas (GHG) emissions impacts; 2) Revise the City’s Uniformly Applicable Standard Conditions of Approval pertaining to GHG emissions; and 3) Adopt and commence use of an Equitable Climate Action Plan (ECAP) Consistency Checklist containing project-level action items identified in the ECAP for the purpose of determining GHG emissions impacts from individual projects. These modifications are proposed in order to implement the City’s recently adopted 2030 Equitable Climate Action Plan.
<b>Applicant:</b>	City of Oakland
<b>Environmental Determination</b>	The proposal to update the City’s CEQA Thresholds of Significance Guidelines, pursuant to CEQA Guidelines Section 15064.7, implements the ECAP, and all the proposed actions are exempt from CEQA review pursuant to 14 California Code of Regulations Section 15308 and because the actions establish environmentally protective policies that will allow the City to achieve GHG emissions reductions greater than required by the State.
<b>Status:</b>	Pending
<b>Actions to be Taken:</b>	Receive public comments and Planning Commission comments. Planning Commission action based on staff report.
<b>Staff Recommendation:</b>	Staff recommends the Planning Commission:  (a) affirm Staff’s CEQA exemption determination and findings for the adoption of the CEQA Threshold of Significance for GHG emissions, and for the use of the GHG Conditions and ECAP Consistency Checklist and any future amendments thereto that Staff determines are consistent with the ECAP; and  (b) adopt as regulation, supported by substantial evidence in the ECAP and the staff report, the City of Oakland CEQA Thresholds of Significance Guidelines, the GHG Conditions, and the ECAP Consistency Checklist, as such may be administratively amended from time to time consistent with the adopted ECAP.
<b>Finality of Decision:</b>	Final decision. Not appealable.
<b>For Further Information:</b>	Contact project planner <b>Heather Klein</b> at (510) 238-3659 or <a href="mailto:hklein@oaklandca.gov">hklein@oaklandca.gov</a>

**SUMMARY**

Staff is proposing to: 1) update the City of Oakland’s California Environmental Quality Act (CEQA) Thresholds of Significance Guidelines related to greenhouse gas (GHG) emissions impacts, 2) to revise the City’s Uniformly Applicable Standard Conditions of Approval pertaining to GHG emissions, and 3) to adopt and commence use of an Equitable Climate Action Plan (ECAP) Consistency Checklist containing project-level action items identified in the ECAP for the purpose of determining GHG emissions impacts

from individual projects. These modifications are proposed in order to implement the City's recently adopted 2030 Equitable Climate Action Plan.

On December 4, 2012, the Oakland City Council adopted the 2020 Energy and Climate Action Plan, which contained actions to reduce energy consumption and GHG emissions to meet the City Council adopted GHG emissions reduction targets of 36% below Oakland's 2005 emissions by 2020 and 83% below Oakland's 2005 emissions by 2050.

On May 15, 2018, the Oakland City Council adopted Resolution 87183 C.M.S., which revised and increased the short-term City-Wide GHG Emissions Reduction Target to 56% below Oakland's 2005 emissions by 2030 while maintaining the long-term City-Wide GHG Emissions Reduction Target of 83% below Oakland's 2005 emissions by 2050 (*Attachment A*).

On July 28, 2020, the Oakland City Council adopted the 2030 Equitable Climate Action Plan (ECAP) via Resolution 88267 C.M.S., (*Attachment B*) which includes both City and project action items to meet the 2030 and 2050 City-Wide GHG Emissions Reduction Targets.

In response to the adoption of the 2030 ECAP, staff has prepared a revised City of Oakland GHG Threshold of Significance, revised GHG Standard Conditions of Approval, and a new project-level ECAP Consistency Checklist.

Staff recommends that the Planning Commission:

(a) affirm Staff's CEQA exemption determination and findings for the adoption of the CEQA Threshold of Significance for GHG emissions, and for the use of the GHG Conditions and ECAP Consistency Checklist and any future amendments thereto that staff determines are consistent with the ECAP;

(b) adopt, as regulation, supported by substantial evidence in the ECAP and in the staff report, the City of Oakland CEQA Thresholds of Significance Guidelines, the GHG Conditions, and the ECAP Consistency Checklist, as such may be administratively amended from time to time consistent with the adopted ECAP.

## **BACKGROUND**

### **Overview of CEQA**

CEQA was enacted in 1970 to ensure the long-term protection of the environment and requires public agencies to analyze and disclose the physical effects of their actions on the environment. The Governor's Office of Planning and Research (OPR) has developed CEQA Guidelines to interpret the CEQA statute and published court decisions. The CEQA Guidelines include several appendices that contain useful forms and guidance for lead agencies when performing environmental review.

Prior to a public agency making a discretionary approval for a project, the public agency typically performs one of three different types of CEQA review: 1) statutory or categorical exemptions; 2) negative or mitigated negative declarations; or 3) environmental impact reports (EIRs). In order to carry out their mandate under CEQA, public agencies are encouraged to develop standards and procedures necessary to evaluate their actions and therefore protect environmental quality, including thresholds of significance. Thresholds of significance are identifiable quantitative, qualitative, or performance level measures of a particular environmental effect that agencies use to determine whether an impact is considered significant under CEQA. Impacts falling below the thresholds of significance are generally considered to be less than

significant. Impacts that exceed the thresholds of significance are generally considered to be significant and an environmental impact report must be prepared if the impacts cannot be reduced to a less than significant level through mitigation measures and/or uniformly applied development standards.

To help clarify and standardize analysis and decision-making in the environmental review process in the City of Oakland, the City has established its own CEQA Thresholds of Significance Guidelines, which have been in general use since 2002. The city's CEQA Thresholds are offered as guidance in preparing all environmental review documents. The Thresholds are intended to implement and supplement provisions in the CEQA Guidelines for determining the significance of environmental effects, including Sections 15064, 15064.3, 15064.4, 15064.5, 15064. 7, 15065, 15382, and Appendix G; and form the basis of the City's Initial Study and Environmental Review Checklist. The Environmental Review Checklist form covers 18 environmental topics, including GHG emissions and Global Climate Change.

In addition, the City established its own Standard Conditions of Approval (Condition(s)), which were formally adopted by the Oakland City Council per Ordinance 12899 C.M.S on November 3, 2008. These Conditions include Uniformly Applied Development Standards that substantially mitigate environmental effects and are incorporated into a project regardless of the project's environmental determination, pursuant, in part, to CEQA Guidelines Sections 15183 and 15183.3. As applicable, the Conditions are adopted as requirements of an individual project when the project is approved by the City and are designed to, and will, substantially mitigate environmental effects. Per the adopting Ordinance, the process to update the Conditions is administrative. Specifically, Section 5 authorizes the Planning Director to periodically revise, clarify, refine and amend the Conditions, consistent with the Ordinance.

**Greenhouse Gas Emissions and CEQA**

On September 27, 2006, Governor Arnold Schwarzenegger signed Assembly Bill (AB) 32, which requires California to reduce its GHG emissions to 1990 levels by 2020. Subsequently, Senate Bill (SB) 32 was adopted and committed the state to reduce its GHG emissions to 40 percent below 1990 levels by 2030. The California Air Resources Board was charged with developing regulations and mechanisms to implement AB 32 and SB 32.

In 2007, with Senate Bill 97, the Governor's Office of Planning and Research was required to adopt amendments to the CEQA Guidelines to include an analysis of GHG emissions as a part of the CEQA process. The first new CEQA Guidelines pertaining to GHG emissions impacts were provided in 2010 and have been subsequently updated. The current guidelines require that the City apply careful judgment to determine the environmental significance of a project's GHG emissions. The Guidelines provide the City with discretion to determine, in the context of a particular project, whether to quantify greenhouse gas emissions resulting from a project or to rely on a qualitative analysis or performance based standard (CEQA Guidelines Section 15064.4).

**2020 Energy and Climate Action Plan and CEQA Implementation**

***Current GHG Threshold of Significance***

A previous 2020 Energy and Climate Action Plan was adopted by City Council on December 4, 2012, which contained actions to reduce energy consumption and GHG emissions to meet the previously adopted City-Wide GHG Emissions Reduction Targets.

Consistent with the 2020 Energy and Climate Action Plan, AB32 and the Bay Area Air Quality Management District's (BAAQMD) adopted thresholds and guidelines<sup>1</sup>, staff developed the following City of Oakland GHG Threshold of Significance (*Attachment C*):

*The project would have a significant impact on the environment if it would:*

*1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment, specifically:*

*For Project-Level Impacts:*

*a. For a project involving a stationary source, produce total emissions of more than 10,000 metric tons of CO<sub>2</sub>e annually*

*b. For a project involving a land use development, produce total emissions of more than 1,100 metric tons of CO<sub>2</sub>e annually and more than 4.6 metric tons of CO<sub>2</sub>e per service population annually*

*For Plan-Level Impacts:*

*a. Produce emissions of more than 6.6 metric tons of CO<sub>2</sub>e per service population annually.*

*2. Fundamentally conflict with an applicable plan, policy, or regulation adopted for the purposes of reducing greenhouse gas emissions.*

Projects where the GHG emissions fell below the above Thresholds were determined to have less than significant GHG emissions impacts. However, projects that exceeded the GHG emissions Thresholds were determined to have a significant GHG emissions impact. In this case, as noted above, either mitigation measures and/or uniformly applied development standards must be applied to reduce the impact to a less than significant level as further discussed below or an EIR must be prepared.

### ***Current GHG Condition of Approval***

Staff also previously developed a GHG Condition of Approval (*Attachment D*) that has been applied to projects that resulted in a net increase in GHG emissions and met one of the following three scenarios in order to mitigate GHG emissions impacts.

*The following condition applies under any of the following scenarios for projects which result in a net increase in greenhouse gas (GHG) emissions:*

*a. Scenario A: Projects which (a) involve a land use development (i.e., a project that does not require a permit from the Bay Area Air Quality Management District [BAAQMD] to*

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<sup>1</sup> Per BAAQMD's CEQA Guidelines, which again were developed to implement SB 32, "the bright-line numeric threshold of 1,100 MT CO<sub>2</sub>e per year is a numeric emissions level below which a project's contribution to global climate change would be less than 'cumulatively considerable.' For projects that are above this bright-line cutoff level, emissions from these projects would still be less than cumulatively significant if the project as a whole would result in an efficiency of 4.6 MT CO<sub>2</sub>e per service population or better for mixed-use projects. Projects with emissions above 1,100 MT CO<sub>2</sub>e year would therefore still be less than significant if they achieved project efficiencies below these levels. If projects as proposed exceed these levels, they would be required to implement mitigation measures to bring them back below the 1,100 MT CO<sub>2</sub>e year bright-line cutoff or within the 4.6 MT CO<sub>2</sub>e Service Population efficiency threshold."

operate), (b) exceed the GHG emissions screening criteria contained in the BAAQMD CEQA Guidelines, and (c) after a GHG analysis is prepared would produce total GHG emissions of more than 1,100 metric tons of CO<sub>2</sub>e annually and more than 4.6 metric tons of CO<sub>2</sub>e per service population annually (with "service population" defined as the total number of employees and residents of the project).

b. Scenario B: Projects which (a) involve a land use development, (b) exceed the GHG emissions screening criteria contained in the BAAQMD CEQA Guidelines, (c) after a GHG analysis is prepared would exceed at least one of the BAAQMD Thresholds of Significance (more than 1,100 metric tons of CO<sub>2</sub>e annually OR more than 4.6 metric tons of CO<sub>2</sub>e per service population annually), and (d) are considered to be "Very Large Projects."

c. Scenario C: Projects which (a) involve a stationary source of GHG (i.e., a project that requires a permit from BAAQMD to operate) and (b) after a GHG analysis is prepared would produce total GHG emissions of more than 10,000 metric tons of CO<sub>2</sub>e annually).

The city's GHG Condition required that a GHG Reduction Plan be prepared that, at a minimum, included: (a) a detailed GHG emissions inventory for the project under a "business-as-usual" scenario with no consideration of project design features, or other energy efficiencies, (b) an "adjusted" baseline GHG emissions inventory, taking into consideration energy efficiencies included as part of the project and additional GHG emissions reduction measures, and (c) requirements for annual monitoring and reporting of any ongoing or additional GHG emissions reduction measures necessary to meet the 2020 and 2050 City-Wide GHG Emissions Reduction Targets as well as corrective action. Implementation of the GHG Reduction Plan would occur during and after construction.

## 2030 EQUITABLE CLIMATE ACTION PLAN

In 2018 and early 2019, City Council adopted several Resolutions that formed the mandate and basis for the 2030 Equitable Climate Action Plan (ECAP), which replaced the city's 2020 Energy and Climate Action Plan, and added an equity lens to the measures and actions.

The first Resolution, 87183 C.M.S., adopted on May 15, 2018, revised and increased the City's GHG emissions reduction target to 56% below Oakland's 2005 Emissions by 2030, while maintaining the 2050 target. In establishing a 2030 GHG emissions reduction target, Resolution 87183 C.M.S. also fulfilled the City's final obligations under the Under 2 Memorandum of Understanding, signed by Mayor Schaaf in Paris at the United Nations (U.N.) Climate Change Conference of Parties on December 6, 2015. The 2030 GHG emissions reduction target was based on a 2016-2018 analysis using CURB, a tool developed by the World Bank, C40, Bloomberg Philanthropies, and the Global Covenant of Mayors to assist cities in developing climate action plans. CURB evaluated the most cost-effective methods for Oakland to achieve its 2050 GHG reduction target.

The second Resolution, 87292 C.M.S., adopted July 19, 2018, established the 13-member ECAP ad hoc Community Advisory Committee to "provide expert and community-based input on the development of the new ECAP and to advise and assist City staff with the community engagement process for the new ECAP."

With the third Resolution, 87397 C.M.S., adopted November 2, 2018, Oakland City Council declared a climate emergency. The Resolution called for regional collaboration and a "citywide just transition and urgent climate mobilization effort to reverse global warming ... as quickly as possible towards zero net emissions," as well as efforts to "safely draw down carbon from the atmosphere" and accelerate "adaptation

and resilience strategies in preparation for intensifying climate impacts." This Resolution also committed the City to conduct public education and engage in partnerships supporting climate action and a just transition.

In addition, in January 2019, the City Council unanimously adopted Resolution 87511 C.M.S. supporting a Green New Deal and directing the City Administrator to incorporate principles of the Green New Deal into the City's new 10-year climate action strategy.

After extensive analysis and public input, on July 28, 2020, the Oakland City Council adopted the 2030 ECAP with the intention that additional policies and Ordinances will be adopted to implement some of the strategies. The 2030 ECAP sets forth a detailed, equitable path toward cost-effectively reducing Oakland's local GHG emissions a minimum of 56%, transitioning away from fossil fuel dependence, removing carbon from the atmosphere through local projects, and ensuring that all of Oakland's communities are resilient to the foreseeable impacts of climate change, by 2030.

Concurrent with its adoption of the 2030 ECAP, Oakland City Council also adopted Resolution 88268 C.M.S. committing the city to achieve carbon neutrality by 2045. Achieving carbon neutrality by this date will require decarbonization of the building and transportation sectors, including successful completion of all related Actions in the 2030 ECAP.

### **Comparison Between previous 2020 and current 2030 Citywide GHG Emissions Reduction Targets**

With the Ordinance implementing the 2020 Energy and Climate Action Plan, the City of Oakland committed to reducing its GHG emissions by at least 36% below 2005 levels by 2020, and 83% below 2005 levels by 2050 to align with the IPCC recommendations and the state goals. Since that plan was adopted in 2012, climate science has evolved, technologies have improved, and climate policies have stretched further. The current state goal, per SB 32, is to reduce California's GHG emissions to 40 percent below 1990 levels by 2030. This goal aligns with a recommendation from the Intergovernmental Panel on Climate Change (IPCC), a body of the world's most authoritative climate scientists, to achieve a level of climate stabilization that includes relatively minor consequences. Oakland's adopted 2030 reductions target of 56% below Oakland's 2005 GHG emission reaches beyond that of the State's target based on the CURB analysis of maximizing feasible and cost-effective strategies; the 2030 ECAP is the set of specific Actions that must be taken to achieve that target.

The 2030 ECAP contains not only deeper targets, but also qualitatively different and more focused Actions than those contained in the 2020 Energy and Climate Action Plan. Whereas the 2020 Plan included a heavy focus on energy efficiency and solar energy, the 2030 ECAP includes a major focus on building decarbonization and energy resilience – fully removing natural gas from the built environment and installing energy storage systems where appropriate and feasible. This is based on several factors: the clean electric grid we have today due to East Bay Community Energy, Oakland's electricity provider that did not exist when the 2020 Plan was created; a greater understanding of the outsized role that methane (natural gas) plays in accelerating climate change; and the technological availability and price parity of all-electric construction. Actions in the transportation and land use sectors are similarly more focused on decarbonization. This comes through a focus on eliminating as many single occupancy vehicles as possible through land use changes, roadway improvements, and programmatic innovation that allow as many Oaklanders as possible to make active and public transportation their primary mobility choices; and ensuring that all remaining vehicles on Oakland's roads are electric through a range of infrastructure and programmatic efforts. As the City-Wide GHG Emissions Reduction Targets in the 2030 ECAP are more stringent than the City's 2020 goals and the state standards, the proposed standards are more stringent.

## PROPOSED GHG EMISSIONS THRESHOLD OF SIGNIFICANCE

If the Planning Commission approves the recommendation as proposed, the City's CEQA Thresholds of Significance Guidelines would be updated to assess GHG emissions in accordance with Council's adopted 2030 target and ECAP. The following is the revised significance criteria (See also *Attachment E*):

*The project would have a significant impact on the environment if it would:*

*1. For a project involving a stationary source, produce total emissions of more than 10,000 metric tons of CO<sub>2</sub>e annually. [NOTE: Stationary sources are projects that require a BAAQMD permit to operate.]*

*2. For a project involving a land use development, fail to demonstrate consistency with the 2030 Equitable Climate Action Plan (ECAP) adopted by the City Council on July 28, 2020. [NOTE: Land use developments are projects that do not require a BAAQMD permit to operate.] Consistency with the 2030 ECAP can be shown by either:*

*(a) committing to all of the GHG emissions reductions strategies described on the ECAP Consistency Checklist, or*

*(b) complying with the GHG Reduction Plan Standard Condition of Approval that requires a project-level GHG Reduction Plan quantifying how alternative reduction measures will achieve the same or greater emissions than would be achieved by meeting the ECAP Consistency Checklist.*

This GHG Threshold is consistent with CEQA Guidelines Section 15064.4, which requires the lead agency to make a determination regarding the significance of GHG emissions “based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of GHG emissions resulting from a project.” The CEQA Guidelines also note, when determining the significance of impacts from GHG emissions on the environment, that the lead agency should discuss whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project. The 2017 and 2020 GHG Emissions Inventory Update along with the CURB emissions modeling provide the scientific data to calculate implementation of each action item in the adopted 2030 ECAP and the ECAP Consistency Checklist described below.

## PROPOSED ECAP CONSISTENCY CHECKLIST

Planning staff in conjunction with Public Works Environmental Services Division staff, have developed an ECAP Consistency Checklist (*Attachment F*), which includes all of the project-level GHG emissions reduction strategies in the ECAP that are either regulatory requirements or are necessary at a project level to meet the adopted City-Wide GHG Emissions Reduction Targets.

The purpose of the ECAP Consistency Checklist is to streamline a project's CEQA compliance with the ECAP and the City's 2030 GHG target. If a project completes the Checklist and can qualitatively demonstrate compliance with the Checklist items as part of the project's design, or alternatively, demonstrate to the City's satisfaction why the item is not applicable, then the project will be considered in compliance with the City's CEQA GHG Threshold of Significance. As further discussed below, if the

project cannot meet all of the Checklist items, a project could alternatively demonstrate consistency with the ECAP by complying with the new GHG Reduction Plan Condition. If the project cannot demonstrate consistency with the ECAP in either of those two ways, the City will consider the project to have a significant effect on the environment related to GHG emissions.

The ECAP Consistency Checklist will apply to all development projects needing a CEQA GHG emissions analysis including a specific plan consistency analysis.

### **ECAP Consistency Checklist Analysis**

The 16 consistency items in the ECAP Consistency Checklist are aligned with the Action items in the Transportation and Land Use, Buildings, Materials and Waste, Adaption and Carbon Removal sections of the ECAP, with an additional Action item for City projects. These 16 consistency items directly address the GHG emissions of development projects during the planning stage and CEQA review. Furthermore, the consistency items in the ECAP Consistency Checklist were identified as those implementable by a development project.

City ECAP Action items that would require further City review and adoption of Ordinances, development or build-out of programs, or amendments to the Zoning Code to implement, are not included in the ECAP Consistency Checklist. For example, TLU-10 (Expand the Neighborhood Car Sharing program, ensuring that all shared vehicles are electric vehicles by 2030) would not be implementable by a specific development project and would require development of additional Ordinances to expand electric vehicle infrastructure planning, revise parking policies in the Planning Code and require developers to locate car sharing services in their buildings. In another example, MCW-1 (Eliminate Disposal of Compostable Organic Materials to Landfills) would not be implementable at the planning stage, as typically there is no tenant for the ground commercial floor spaces at this stage. Furthermore, a program would need to be developed to ensure that all edible food is recovered and diverted from landfill, to be consumed by Oakland's most food-insecure residents, as this could not be achieved by a developer who may not continue to own the building. Conversely, ECAP Actions that are predicated on currently available technologies and systems, and where a new City Ordinance is not a prerequisite for development projects to act, are considered development actions.

An example of a Developer-implemented consistency item in the ECAP Consistency Checklist is whether the project would not create any new natural gas connections/hook-ups (#9). This consistency item implements ECAP action items B-1 (Eliminate Natural Gas in New Buildings) and B-2 (Plan for All Existing Buildings to be Efficient and All-Electric by 2040). This consistency item is now a regulatory requirement, as an Ordinance has recently been adopted by City Council. It is also a clear and specific action that can be taken by a developer unlike a City ECAP action item as discussed above. Including this consistency item in the ECAP Consistency Checklist offers one path for demonstrating consistency with the adopted ECAP. Development proponents may also choose to show consistency with the ECAP through alternate means that are quantitatively comparable.

Also, it should be noted that the consistency items in the ECAP Consistency Checklist that are implementable by a development project at this stage are not a word-for-word reiteration of the action items in the ECAP. The consistency items needed to be reworded to make them applicable to a checklist format and to consider the intent of the action item as determined by consultation with Public Works Environmental Services staff, review of current City regulations (e.g., Construction Waste Recycling or Green Building), and based on the emissions modeling. For example, TLU-1 (Align All Planning Policies & Regulations with ECAP Goals and Priorities) discusses many items, including but not limited to, removing parking minimums, requiring transit passes in major developments, providing density bonuses for less parking,

requiring structured parking be adaptable to other uses. This action item was rewritten into several consistency items such as:

1. Is the proposed project substantially consistent with the City’s over-all goals for land use and urban form, and/or taking advantage of allowable density and/or floor area ratio (FAR) standards in the City’s General Plan?
2. For developments in “Transit Accessible Areas” as defined in the Planning Code, would the project provide: i) less than half the maximum allowable parking, ii) the minimum allowable parking, or iii) take advantage of available parking reductions?
3. For projects including structured parking, would the structured parking be designed for future adaptation to other uses? (Examples include, but are not limited to: the use of speed ramps instead of sloped floors.).
4. For projects that are subject to a Transportation Demand Management Program, would the project include transit passes for employees and/or residents? For projects that are not subject to a Transportation Demand Management Program, would the project incorporate one or more of the optional Transportation Demand Management measures that reduce dependency on single-occupancy vehicles? (Examples include but are not limited to transit passes or subsidies to employees and/or residents; carpooling; vanpooling; or shuttle programs; on-site carshare program; guaranteed ride home programs)

All of these consistency items in the ECAP Consistency Checklist meet the intent of TLU-1 and sub-action bullet points as they align with Planning goals such as building more high-density and higher floor area projects and placing daily needs short distances from these densities, encourage less parking or meeting the minimum in the Planning Code, allow for parking structures to be designed to be adaptable, or incorporate Transportation Demand Management measures that either provide transit passes or other similar method to reduce vehicular travel.

Implementation of the consistency items in the ECAP Consistency Checklist will help the City achieve its City-Wide GHG Emissions Reduction Targets. Again, the consistency items in the ECAP Consistency Checklist are aligned and consistent with the Actions in the ECAP, which was based on the CURB analysis of the most cost-effective and impactful strategies to achieve the 2030 and 2050 emissions reduction targets. As such, compliance with the ECAP Consistency Checklist would result in a project meeting the ECAP and a less than significant impact related to GHG emissions. Importantly, ECAP Actions were also designed to maximize resilience and equity. The plan was reviewed by a local Equity Facilitator team and the City’s Chief Resilience Officer, and all Actions passed a rigorous Preliminary Equity Screen developed and implemented by the Equity Facilitator. These reviews showed that compliance with the ECAP would not unduly burden frontline or at-risk communities, and would contribute to Oakland’s overall resilience to the adverse impacts of climate change.

Furthermore, the ECAP Consistency Checklist is consistent with CEQA Guidelines Section 15064.4 which, in addition to requiring the lead agency to make a determination regarding the significance of GHG emissions “based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of GHG emissions resulting from a project,” allows a lead agency the discretion to determine whether to, 1) quantify greenhouse gas emissions resulting from a project; and/or 2) rely on a qualitative analysis or performance based standards. In the case of the ECAP Consistency Checklist, staff is relying

on a qualitative analysis of a project's GHG emissions based on consistency with an adopted local GHG emissions reduction plan (ECAP) as noted above. Again, if the project fails to demonstrate consistency with the ECAP by committing to all of the GHG emissions reductions strategies described on the ECAP Consistency Checklist, then the GHG Reduction Plan Condition will be applied to the project and a quantitative analysis will be required to demonstrate how the project can incorporate other strategies that allow the City to meet its Citywide GHG reduction goals.

Finally, it should be noted that as new strategies are adopted by the City Council to align with the 2030 ECAP, the Consistency Checklist will be updated administratively, and new projects will be expected to achieve the revised strategies or comply with the Standard Conditions discussed below.

### **PROPOSED GHG REDUCTION PLAN STANDARD CONDITIONS OF APPROVAL**

To ensure that a project that commits to all the consistency items in the ECAP Consistency Checklist implements those items and staff reviews the plans for compliance, staff has proposed a new GHG Condition (**Attachment G**).

Staff has also revised the GHG Reduction Plan Condition for those projects that cannot or choose not to commit to the action items in the ECAP Consistency Checklist. Projects that meet the GHG Reduction Plan Condition will be considered to have a less-than-significant effect on the environment related to GHG emissions (**Attachment G**).

The proposed GHG Reduction Plan Condition is similar to the existing Condition in that it requires preparation of a GHG Reduction Plan to be implemented both during and after construction for both non-stationary sources that do not require a permit from BAAQMD to operate and stationary sources that do require a permit. For stationary sources, the analysis in the GHG Reduction Plan Condition remains the same. However, for a non-stationary source, the proposed GHG Reduction Plan Condition removes an analysis of the project's GHG emissions under a "business as usual" scenario and replaces it with an analysis of the project's GHG emissions had it implemented all of the reductions measures in the ECAP Consistency Checklist. In addition, the "adjusted" baseline GHG emissions inventory for the project will now need to consider any measures being implemented from the ECAP Consistency Checklist in addition to energy efficiencies included as part of the project. The revised GHG Reduction Plan Condition for both stationary and non-stationary sources will retain the requirements for ongoing monitoring and reporting to demonstrate that the additional GHG emissions reduction measures are being implemented as necessary. Finally, the proposed GHG Reduction Plan Condition for both stationary and non-stationary sources limits the location of carbon credits that may be considered to reduce GHG impacts to Oakland, the Bay Area, and California, consistent with CEQA and the ECAP.

As the GHG Reduction Plan for non-stationary sources would include an analysis of the project as it relates to the ECAP Consistency Checklist, identification and implementation of measures to achieve a GHG emissions reduction both during and after construction to achieve a net difference in operational emissions as compared to the Checklist baseline and ongoing monitoring and reporting as well as corrective action, the GHG Reduction Plan will ensure that the project would achieve no net new GHG emission above the Threshold. Therefore, a project that implements the GHG Reduction Plan would result in less than significant impact related to GHG emissions per CEQA.

**PUBLIC OUTREACH / NOTICE**

Prior to the adoption of the 2030 ECAP, Staff conducted an extensive, year-and-a-half-long community engagement process from late 2018 to early 2020 in partnership with two consultant teams, to design and implement the community engagement process, conduct technical analysis and GHG emissions modeling, and prepare the final plan responsive to community needs. In addition, more 2,100 community members were directly engaged, and technical experts consulted.

The following is an overview of the process:

- *Neighborhood Leadership Cohort (NLC)*: In early 2019, the Equity Facilitator recruited a cohort of residents from each City Council District. Neighborhood leaders received training on City government process, equity principles, climate science, and the goals of the ECAP; and an hourly stipend to co-lead engagement activities.
- *Workshops*: In mid-2019, the Equity Facilitator and City staff delivered eight community workshops: one in each Council District, and an additional citywide workshop. Nearly 400 Oaklanders attended. At the end of each workshop, attendees voted on equity-based climate solutions for their communities. All workshops were free and included a full meal, plus childcare and simultaneous interpretation upon request.
- *Stakeholder Interviews*: The project team interviewed dozens of experts in racial and climate equity, mobility, circular economy, building science, resilience, carbon removal, and more. These informed community discussions by enriching the baseline of potential solutions for Oaklanders to explore; they also illuminated which strategies would most likely produce intended outcomes.
- *Online Survey*: Nearly 800 Oaklanders responded to an in-depth online survey in Fall 2019, which helped the project team better understand community needs and concerns.
- *Online Draft*: The City published an interactive online draft 2030 ECAP in October 2019. Oaklanders reviewed and publicly commented, stimulating conversations about climate, equity, and civic topics. More than 400 public comments were recorded.
- *Town Halls*: In November 2019, the Equity Facilitator and City led two citywide Town Halls at the Rainbow Recreation Center (East Oakland) and the Lincoln Square Recreation Center (Chinatown). The events engaged Oaklanders, particularly from frontline communities, in a deep exploration of the draft ECAP. Attendees provided detailed recommendations for improving the plan and increasing its relevance. A full meal was included, and childcare and language interpretation were free. More than 200 Oaklanders participated.
- *Youth Engagement*: City staff worked with Skyline and Oakland Tech high school students in exploring climate solutions that would engage youth in relevant solutions. At Skyline, 100 students focused on the ECAP for a semester through UC Berkeley's Y-PLAN (Youth-Plan Learn Act Now) program. The City also partnered with the Oakland Unified School District's Environmental and Climate Change Literacy (ECCL) team to strengthen climate curricula and teacher preparedness. The EF team worked with high school youth through the Rose Foundation's New Voices are Rising (NVR) program, where the ECAP became the focus of NVR's 2019 Summer Academy and students helped deliver the District 3 community workshop.

- *Additional Plans:* The project team leveraged two recent community planning processes from 2018 and 2019: The East Oakland Neighborhoods Initiative (EONI) and the West Oakland Community Action Plan (WOCAP). These focused on building resilience and addressing environmental harms in Deep East Oakland and West Oakland – communities deeply at risk from the impacts of climate change. Findings and recommendations from both are incorporated in the 2030 ECAP.
- *Pop-Up Engagement and Climate Equity Work Days:* Led by the Equity Facilitator, these involved meeting people where they were through hands-on projects to make climate action tangible and provided opportunities to spread the word about the 2030 ECAP.
- *Leadership Engagement:* Staff worked with the City's Youth Commission, Mayor's Commission on Persons with Disabilities, the Oakland Parks and Recreation Foundation, the Oakland Chamber of Commerce, Alameda County Interfaith Council, and others, to get input into critical topics for key populations, and to better understand how to guard against unintended consequences of climate action.

As such, all public outreach has already been conducted, and staff's proposal is only to put in place implementing procedures and a process that aligns with the 2030 ECAP.

## **ENVIRONMENTAL DETERMINATION**

The proposal to update the City's Thresholds of Significance Guidelines, pursuant to CEQA Guidelines section 15064.7, implements the adopted 2030 ECAP, which was supported by substantial evidence in the record as summarized in this staff report and contained in the City's administrative record. Both the adoption of the 2030 ECAP and this change to the CEQA Thresholds, the GHG Conditions and the ECAP Consistency Checklist is a project exempt from CEQA review pursuant to 14 California Code of Regulations section 15308 because the actions establish environmentally protective policies that will allow the City to achieve GHG emissions reductions greater than required by the State and the City's adopted GHG Emissions Reduction Targets.

Staff has determined based on the substantial evidence provided in the 2030 ECAP and this staff report, that projects would have a less-than-significant impact on the environment for GHG emissions if the project demonstrates consistency with the ECAP by complying with either the ECAP Consistency Checklist or the GHG Reduction Plan Condition.

## **RECOMMENDATIONS**

Staff recommends that the Planning Commission:

- (a) affirm staff's CEQA exemption determination and findings for the adoption of the CEQA Threshold of Significance for GHG emissions, and for the use of the GHG Conditions and ECAP Consistency Checklist and any future amendments thereto that Staff determines are consistent with the 2030 ECAP;
- (b) adopt as regulation, supported by substantial evidence in the 2030 ECAP and the staff report, the City of Oakland CEQA Thresholds of Significance Guidelines, the GHG Conditions, and the ECAP Consistency Checklist, as such may be administratively amended from time to time consistent with the adopted 2030 ECAP.

Prepared by:



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HEATHER KLEIN  
Planner IV

Reviewed by:



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Robert Merkamp  
Zoning Manager

Approved for Forwarding to the  
City Planning Commission:



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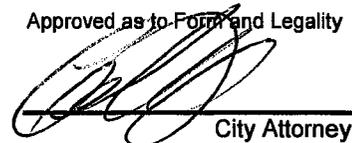
EDWARD MANASSE  
Deputy Director, Bureau of Planning

**ATTACHMENTS:**

- A. 2030 GHG Target Resolution
- B. 2030 Equitable Climate Action Plan Resolution
- C. Existing GHG Threshold of Significance
- D. Existing GHG Condition of Approval
- E. Proposed GHG Threshold of Significance
- F. Draft ECAP Consistency Checklist
- G. Proposed GHG Standard Condition of Approval (redline and clean version)
- H. Proof of public notification posting

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

OAKLAND CITY COUNCIL

  
City Attorney

2018 MAY 10 PM 3:41 RESOLUTION No. 87183 = C.M.S.

**RESOLUTION ESTABLISHING A GREENHOUSE GAS EMISSIONS REDUCTION TARGET OF 56 PERCENT BELOW 2005 EMISSIONS BY 2030**

**WHEREAS**, in 2012, the City Council approved Resolution No. 84126 C.M.S., adopting the City's Energy and Climate Action Plan (ECAP), which provides the actions and programs needed for the City to reach the goal of reducing greenhouse gas emissions 36 percent by 2020 and 83% by 2050; and

**WHEREAS**, the latest report of the Intergovernmental Panel on Climate Change (IPCC), a body of the world's most authoritative climate scientists, suggests that industrialized countries must reduce GHG emissions to levels 25-40% below 1990 levels by 2020 and 80-95% below 1990 levels by 2050 to achieve a level of climate stabilization that includes relatively minor consequences; and

**WHEREAS**, Oakland's GHG emissions must be reduced by at least 36% below 2005 levels by 2020, and 83% below 2005 levels by 2050 to align with the IPCC recommendations and previous direction from City Council; and

**WHEREAS**, in 2015 Mayor Libby Schaaf signed the Under 2 Memorandum of Understanding (Under 2 MOU) at the U.N. Climate Change Conference of Parties, pledging to adopt a 2030 GHG emission reduction target; and

**WHEREAS**, a clear scientific near-consensus has emerged regarding the dangers of increasing concentrations of greenhouse gases in the Earth's atmosphere and the significant role that anthropogenic sources of GHG emissions play in increasing those concentrations; and

**WHEREAS**, tremendous collective action will be necessary in the near term on a global scale to reduce GHG emissions to safe levels, and a variety of opportunities exist in Oakland to provide leadership on reducing GHG emissions; and

**WHEREAS**, the City of Oakland is committed to providing leadership on energy and climate issues as part of becoming a model sustainable city; and

**WHEREAS**, the CURB climate model, developed by the World Bank, C40, Bloomberg Philanthropies, and the Global Covenant of Mayors to assist cities in the creation of climate action plans to reduce GHG emissions, identifies an interim 2030 GHG emission reduction target, for Oakland of 56 percent below 2005 levels to keep the City on track to meet its 2050 target; now, therefore be it

**RESOLVED:** That the City of Oakland is committed to continuing to provide leadership to reduce greenhouse gas emissions to mitigate the future effects of climate change both locally and globally; and be it

**FURTHER RESOLVED:** That the City Council establishes a greenhouse gas emissions reduction target of 56 percent below 2005 emissions by 2030; and be it

**FURTHER RESOLVED:** That the City Council directs implementation planning of this target to engage the most heavily impacted neighborhoods in a community-driven process.

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 15, 20 18

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, ~~AND PRESIDENT REID~~ - 7

NOES - 0

ABSENT - 0

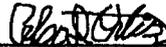
ABSTENTION - 0

1 Excused - Reid

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

2020 AUG -7 AM 9:29

Approved as to Form and Legality

  
Celso Ortiz (Jul 23, 2020 15:25 PDT)

City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION NO. 88267 C.M.S.

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### RESOLUTION ADOPTING THE 2030 OAKLAND EQUITABLE CLIMATE ACTION PLAN

**WHEREAS**, on September 27, 2006, California Governor Arnold Schwarzenegger signed into law Assembly Bill 32 (AB 32), or the Global Warming Solutions Act of 2006, committing California to reducing statewide greenhouse gas (GHG) emissions to 2000 levels by 2010, to 1990 levels by 2020, and to a level 80 percent below 1990 levels by 2050; and

**WHEREAS**, in 2012, the City Council approved Resolution No. 84126 C.M.S., adopting the City's 2020 Energy and Climate Action Plan, which provided a strategy for the City to reach the goal of reducing greenhouse gas (GHG) emissions 36 percent by 2020; and

**WHEREAS**, the latest report of the Intergovernmental Panel on Climate Change (IPCC), a body of the world's most authoritative climate scientists, suggests that industrialized countries must reduce GHG emissions to levels 25-40% below 1990 levels by 2020 and 80-95% below 1990 levels by 2050 to achieve a level of climate stabilization that includes relatively minor consequences; and

**WHEREAS**, Oakland's GHG emissions must be reduced by 83% below 2005 levels by 2050 to align with the IPCC recommendations and previous direction from City Council; and

**WHEREAS**, in May 2018, the City Council approved Resolution No. 87133 C.M.S., adopting the GHG emissions reduction target of 56 percent below 2005 emissions by 2030, and directing staff to explicitly engage the most climate-impacted neighborhoods in a community-driven process in developing the strategy to meet the target; and

**WHEREAS**, in July 2018, the City Council approved Resolution No. 87292 C.M.S., establishing the 13-member ECAP ad hoc Community Advisory Committee

Oakland City Council  
July 28, 2020

to provide expert and community-based insight in development of the 2030 Equitable Climate Action Plan (2030 ECAP) and to advise staff on the community engagement processes to create the new plan; and

**WHEREAS**, in November 2018, the City Council approved Resolution No. 87397 C.M.S., declaring a climate emergency and calling for regional collaboration and an immediate just transition and emergency mobilization effort to reverse global warming and accelerate adaptation and resilience strategies in preparation for intensifying climate impacts; and

**WHEREAS**, on January 22, 2019, the Oakland City Council unanimously adopted Resolution 87511 C.M.S., supporting a Green New Deal and directing the City Administrator to incorporate principles of the Green New Deal into the City's new climate strategy; and

**WHEREAS**, current global warming has contributed to the increasing frequency and intensity of wildfires, floods, droughts, heat waves, and hurricanes; and

**WHEREAS**, the current pace of sea-level rise is already impacting California's coastline, increasing the extent and frequency of flooding in Oakland, with the possibility of as much as 66 inches of total sea-level rise by 2100; and

**WHEREAS**, restoring a safe and stable climate requires mobilization at all levels of government and society on a scale, scope, and speed not seen since World War Two; and

**WHEREAS**, marginalized communities worldwide—including African Americans and people of color, immigrants, indigenous communities, low-income people, those with disabilities, and the unsheltered—are already disproportionately affected by climate change and must benefit first and foremost from a just transition to a sustainable and equitable economy; and

**WHEREAS**, efforts to reverse climate change, when rooted in equity and a just transition, have broad benefits including cleaner air and water, robust job pathways and employment closer to home, cost savings for households and the City, and the priceless creation of community; and

**WHEREAS**, the City of Oakland must do everything in its power to swiftly convert to an ecologically, socially, and economically sustainable economy; and

**WHEREAS**, a viable strategy to build climate resilience and accomplish a just transition to a low-carbon economy can only be accomplished through an equity- and community-driven approach; and

**WHEREAS**, the City of Oakland pioneered the Equity Facilitator (EF) model to work with community partners in ensuring process equity in developing Oakland's

Oakland City Council  
July 28, 2020

ten-year strategy to achieve Council's adopted 2030 GHG reduction target and achieve climate equity and climate resilience, conducting an extensive one-and-a-half-year-long community engagement process, designed to particularly engage frontline community members; and

**WHEREAS**, the EF recruited a Neighborhood Leadership Cohort (NLC) of two residents from each City Council District who received training on City government processes, equity principles, basics of climate science, and the goals of the ECAP, and were provided an hourly stipend to co-lead outreach and co-facilitate engagement; and

**WHEREAS**, more than 2,100 Oakland residents, as well as technical experts, directly weighed in on and influenced the content of the final 2030 ECAP through (1) seven district-based community workshops and one citywide workshop; (2) an online survey provided in three languages; (3) an interactive online draft published to collect public comments; (4) two citywide Town Halls; (5) youth engagement; and (6) other pop-up engagement events designed to meet people where they were and engage them in hands-on activities to make climate action relevant and accessible; and

**WHEREAS**, through the extensive community engagement process, under the advisement of the ECAP ad hoc Community Advisory Committee, and with rigorous GHG modeling and analysis that began in 2016, the 2030 ECAP includes 40 Actions that span the primary sectors of GHG emissions reduction and climate resilience in Oakland, specifically: (1) Transportation and Land Use; (2) Buildings; (3) Material Waste and Consumption; (4) Adaptation; (5) Carbon Removal; (6) City Leadership; and (7) the Port of Oakland; and

**WHEREAS**, the 2030 ECAP establishes the City's ten-year plan to: (1) achieve the GHG emissions reduction target of 56% by 2030; (2) alleviate racial disparities and the disproportionate impacts of the climate crisis and its root causes on frontline communities in Oakland, by ensuring their full representation in the development and consequent implementation of the 2030 ECAP; (3) ensure that the benefits of equitable climate action flow first and foremost to the communities that have been impacted first and worst by the impacts of climate change; (4) improve Oakland's resilience to the impacts of climate change; and (5) remove carbon from the atmosphere through local projects that support community health and jobs; and

**WHEREAS**, the EF developed a Preliminary Equity Screen to assess the likelihood that the final 2030 ECAP would maximize equity benefits across Oakland, and following iterative reviews, determined that all final 2030 ECAP Actions sufficiently pass this assessment tool; and

**WHEREAS**, the EF developed a Racial Equity Impact Assessment and Implementation Guide, intended to serve as a companion document to the 2030 ECAP to advise City staff in equitably implementing the ECAP's 40 Actions, and which was reviewed and approved by the City's Department of Race and Equity;

Oakland City Council  
July 28, 2020

and

**WHEREAS**, benefits of ECAP implementation will include creation of good, green job pathways, particularly for those that have traditionally faced employment barriers; cleaner air, particularly along the I-880 and other heavily congested corridors; improved housing security; healthier indoor air; improved mobility; enhanced nature access; improved tree canopy coverage in East and West Oakland; and a stronger voice in policy and program development and implementation for historically marginalized communities; and

**WHEREAS**, the 2030 ECAP directs staff to partner with community leaders in developing the Oakland Climate Action Network, a transformative structure to build capacity of Oakland's grassroots organizations to co-lead equitable climate action with the City; enhance trust between the City and frontline communities, ensure that frontline communities' members have a meaningful seat at the table in designing and implementing climate projects that impact their communities, and building the capacity of the City to meaningfully and equitably engage and partner with organizations and community members from historically underserved and underrepresented groups; and

**WHEREAS**, the City has reviewed the adoption of the 2030 ECAP for compliance under the California Environmental Quality Act (CEQA), and finds that the adoption of the 2030 ECAP, as supported by substantial evidence in the record including the analysis supporting the 2030 ECAP and the materials attached to the City Administrator's agenda report, is exempt from CEQA review pursuant to 14 California Code of Regulations section 15308 (actions by regulatory agencies for the protection of the environment), because the actions in the 2030 ECAP ensure compliance with AB 32 and the City of Oakland's GHG reduction target, include procedures to assure the protection of the environment, do not authorize construction activities or relaxation of standards allowing environmental degradation, and none of the exceptions to the categorical exemption apply; now therefore be it

**RESOLVED:** That the foregoing recitals are integral to this Resolution and are incorporated herein; and be it

**FURTHER RESOLVED:** That the City Council hereby finds and determines, on the basis of substantial evidence in the record, that the adoption of the 2030 ECAP is exempt from CEQA pursuant to CEQA Guidelines section 15308 (actions by regulatory agencies for the protection of the environment); and be it

**FURTHER RESOLVED:** That the City of Oakland is committed to continuing its leadership in reducing the City's GHG emissions by its 2030 target to mitigate the future effects of climate change both locally and globally, and improve the climate equity outcomes of the City's frontline communities by following the recommendations and best practices outlined in the Racial Equity Impact Assessment and Implementation Guide; and be it

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**FURTHER RESOLVED:** That the City of Oakland hereby adopts the 2030 Equitable Climate Action Plan; and be it

**FURTHER RESOLVED:** That the City Administrator or designee is authorized to file a Notice of Exemption with the appropriate agencies.

**JUL 23 2020**

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

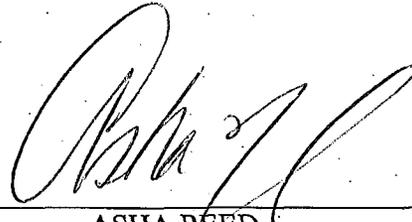
AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR,  
THAO AND PRESIDENT KAPLAN — 8

NOES — 0

ABSENT — 0

ABSTENTION — 0

ATTEST:



ASHA REED

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

## Existing GHG Threshold of Significance

### GREENHOUSE GAS EMISSIONS / GLOBAL CLIMATE CHANGE<sup>1</sup>

The project would have a significant impact on the environment if it would:

1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment, specifically:

#### **PROJECT-LEVEL IMPACTS<sup>2</sup>**

[**NOTE:** Greenhouse gas impacts are, by their nature, cumulative impacts because one project by itself cannot cause global climate change. These thresholds pertain to a project's contribution to cumulative impacts but are labeled "Project-Level Impacts" here to be consistent with the terminology used by BAAQMD.]

- a. For a project involving a stationary source, produce total emissions of more than 10,000 metric tons of CO<sub>2</sub>e annually [**NOTE:** Stationary sources are projects that require a BAAQMD permit to operate.].
- b. For a project involving a land use development, produce total emissions of more than 1,100 metric tons of CO<sub>2</sub>e annually **AND**<sup>3</sup> more than 4.6 metric tons of CO<sub>2</sub>e per service population annually [**NOTE:** Land use developments are projects that do not require a BAAQMD permit to operate. The service population includes both the residents and the employees of the project.

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<sup>1</sup> The City's thresholds of significance pertaining to greenhouse gas / global climate change are generally based on the thresholds adopted by the Bay Area Air Quality Management District (BAAQMD) in June 2010. In March 2012 the Alameda County Superior Court issued a judgment finding that BAAQMD had failed to comply with CEQA when the thresholds were adopted. In August 2013 the California Court of Appeal reversed the Superior Court's decision. Pursuant to CEQA, lead agencies must apply appropriate thresholds based on substantial evidence in the record. The City's thresholds rely upon the technical and scientific basis for BAAQMD's 2010 thresholds. Use of the City's thresholds is consistent with and authorized by CEQA Guidelines section 15064. The City's thresholds have not been challenged and remain in effect. The methodology for assessing greenhouse gas / global climate change impacts (e.g., calculating emissions) should be based on the latest version of BAAQMD's CEQA Guidelines and guidelines published by other regional, state, and federal regulatory agencies.

<sup>2</sup> For projects that involve both a stationary source and a land use development, calculate each component separately and compare to the applicable threshold.

<sup>3</sup> The BAAQMD CEQA Guidelines state that the project would have a less-than-significant impact if CO<sub>2</sub>e emissions do not exceed the 1,100 metric tons threshold OR the 4.6 metric tons per service population threshold. Because Oakland's thresholds are structured to indicate when a project would have a significant impact, the thresholds are presented here such that the project would have a significant impact if it exceeded the 1,100 metric tons threshold AND the 4.6 metric tons per service population threshold.

The project's impact would be considered significant if the emissions exceed **BOTH** the 1,100 metric tons threshold and the 4.6 metric tons threshold. Accordingly, the impact would be considered less than significant if the project's emissions are below **EITHER** of these thresholds.]<sup>4</sup>

[**NOTE:** The project's expected greenhouse gas emissions during construction should be annualized over a period of 40 years and then added to the expected emissions during operation for comparison to the threshold. A 40-year period is used because 40 years is considered the average life expectancy of a building before it is remodeled with considerations for increased energy efficiency. The thresholds are based on the BAAQMD thresholds. The BAAQMD thresholds were originally developed for project operation impacts only. Therefore, combining both the construction emissions and operation emissions for comparison to the threshold represents a conservative analysis of potential greenhouse gas impacts.]

#### **PLAN-LEVEL IMPACTS<sup>5</sup>**

- a. Produce emissions of more than 6.6 metric tons of CO<sub>2</sub>e per service population annually.
2. Fundamentally conflict with an applicable plan, policy, or regulation adopted for the purposes of reducing greenhouse gas emissions.

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<sup>4</sup> Refer to the City's Standard Conditions of Approval for conditions related to greenhouse gas emissions (GHG) and requirements to reduce project GHG emissions even for projects with emissions below either of these thresholds. Also refer to the screening criteria contained in the BAAQMD CEQA Guidelines. For residential development projects, refer to the City's 2007-2014 Housing Element EIR screening criteria. The Housing Element EIR's analysis showed that residential development projects of less than 172 units would not result in a significant climate change impact and, therefore, no project-specific GHG analysis is required for such projects. Under an alternative approach in the Housing Element EIR, the analysis found that **ANY** residential development project (including those containing 172 or more units) would not result in a significant climate change impact and that no project-specific GHG analysis would be required. For residential projects containing 172 or more units, please consult with City Planning staff and the City Attorney's office on the appropriate GHG review. For nonresidential development projects and mixed-use development projects, the nonresidential component of the project must be compared to the BAAQMD screening criteria, and the applicable threshold if the screening criteria are exceeded, independently from any residential component of the project.

<sup>5</sup> The BAAQMD CEQA Guidelines state that the plan-level threshold should only be applied to general plans. For other types of plans, such as redevelopment plans and specific Plans, the Guidelines state that the project-level thresholds should be used. The Guidelines do not state whether the plan-level threshold or the project-level thresholds should be used for individual general plan elements (as compared to revisions to the entire general plan). Therefore, the environmental analysis for individual general plan elements should use both the plan-level threshold/methodology and the project-level thresholds/methodology unless directed otherwise by City staff (see the 2007-2014 Housing Element Draft EIR as an example).

## Existing GHG Condition of Approval

### GREENHOUSE GAS EMISSIONS / GLOBAL CLIMATE CHANGE

[The following condition applies under any of the following scenarios for projects which result in a net increase in greenhouse gas (GHG) emissions:

- a. **Scenario A: Projects which (a) involve a land use development (i.e., a project that does not require a permit from the Bay Area Air Quality Management District [BAAQMD] to operate), (b) exceed the GHG emissions screening criteria contained in the BAAQMD CEQA Guidelines,<sup>1</sup> and (c) after a GHG analysis is prepared would produce total GHG emissions of more than 1,100 metric tons of CO<sub>2</sub>e annually and more than 4.6 metric tons of CO<sub>2</sub>e per service population annually (with “service population” defined as the total number of employees and residents of the project).**
- b. **Scenario B: Projects which (a) involve a land use development, (b) exceed the GHG emissions screening criteria contained in the BAAQMD CEQA Guidelines,<sup>2</sup> (c) after a GHG analysis is prepared would exceed at least one of the BAAQMD Thresholds of Significance (more than 1,100 metric tons of CO<sub>2</sub>e annually OR more than 4.6 metric tons of CO<sub>2</sub>e per service population annually), and (d) are considered to be “Very Large Projects.”<sup>3</sup>**

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<sup>1</sup> For residential development projects, refer to the City’s Housing Element EIR screening criteria. The Housing Element EIR’s analysis showed that residential development projects of less than 172 units would not result in a significant climate change impact and, therefore, no project-specific GHG analysis is required for such projects. Under an alternative approach in the Housing Element EIR, the analysis found that **ANY** residential development project (including those containing 172 or more units) would not result in a significant climate change impact and that no project-specific GHG analysis would be required. For residential projects containing 172 or more units, please consult with City Planning staff and the City Attorney’s office on the appropriate GHG review. For nonresidential development projects and mixed-use development projects, the nonresidential component of the project must be compared to the BAAQMD screening criteria and the applicable threshold if the screening criteria are exceeded, independently from any residential component the project.

<sup>2</sup> See footnote #1 above.

<sup>3</sup> A “Very Large Project” is defined as any of the following:

- (A) Residential development of more than 500 dwelling units;
- (B) Shopping center or business establishment employing more than 1,000 persons or encompassing more than 500,000 square feet of floor space;
- (C) Commercial office building employing more than 1,000 persons or encompassing more than 250,000 square feet of floor space;
- (D) Hotel/motel development of more than 500 rooms;
- (E) Industrial, manufacturing, processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or encompassing more than 650,000 square feet of floor area; or
- (F) Any combination of smaller versions of the above that when combined result in equivalent annual GHG emissions as the above.

- c. **Scenario C: Projects which (a) involve a stationary source of GHG (i.e., a project that requires a permit from BAAQMD to operate) and (b) after a GHG analysis is prepared would produce total GHG emissions of more than 10,000 metric tons of CO<sub>2</sub>e annually). [The Greenhouse Gas (GHG) Reduction Plan referenced in the following condition may be required prior to project approval.]**

**1. Greenhouse Gas (GHG) Reduction Plan**

***Greenhouse Gas (GHG) Reduction Plan Required***

**Requirement:** The project applicant shall retain a qualified air quality consultant to develop a Greenhouse Gas (GHG) Reduction Plan for City review and approval and shall implement the approved GHG Reduction Plan.

The goal of the GHG Reduction Plan shall be to increase energy efficiency and reduce GHG emissions to below [INCLUDE THIS LANGUAGE IF SCENARIO A OR B:] at least one of the Bay Area Quality Management District's (BAAQMD's) CEQA Thresholds of Significance (1,100 metric tons of CO<sub>2</sub>e per year or 4.6 metric tons of CO<sub>2</sub>e per year per service population) [INCLUDE THIS LANGUAGE IF SCENARIO C:] the Bay Area Quality Management District's (BAAQMD's) CEQA Thresholds of Significance (10,000 metric tons of CO<sub>2</sub>e per year) [INCLUDE THIS LANGUAGE IF SCENARIO B] AND to reduce GHG emissions by 36 percent below the project's 2005 "business-as-usual" baseline GHG emissions(as explained below) to help implement the City's Energy and Climate Action Plan (adopted in 2012) which calls for reducing GHG emissions by 36 percent below 2005 levels. The GHG Reduction Plan shall include, at a minimum, (a) a detailed GHG emissions inventory for the project under a "business-as-usual" scenario with no consideration of project design features, or other energy efficiencies, (b) an "adjusted" baseline GHG emissions inventory for the project, taking into consideration energy efficiencies included as part of the project (including the City's Standard Conditions of Approval, proposed mitigation measures, project design features, and other City requirements), and additional GHG reduction measures available to further reduce GHG emissions, and (c) requirements for ongoing monitoring and reporting to demonstrate that the additional GHG reduction measures are being implemented. If the project is to be constructed in phases, the GHG Reduction Plan shall provide GHG emission scenarios by phase.

Potential GHG reduction measures to be considered include, but are not be limited to, measures recommended in BAAQMD's latest CEQA Air Quality Guidelines, the California Air Resources Board Scoping Plan (December 2008, as may be revised), the California Air Pollution Control Officers Association (CAPCOA) Quantifying Greenhouse Gas Mitigation Measures (August 2010, as may be revised), the California Attorney General's website, and Reference Guides on Leadership in Energy and Environmental Design (LEED) published by the U.S. Green Building Council.

The types of allowable GHG reduction measures include the following (listed in order of City preference): (1) physical design features; (2) operational features; and (3) the payment of fees to fund GHG-reducing programs (i.e., the purchase of "carbon credits") as explained below.

The allowable locations of the GHG reduction measures include the following (listed in order of City preference): (1) the project site; (2) off-site within the City of Oakland;

(3) off-site within the San Francisco Bay Area Air Basin; (4) off-site within the State of California; then (5) elsewhere in the United States.

As with preferred locations for the implementation of all GHG reductions measures, the preference for carbon credit purchases include those that can be achieved as follows (listed in order of City preference): (1) within the City of Oakland; (2) within the San Francisco Bay Area Air Basin; (3) within the State of California; then (4) elsewhere in the United States. The cost of carbon credit purchases shall be based on current market value at the time purchased and shall be based on the project's operational emissions estimated in the GHG Reduction Plan or subsequent approved emissions inventory, which may result in emissions that are higher or lower than those estimated in the GHG Reduction Plan.

For physical GHG reduction measures to be incorporated into the design of the project, the measures shall be included on the drawings submitted for construction-related permits.

When Required: Prior to approval of construction-related permit.

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

#### ***GHG Reduction Plan Implementation During Construction***

Requirement: The project applicant shall implement the GHG Reduction Plan during construction of the project. For physical GHG reduction measures to be incorporated into the design of the project, the measures shall be implemented during construction. For physical GHG reduction measures to be incorporated into off-site projects, the project applicant shall obtain all necessary permits/approvals and the measures shall be included on drawings and submitted to the City Planning Director or his/her designee for review and approval. These off-site improvements shall be installed prior to completion of the subject project (or prior to completion of the project phase for phased projects). For GHG reduction measures involving the purchase of carbon credits, evidence of the payment/purchase shall be submitted to the City for review and approval prior to completion of the project (or prior to completion of the project phase, for phased projects).

When Required: During construction

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

#### ***GHG Reduction Plan Implementation After Construction***

Requirement: The project applicant shall implement the GHG Reduction Plan after construction of the project (or at the completion of the project phase for phased projects). For operational GHG reduction measures to be incorporated into the project or off-site projects, the measures shall be implemented on an indefinite and ongoing basis.

The project applicant shall satisfy the following requirements for ongoing monitoring and reporting to demonstrate that the additional GHG reduction measures are being implemented. The GHG Reduction Plan requires regular periodic evaluation over the life of the project (generally estimated to be at least 40 years) to determine how the Plan is achieving required GHG emissions reductions over time, as well as the efficacy of the specific additional GHG reduction measures identified in the Plan.

**Annual Report.** Implementation of the GHG reduction measures and related requirements shall be ensured through compliance with Conditions of Approval adopted for the project. Generally, starting two years after the City issues the first Certificate of Occupancy for the project, the project applicant shall prepare each year of the useful life of the project an Annual GHG Emissions Reduction Report (“Annual Report”), for review and approval by the City Planning Director or his/her designee. The Annual Report shall be submitted to an independent reviewer of the City’s choosing, to be paid for by the project applicant.

The Annual Report shall summarize the project’s implementation of GHG reduction measures over the preceding year, intended upcoming changes, compliance with the conditions of the Plan, and include a brief summary of the previous year’s Annual Report results (starting the second year). The Annual Report shall include a comparison of annual project emissions to the baseline emissions reported in the GHG Plan.

The GHG Reduction Plan shall be considered fully attained when project emissions are less than either applicable numeric BAAQMD CEQA Thresholds [INCLUDE THIS LANGUAGE IF SCENARIO B:] AND GHG emissions are 36 percent below the project’s 2005 “business-as-usual” baseline GHG emissions, as confirmed by the City through an established monitoring program. Monitoring and reporting activities will continue at the City’s discretion, as discussed below.

**Corrective Procedure.** If the third Annual Report, or any report thereafter, indicates that, in spite of the implementation of the GHG Reduction Plan, the project is not achieving the GHG reduction goal, the project applicant shall prepare a report for City review and approval, which proposes additional or revised GHG measures to better achieve the GHG emissions reduction goals, including without limitation, a discussion on the feasibility and effectiveness of the menu of other additional measures (“Corrective GHG Action Plan”). The project applicant shall then implement the approved Corrective GHG Action Plan.

If, one year after the Corrective GHG Action Plan is implemented, the required GHG emissions reduction target is still not being achieved, or if the project applicant fails to submit a report at the times described above, or if the reports do not meet City requirements outlined above, the City may, in addition to its other remedies, (a) assess the project applicant a financial penalty based upon actual percentage reduction in GHG emissions as compared to the percent reduction in GHG emissions established in the GHG Reduction Plan; or (b) refer the matter to the City Planning Commission for scheduling of a compliance hearing to determine whether the project’s approvals should be revoked, altered or additional conditions of approval imposed.

The penalty as described in (a) above shall be determined by the City Planning Director or his/her designee and be commensurate with the percentage GHG emissions reduction not achieved (compared to the applicable numeric significance thresholds) or required percentage reduction from the “adjusted” baseline.

In determining whether a financial penalty or other remedy is appropriate, the City shall not impose a penalty if the project applicant has made a good faith effort to comply with the GHG Reduction Plan.

The City would only have the ability to impose a monetary penalty after a reasonable cure period and in accordance with the enforcement process outlined in Planning Code

Chapter 17.152. If a financial penalty is imposed, such penalty sums shall be used by the City solely toward the implementation of the GHG Reduction Plan.

**Timeline Discretion and Summary.** The City shall have the discretion to reasonably modify the timing of reporting, with reasonable notice and opportunity to comment by the applicant, to coincide with other related monitoring and reporting required for the project.

When Required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Planning

## Proposed GHG CEQA Threshold of Significance

### GREENHOUSE GAS EMISSIONS (GHG) / GLOBAL CLIMATE CHANGE<sup>1</sup>

The project would have a significant impact on the environment if it would:

1. For a project involving a stationary source, produce total emissions of more than 10,000 metric tons of CO<sub>2</sub>e annually. [**NOTE:** Stationary sources are projects that require a BAAQMD permit to operate.]
2. For a project involving a land use development,<sup>2</sup> fail to demonstrate consistency with the 2030 Equitable Climate Action Plan (ECAP) adopted by the City Council on July 28, 2020. [**NOTE:** Land use developments are projects that do not require a BAAQMD permit to operate.] Consistency with the 2030 ECAP can be shown by either:
  - (a) committing to all of the GHG emissions reductions strategies described on the ECAP Consistency Checklist,<sup>3</sup> or
  - (b) complying with the GHG Reduction Standard Condition of Approval that requires a project-level GHG Reduction Plan quantifying how alternative reduction measures will achieve the same or greater emissions than would be achieved by meeting the ECAP Consistency Checklist.

<sup>1</sup> The City's Thresholds of Significance pertaining to greenhouse gas (GHG) emissions and global climate change are intended to achieve deeper emissions reductions than the more lenient thresholds adopted by the Bay Area Air Quality Management District (BAAQMD) in June 2010. Pursuant to CEQA, lead agencies must apply appropriate thresholds based on substantial evidence in the record. The City's Thresholds rely upon the technical and scientific basis for the City's 2030 Equitable Climate Action Plan (ECAP), which provide substantial evidence that adherence to the 2030 ECAP action items will achieve GHG emissions reduction targets of 56% below 2005 levels by 2030 and 83% below 2005 levels by 2050. Use of the City's thresholds is consistent with and authorized by CEQA Guidelines section 15064. The City's thresholds have not been challenged and remain in effect.

<sup>2</sup> For projects that involve both a stationary source and a land use development, calculate each component separately and compare to the applicable threshold.

<sup>3</sup> The ECAP Consistency Checklist includes all of the project-level GHG emissions reduction strategies that are either regulatory requirements or are necessary at a project level to meet the adopted city-wide GHG emissions reduction targets of 56% reduction from 2005 levels by 2030 and 83% reduction by 2050. As new strategies are adopted to align with the 2030 ECAP, the Checklist will be updated and new projects will be expected to achieve the revised strategies or comply with GHG Reduction Standard Condition of Approval.



# CITY OF OAKLAND

## Equitable Climate Action Plan Consistency Checklist

250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031

Zoning Information: 510-238-3911

<https://www.oaklandca.gov/topics/planning>

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The purpose of this Equitable Climate Action Plan Consistency Review Checklist is to determine, for purposes of compliance with the California Environmental Quality Act (CEQA), whether a development project complies with the City of Oakland Equitable Climate Action Plan (ECAP) and the City of Oakland's greenhouse gas (GHG) emissions reduction targets. CEQA Guidelines require the analysis of GHG emissions and potential climate change impacts from new development.

- If a development project completes this Checklist and can qualitatively demonstrate compliance with the Checklist items as part of the project's design, or alternatively, demonstrate to the City's satisfaction why the item is not applicable, then the project will be considered in compliance with the City's CEQA GHG Threshold of Significance.
- If a development project cannot meet all of the Checklist items, the project will alternatively need to demonstrate consistency with the ECAP by complying with the City of Oakland GHG Reduction Plan Condition of Approval.
- If the project cannot demonstrate consistency with the ECAP in either of those two ways, the City will consider the project to have a significant effect on the environment related to GHG emissions.

### Application Submittal Requirements

1. The ECAP Consistency Checklist applies to all development projects needing a CEQA GHG emissions analysis, including a specific plan consistency analysis.
2. If required, the ECAP Consistency Review Checklist must be submitted concurrently with the City of Oakland Basic Application.

### Application Information

**Applicant's Name/Company:** \_\_\_\_\_

**Property Address:** \_\_\_\_\_

**Assessor's Parcel Number:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_

Equitable Climate Action Plan (ECAP) Consistency Review Checklist

Checklist Item (Check the appropriate box and provide explanation for your answer).			
Transportation & Land Use			
1. Is the proposed project substantially consistent with the City’s over-all goals for land use and urban form, and/or taking advantage of allowable density and/or floor area ratio (FAR) standards in the City’s General Plan? (TLU1)	Yes	No	N/A
Please explain how the proposed project is substantially consistent with the City’s General Plan with respect to density and FAR standards, land use, and urban form.			
2. For developments in “Transit Accessible Areas” as defined in the Planning Code, would the project provide: i) less than half the maximum allowable parking, ii) the minimum allowable parking, or iii) take advantage of available parking reductions? (TLU1)	Yes	No	N/A
Please explain how the proposed project meets this action item.			
3. For projects including structured parking, would the structured parking be designed for future adaptation to other uses? (Examples include, but are not limited to: the use of speed ramps instead of sloped floors.). (TLU1)	Yes	No	N/A
Please explain how the proposed project meets this action item.			
4. For projects that <i>are</i> subject to a Transportation Demand Management Program, would the project include transit passes for employees and/or residents? (TLU1)	Yes	No	N/A
Please explain how the proposed project meets this action item.			

Equitable Climate Action Plan (ECAP) Consistency Review Checklist

<p>5. For projects that are <i>not</i> subject to a Transportation Demand Management Program, would the project incorporate one or more of the optional Transportation Demand Management measures that reduce dependency on single-occupancy vehicles? (Examples include but are not limited to transit passes or subsidies to employees and/or residents; carpooling; vanpooling; or shuttle programs; on-site carshare program; guaranteed ride home programs)</p> <p>(TLU1 &amp; TLU8)</p>	<p><b>Yes</b></p>	<p><b>No</b></p>	<p><b>N/A</b></p>
<p>Please explain how the proposed project meets this action item.</p>			
<p>6. Does the project comply with the Plug-In Electric Vehicle (PEV) Charging Infrastructure requirements (Chapter 15.04 of the Oakland Municipal Code), if applicable?</p> <p>(TLU2 &amp; TLU-5)</p>	<p><b>Yes</b></p>	<p><b>No</b></p>	<p><b>N/A</b></p>
<p>Please explain how the proposed project meets this action item.</p>			
<p>7. Would the project reduce or prevent the direct displacement of residents and essential businesses? (For residential projects, would the project comply with SB 330, if applicable? For projects that demolish an existing commercial space, would the project include comparable square footage of neighborhood serving commercial floor space.)</p> <p>(TLU3)</p>	<p><b>Yes</b></p>	<p><b>No</b></p>	<p><b>N/A</b></p>
<p>Please explain how the proposed project meets this action item.</p>			

Equitable Climate Action Plan (ECAP) Consistency Review Checklist

<p>8. Would the project prioritize sidewalk and curb space consistent with the City’s adopted Bike and Pedestrian Plans? (The project should not prevent the City’s Bike and Pedestrian Plans from being implemented. For example, do not install a garage entrance where a planned bike path would be unless otherwise infeasible due to Planning Code requirements, limited frontage or other constraints.) (TLU7)</p>	<p align="center"><b>Yes</b></p>	<p align="center"><b>No</b></p>	<p align="center"><b>N/A</b></p>
<p>Please explain how the proposed project meets this action item.</p>			
<p align="center"><b>Buildings</b></p>			
<p>9. Does the project not create any new natural gas connections/hook-ups? (B1 &amp; B2)</p>	<p align="center"><b>Yes</b></p>	<p align="center"><b>No</b></p>	<p align="center"><b>N/A</b></p>
<p>Please explain how the proposed project meets this action item.</p>			
<p>10. Does the project comply with the City of Oakland Green Building Ordinance (Chapter 18.02 of the Oakland Municipal Code), if applicable? (B4)</p>	<p align="center"><b>Yes</b></p>	<p align="center"><b>No</b></p>	<p align="center"><b>N/A</b></p>
<p>Please explain how the proposed project meets this action item.</p>			
<p>11. For retrofits of City-owned or City-controlled buildings: Would the project be all-electric, eliminate gas infrastructure from the building, and integrate energy storage wherever technically feasible and appropriate? (B5)</p>	<p align="center"><b>Yes</b></p>	<p align="center"><b>No</b></p>	<p align="center"><b>N/A</b></p>
<p>Please explain how the proposed project meets this action item.</p>			

Equitable Climate Action Plan (ECAP) Consistency Review Checklist

<b>Material Consumption &amp; Waste</b>			
12. Would the project reduce demolition waste from construction and renovation and facilitate material reuse in compliance with the Construction Demolition Ordinance (Chapter 15.34 of the Oakland Municipal Code)? (MCW6)	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Please explain how the proposed project meets this action item.			
<b>City Leadership</b>			
13. For City projects: Have opportunities to eliminate/minimize fossil fuel dependency been analyzed in project design and construction? (CL2)	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Please explain how the proposed project meets this action item.			
<b>Adaptation</b>			
14. For new projects in the Designated Very High Wildfire Severity Zone: Would the project incorporate wildfire safety requirements such creation of defensible space around the house, pruning, clearing and removal of vegetation, replacement of fire resistant plants, as required in the Vegetation Management Plan? (A4)	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Please explain how the proposed project meets this action item.			

Equitable Climate Action Plan (ECAP) Consistency Review Checklist

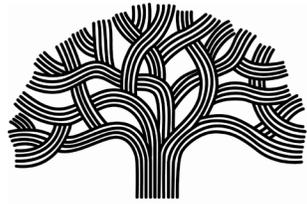
<b>Carbon Removal</b>			
15. Would the project replace a greater number of trees than will be removed in compliance with the Tree Preservation Ordinance (Chapter 12.36 of the Oakland Municipal Code) and Planning Code if applicable and feasible given competing site constraints?  (CR-2)	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Please explain how the proposed project meets this action item.			
16. Does the project comply with the Creek Protection, Stormwater Management and Discharge Control Ordinance (Chapter 13.16 of the Oakland Municipal Code), as applicable?  (CR-3)	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Please explain how the proposed project meets this action item.			

I understand that answering **yes** to all of these questions, means that the project **is in compliance with** the City’s Energy and Climate Action Plan as adopted on to July 28, 2020 and requires that staff apply the Project Compliance with the Equitable Climate Action Plan (ECAP) Consistency Checklist Condition of Approval as adopted by the Planning Commission on \_\_\_\_\_ and all Checklist items must be incorporated into the project

I understand that answering **no** to any of these questions, means that the project **is not in compliance with** the City’s Energy and Climate Action Plan as adopted on to July 28, 2020 and requires that staff apply the Greenhouse Gas (GHG) Reduction Plan Condition of Approval as adopted by the Planning Commission on \_\_\_\_\_ which will require that the applicant prepare a quantitative GHG analysis and GHG Reduction Plan for staff’s review and approval. The GHG Reduction Plan and all GHG Reduction measures shall be incorporated into the project and implemented during construction and after construction for the life of the project.

\_\_\_\_\_  
Name and Signature of Preparer

\_\_\_\_\_  
Date



CITY OF OAKLAND

# **STANDARD CONDITIONS OF APPROVAL**

**Department of Planning and Building  
Bureau of Planning**

**Adopted by City Council on November 3, 2008 (Ordinance No. 12899 C.M.S.)  
Revised December \_\_\_, 2020**

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# INTRODUCTION

Generally, projects of the same type should have the same conditions of approval. Variations in conditions of approval should only occur if two projects have different characteristics such as different sizes, locations, environmental settings, or other considerations. The City of Oakland has developed Standard Conditions of Approval contained in this document to achieve this consistency. These Conditions are applied to projects when they receive discretionary planning-related approval (including permits issued under the Planning Code and Subdivision Regulations, Creek Protection Permits, and Development-Related Tree Permits). The Conditions should be applied to projects based on the guidance in this document. Variations in the application of the Conditions should only occur in special circumstances.

**Part 1** contains General Administrative Conditions. These Conditions pertain to the administrative aspects of the project approval.

**Part 2** contains Environmental Protection Measures. These Conditions are Uniformly Applied Development Standards that substantially mitigate environmental effects. The Conditions are incorporated into a project regardless of the project's environmental determination, pursuant, in part, to California Environmental Quality Act (CEQA) Guidelines sections 15183 and 15183.3. As applicable, the Conditions are adopted as requirements of an individual project when the project is approved by the City and are designed to, and will, substantially mitigate environmental effects. In reviewing project applications, the City determines which of the Conditions are applied, based upon the project's characteristics and location, zoning district, applicable plans, and type(s) of permit(s)/approvals(s) required for the project. For example, Conditions related to creek protection permits are applied to projects on creekside properties.

The Standard Conditions of Approval were initially and formally adopted by the Oakland City Council on November 3, 2008 (Ordinance No. 12899 C.M.S.), pursuant to Public Resources Code section 21083.3 and CEQA Guidelines section 15183 (and now section 15183.3), and incorporate development policies and standards from various adopted plans, policies, and ordinances (such as the Oakland Planning and Municipal Codes, Oakland Creek Protection, Stormwater Management and Discharge Control Ordinance, Oakland Tree Protection Ordinance, Oakland Grading Regulations, National Pollutant Discharge Elimination System (NPDES) requirements, Housing Element and other General Plan Element-related mitigation measures, California Building Code, Uniform Fire Code, Energy and Climate Action Plan, Complete Streets Policy, and Green Building Ordinance, among others), which have been found to substantially mitigate environmental effects.

Where there are peculiar circumstances associated with a project or project site that will result in significant environmental impacts despite implementation of the Standard Conditions of Approval the City will determine whether there are feasible mitigation measures to reduce the impact to less than significant levels in the course of appropriate CEQA review (mitigated negative declaration or EIR).

**Part 3** contains Other Standard Conditions. These Conditions contain requirements to substantially reduce the non-environmental impacts of projects.

## *Instructions for Use*

As stated above, the Standard Conditions of Approval are applied to projects depending upon the circumstances surrounding the project. This document provides guidance concerning when each Condition should be applied. In both Parts 1 and 2, bracketed text in **gray** should be deleted from the final document.

In a CEQA document, the Standard Conditions of Approval applicable to the project are considered requirements of the project and not mitigation. In an EIR, the Standard Conditions of Approval should be included in the discussion concerning the regulatory setting of the applicable environmental topic. In the event that Standard Conditions of Approval do not substantially mitigate an environmental effect, the City will determine if there are feasible mitigation measures to reduce the impact to a less-than-significant level.

Many of the Standard Conditions of Approval require technical studies to be prepared. In the case of a project subject to detailed CEQA review, the technical studies may be required to be performed during the course of the CEQA review (and the results of the studies incorporated into the CEQA document) rather than after project approval. In cases where a technical study required by a Standard Condition of Approval is conducted prior to project approval and includes project-specific recommendations for mitigating an environmental effect, these recommendations are considered implementation measures for the Standard Condition of Approval rather than separate mitigation measures.

# Part 1: Standard Conditions of Approval – General Administrative Conditions

## 1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, **[insert staff report if applicable,]** and the approved plans **[identify final approved plans by date of plans and/or date plans received]**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

## 2. Effective Date, Expiration, Extensions and Extinguishment

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten (10) calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **[insert one calendar year for code enforcement cases; two years for all other cases]** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period a complete building permit application has been filed with the Bureau of Building and diligently pursued towards completion, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

## 3. Compliance with Other Requirements

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, Department of Transportation, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

## 4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning **[If known, insert examples of minor changes that may be applicable to the project, such as reduction of a certain limited number of units in a residential project.]**
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and

approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval. **[If known, insert examples of major changes that may be applicable to the project that may require processing as a major revision to the Approval and/or a new independent permit/approval. Factors to consider when determining if a revision is major include, but are not limited to, the following: the permitted uses of the project, the density or intensity of uses in the project, substantial changes to height, design, envelope, massing or size of improvements or provisions for dedications associated with the project, or changes that will result in any of the circumstances requiring further environmental review pursuant to CEQA Guidelines section 15162 or 15163. ]**

**[Note to staff: Consider making a formal written administrative determination/interpretation with public notice of a ten (10) day appeal period to interested parties when making determinations for minor or major changes under this Condition. Factors to consider include the controversial nature of the project, potential impact(s) on surrounding neighbors, ongoing interest in the project, and if the project applicant and/or interested parties have requested such notice.]**

#### **5. Compliance with Conditions of Approval**

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant’s expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City’s Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

**6. Signed Copy of the Approval/Conditions**

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

**7. Blight/Nuisances**

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within sixty (60) days of approval, unless an earlier date is specified elsewhere.

**8. Indemnification**

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called “City”) 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 Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys’ fees.
- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

**9. Severability**

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

**10. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring**

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval. The project applicant shall establish a deposit with Engineering Services and/or the Bureau of Building, if directed by the Director of Public Works, Building Official, Director of City Planning, Director of

Transportation, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

### **11. Public Improvements**

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement (“p-job”) permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, Engineering Services, Department of Transportation, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

**[Note to staff: If project-specific public improvements are known, they should be listed with the project-specific conditions.]**

**[The following condition applies to all major development projects, specifically those involving any of the following:**

- a. Construction of 50 or more residential dwelling units;**
- b. Construction of 50,000 sq. ft. or more of nonresidential floor area; or**
- c. CEQA review (e.g., negative declaration, mitigated negative declaration, or EIR).]**

### **12. Compliance Matrix**

The project applicant shall submit a Compliance Matrix, in both written and electronic form, for review and approval by the Bureau of Planning and the Bureau of Building that lists each Condition of Approval (including each mitigation measure if applicable) in a sortable spreadsheet. The Compliance Matrix shall contain, at a minimum, each required Condition of Approval, when compliance with the Condition is required, and the status of compliance with each Condition. For multi-phased projects, the Compliance Matrix shall indicate which Condition applies to each phase. The project applicant shall submit the initial Compliance Matrix prior to the issuance of the first construction-related permit and shall submit an updated matrix upon request by the City.

**[The following condition applies to all major development projects, specifically those involving any of the following:**

- a. Construction of 50 or more residential dwelling units;**
- b. Construction of 50,000 sq. ft. or more of nonresidential floor area; or**
- c. CEQA review (e.g., negative declaration, mitigated negative declaration, or EIR).]**

### **13. Construction Management Plan**

Prior to the issuance of the first construction-related permit, the project applicant and his/her general contractor shall submit a Construction Management Plan (CMP) for review and approval by the Bureau of Planning, Bureau of Building, and other relevant City departments such as the Fire Department, Department of Transportation, and the Public Works Department as directed. The CMP shall contain measures to minimize potential construction impacts including measures to comply with all construction-related Conditions of Approval (and mitigation measures if

applicable) such as dust control, construction emissions, hazardous materials, construction days/hours, construction traffic control, waste reduction and recycling, stormwater pollution prevention, noise control, complaint management, and cultural resource management (see applicable Conditions below). The CMP shall provide project-specific information including descriptive procedures, approval documentation, and drawings (such as a site logistics plan, fire safety plan, construction phasing plan, proposed truck routes, traffic control plan, complaint management plan, construction worker parking plan, and litter/debris clean-up plan) that specify how potential construction impacts will be minimized and how each construction-related requirement will be satisfied throughout construction of the project.

**[The following condition applies to all projects requiring a Mitigation Monitoring and Reporting Program]**

**14. Standard Conditions of Approval / Mitigation Monitoring and Reporting Program (SCAMMRP)**

- a. All mitigation measures identified in the **[insert the name of the EIR/MND]** are included in the Standard Condition of Approval / Mitigation Monitoring and Reporting Program (SCAMMRP) which is included in these Conditions of Approval and are incorporated herein by reference, as Attachment **[insert attachment letter, and attach the SCAMMRP at the end of the Conditions of Approval]**, as Conditions of Approval of the project. The Standard Conditions of Approval identified in the **[insert the name of the EIR/MND]** are also included in the SCAMMRP, and are, therefore, incorporated into these Conditions by reference but are not repeated in these Conditions **[note to staff: the standard conditions of approval should be listed in the SCAMMRP so they do not need to be listed again in the conditions of approval]**. To the extent that there is any inconsistency between the SCAMMRP and these Conditions, the more restrictive Conditions shall govern. In the event a Standard Condition of Approval or mitigation measure recommended in the **[insert name of the EIR/MND]** has been inadvertently omitted from the SCAMMRP, that Standard Condition of Approval or mitigation measure is adopted and incorporated from the **[insert name of the EIR/MND]** into the SCAMMRP by reference, and adopted as a Condition of Approval. The project applicant and property owner shall be responsible for compliance with the requirements of any submitted and approved technical reports, all applicable mitigation measures adopted, and with all Conditions of Approval set forth herein at his/her sole cost and expense, unless otherwise expressly provided in a specific mitigation measure or Condition of Approval, and subject to the review and approval by the City of Oakland. The SCAMMRP identifies the timeframe and responsible party for implementation and monitoring for each Standard Condition of Approval and mitigation measure. Unless otherwise specified, monitoring of compliance with the Standard Conditions of Approval and mitigation measures will be the responsibility of the Bureau of Planning, with overall authority concerning compliance residing with the Environmental Review Officer. Adoption of the SCAMMRP will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in section 21081.6 of CEQA.
- b. Prior to the issuance of the first construction-related permit, the project applicant shall pay the applicable mitigation and monitoring fee to the City in accordance with the City's Master Fee Schedule.

## Part 2: Standard Conditions of Approval – Environmental Protection Measures

### GENERAL

[The following condition applies to all projects requiring a permit or authorization from any regional, state, or federal resource or permitting agency (e.g., Regional Water Quality Control Board, Bay Area Air Quality Management District, Bay Conservation and Development Commission, California Dept. of Fish and Wildlife, U.S. Fish and Wildlife Service, and/or Army Corps of Engineers).]

#### **15. Regulatory Permits and Authorizations from Other Agencies**

Requirement: The project applicant shall obtain all necessary regulatory permits and authorizations from applicable resource/regulatory agencies including, but not limited to, the Regional Water Quality Control Board, Bay Area Air Quality Management District, Bay Conservation and Development Commission, California Department of Fish and Wildlife, U. S. Fish and Wildlife Service, and Army Corps of Engineers and shall comply with all requirements and conditions of the permits/authorizations. The project applicant shall submit evidence of the approved permits/authorizations to the City, along with evidence demonstrating compliance with any regulatory permit/authorization conditions of approval.

When Required: Prior to activity requiring permit/authorization from regulatory agency

Initial Approval: Approval by applicable regulatory agency with jurisdiction; evidence of approval submitted to Bureau of Planning

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

### AESTHETICS

[The following condition applies to all projects.]

#### **16. Trash and Blight Removal**

Requirement: The project applicant and his/her successors shall maintain the property free of blight, as defined in chapter 8.24 of the Oakland Municipal Code. For nonresidential and multi-family residential projects, the project applicant shall install and maintain trash receptacles near public entryways as needed to provide sufficient capacity for building users.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects.]**

## **17. Graffiti Control**

### Requirement:

- a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
  - i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
  - ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
  - iii. Use of paint with anti-graffiti coating.
  - iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).
  - v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.
- b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
  - i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
  - ii. Covering with new paint to match the color of the surrounding surface.
  - iii. Replacing with new surfacing (with City permits if required).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects requiring a landscape plan, specifically:**

- a. Establishment of one or more new residential units (excluding secondary units);**
- b. Residential additions over 500 sq. ft. of floor area;**
- c. Establishment of new nonresidential facilities; or**
- d. Nonresidential additions over 1,000 sq. ft. of floor area.]**

## **18. Landscape Plan**

### **a. *Landscape Plan Required***

- Requirement: The project applicant shall submit a final Landscape Plan for City review and approval that is consistent with the approved Landscape Plan. The Landscape Plan shall be included with the set of drawings submitted for the construction-related permit and shall comply with the landscape requirements of chapter 17.124 of the Planning Code. Proposed plants shall be predominantly drought-tolerant. Specification of any street trees shall comply with the Master Street Tree List and Tree Planting Guidelines (which can be viewed at

<http://www2.oaklandnet.com/oakca1/groups/pwa/documents/report/oak042662.pdf>  
and <http://www2.oaklandnet.com/oakca1/groups/pwa/documents/form/oak025595.pdf>,  
respectively), and with any applicable streetscape plan.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

**b. *Landscape Installation***

Requirement: The project applicant shall implement the approved Landscape Plan unless a bond, cash deposit, letter of credit, or other equivalent instrument acceptable to the Director of City Planning, is provided. The financial instrument shall equal the greater of \$2,500 or the estimated cost of implementing the Landscape Plan based on a licensed contractor's bid.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**c. *Landscape Maintenance***

Requirement: All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The property owner shall be responsible for maintaining planting in adjacent public rights-of-way. All required fences, walls, and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects containing new exterior lighting.]**

**19. Lighting**

Requirement: Proposed new exterior lighting fixtures shall be adequately shielded to a point below the light bulb and reflector to prevent unnecessary glare onto adjacent properties.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

## **AIR QUALITY**

**[The following condition applies to all projects involving construction activities.]**

**20. Dust Controls – Construction Related**

Requirement: The project applicant shall implement all of the following applicable dust control measures during construction of the project:

- a) Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.
- b) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d) Limit vehicle speeds on unpaved roads to 15 miles per hour.
- e) All demolition activities (if any) shall be suspended when average wind speeds exceed 20 mph.
- f) All trucks and equipment, including tires, shall be washed off prior to leaving the site.
- g) Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[ENHANCED CONTROLS: All "Basic" controls listed above plus the following controls if the project involves:**

- **Extensive site preparation (i.e., the construction site is four acres or more in size); or**
- **Extensive soil transport (i.e., 10,000 or more cubic yards of soil import/export).]**

- h) Apply and maintain vegetative ground cover (e.g., hydroseed) or non-toxic soil stabilizers to disturbed areas of soil that will be inactive for more than one month. Enclose, cover, water twice daily, or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- i) Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress.
- j) When working at a site, install appropriate wind breaks (e.g., trees, fences) on the windward side(s) of the site, to minimize wind-blown dust. Windbreaks must have a maximum 50 percent air porosity.
- k) Post a publicly visible large on-site sign that includes the contact name and phone number for the project complaint manager responsible for responding to dust complaints and the telephone numbers of the City's Code Enforcement unit and the Bay Area Air Quality Management District. When contacted, the project complaint manager shall respond and take corrective action within 48 hours.
- l) All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction activities.]**

**21. Criteria Air Pollutant Controls - Construction Related**

Requirement: The project applicant shall implement all of the following applicable basic control measures for criteria air pollutants during construction of the project as applicable:

- a) Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.
- b) Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”).
- c) All construction equipment shall be maintained and properly tuned in accordance with the manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. Equipment check documentation should be kept at the construction site and be available for review by the City and the Bay Area Air Quality District as needed.
- d) Portable equipment shall be powered by grid electricity if available. If electricity is not available, propane or natural gas generators shall be used if feasible. Diesel engines shall only be used if grid electricity is not available and propane or natural gas generators cannot meet the electrical demand.
- e) Low VOC (i.e., ROG) coatings shall be used that comply with BAAQMD Regulation 8, Rule 3: Architectural Coatings.
- f) All equipment to be used on the construction site shall comply with the requirements of Title 13, Section 2449, of the California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”) and upon request by the City (and the Air District if specifically requested), the project applicant shall provide written documentation that fleet requirements have been met.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[ENHANCED CONTROLS: All "Basic" controls listed above plus the following controls if the project involves: Construction activities with average daily emissions exceeding the CEQA thresholds for construction activity, currently 54 pounds per day of ROG, NOx, or PM2.5 or 82 pounds per day of PM10. In most cases, criteria pollutants from construction will not require SCA measures, but analysis must be performed to determine applicability**

**for projects that exceed 100,000 square feet of non-residential development or 200 residential dwelling units.**

g) Criteria Air Pollutant Reduction Measures

Requirement: The project applicant shall retain a qualified air quality consultant to identify criteria air pollutant reduction measures to reduce the project's average daily emissions below 54 pounds per day of ROG, NOx, or PM2.5 or 82 pounds per day of PM10. Quantified emissions and identified reduction measures shall be submitted to the City (and the Air District if specifically requested) for review and approval prior to the issuance of building permits and the approved criteria air pollutant reduction measures shall be implemented during construction.

h) Construction Emissions Minimization Plan

Requirement: The project applicant shall prepare a Construction Emissions Minimization Plan (Emissions Plan) for all identified criteria air pollutant reduction measures. The Emissions Plan shall be submitted to the City (and the Air District if specifically requested) for review and approval prior to the issuance of building permits. The Emissions Plan shall include the following:

- i. An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all Verified Diesel Emissions Control Strategies (VDECS), the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
- ii. A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract.

When Required: Prior to issuance of a construction related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction activities involving greater than 100 dwelling units or 50,000 square feet of non-residential floor area OR for any project involving construction activities involving greater than 50 dwelling units or 25,000 square feet of non-residential floor area for any area defined as needing “Best Practices” or needing “Further Study” on the BAAQMD Healthy Places Map (<http://www.baaqmd.gov/plans-and-climate/planning-healthy-places>) which are typically within 1000 feet of a freeway or along major thoroughfares.**

**22. Diesel Particulate Matter Controls-Construction Related**

***a. Diesel Particulate Matter Reduction Measures***

Requirement: The project applicant shall implement appropriate measures during construction to reduce potential health risks to sensitive receptors due to exposure to diesel particulate matter (DPM) from construction emissions. The project applicant shall choose **one** of the following methods:

- i. The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with current guidance from the California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment to determine the health risk to sensitive receptors exposed to DPM from project construction emissions. The HRA shall be submitted to the City (and the Air District if specifically requested) for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then DPM reduction measures are not required. If the HRA concludes that the health risk exceeds acceptable levels, DPM reduction measures shall be identified to reduce the health risk to acceptable levels as set forth under subsection b below. Identified DPM reduction measures shall be submitted to the City for review and approval prior to the issuance of building permits and the approved DPM reduction measures shall be implemented during construction.

-or-

- ii. All off-road diesel equipment shall be equipped with the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by CARB. The equipment shall be properly maintained and tuned in accordance with manufacturer specifications. This shall be verified through an equipment inventory submittal and Certification Statement that the Contractor agrees to compliance and acknowledges that a significant violation of this requirement shall constitute a material breach of contract.

When Required: Prior to issuance of a construction related permit (i), during construction (ii)

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

***b. Construction Emissions Minimization Plan (if required by a above)***

Requirement: The project applicant shall prepare a Construction Emissions Minimization Plan (Emissions Plan) for all identified DPM reduction measures (if any). The Emissions Plan shall be submitted to the City (and the Bay Area Air Quality District if specifically requested) for review and approval prior to the issuance of building permits. The Emissions Plan shall include the following:

- i. An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
- ii. A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract.

When Required: Prior to issuance of a construction related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

[The following condition applies to all projects that meet all of the following criteria:

- a. The project involves any of the following sensitive land uses:
  - i. Residential uses (new dwelling units, excluding secondary units); or
  - ii. New or expanded schools, daycare centers, parks, nursing homes, or medical facilities; and
- b. The project is located within 1,000' (or other distance as specified below) of one or more of the following sources of air pollution:
  - i. Freeway;
  - ii. Roadway with significant traffic (at least 10,000 vehicles/day);
  - iii. Rail line (except BART) with over 30 trains per day;
  - iv. Distribution center that accommodates more than 100 trucks per day, more than 40 trucks with operating Transportation Refrigeration Units (TRU) per day, or where the TRU unit operations exceed 300 hours per week;
  - v. Major rail or truck yard (such as the Union Pacific rail yard adjacent to the Port of Oakland);
  - vi. Ferry terminal;
  - vii. Stationary pollutant source requiring a permit from BAAQMD (such as a diesel generator);
  - viii. Within 0.5 miles of the Port of Oakland or Oakland Airport;
  - ix. Within 300 feet of a gas station; or
  - x. Within 300 feet of a dry cleaner with a machine using PERC (or within 500 feet of a dry cleaner with two or more machines using PERC); and
- c. The project exceeds the health risk screening criteria after a screening analysis is conducted in accordance with the Bay Area Air Quality Management (BAAQMD) CEQA Guidelines.]

### **23. Exposure to Air Pollution (Toxic Air Contaminants)**

#### ***a. Health Risk Reduction Measures***

Requirement: The project applicant shall incorporate appropriate measures into the project design in order to reduce the potential health risk due to exposure to toxic air contaminants. The project applicant shall choose **one** of the following methods:

- i. The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment requirements to determine the health risk of exposure of project residents/occupants/users to air pollutants. The HRA shall be submitted to the City for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then health risk reduction measures are not required. If the HRA concludes that the health risk exceeds acceptable levels, health risk reduction measures shall be identified to reduce the health risk to acceptable levels. Identified risk reduction measures shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City. The approved risk reduction measures shall be implemented during construction and/or operations as applicable.

- or -

- ii. The project applicant shall incorporate the following health risk reduction measures into the project. These features shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City:
- Installation of air filtration to reduce cancer risks and Particulate Matter (PM) exposure for residents and other sensitive populations in the project that are in close proximity to sources of air pollution. Air filter devices shall be rated MERV-13 [insert MERV-16 for projects located in the West Oakland Specific Plan area] or higher. As part of implementing this measure, an ongoing maintenance plan for the building's HVAC air filtration system shall be required.
  - Where appropriate, install passive electrostatic filtering systems, especially those with low air velocities (i.e., 1 mph).
  - Phasing of residential developments when proposed within 500 feet of freeways such that homes nearest the freeway are built last, if feasible.
  - The project shall be designed to locate sensitive receptors as far away as feasible from the source(s) of air pollution. Operable windows, balconies, and building air intakes shall be located as far away from these sources as feasible. If near a distribution center, residents shall be located as far away as feasible from a loading dock or where trucks concentrate to deliver goods.
  - Sensitive receptors shall be located on the upper floors of buildings, if feasible.
  - Planting trees and/or vegetation between sensitive receptors and pollution source, if feasible. Trees that are best suited to trapping PM shall be planted, including one or more of the following: Pine (*Pinus nigra* var. *maritima*), Cypress (*X Cupressocyparis leylandii*), Hybrid poplar (*Populus deltoids X trichocarpa*), and Redwood (*Sequoia sempervirens*).
  - Sensitive receptors shall be located as far away from truck activity areas, such as loading docks and delivery areas, as feasible.
  - Existing and new diesel generators shall meet CARB's Tier 4 emission standards, if feasible.
  - Emissions from diesel trucks shall be reduced through implementing the following measures, if feasible:
    - Installing electrical hook-ups for diesel trucks at loading docks.
    - Requiring trucks to use Transportation Refrigeration Units (TRU) that meet Tier 4 emission standards.
    - Requiring truck-intensive projects to use advanced exhaust technology (e.g., hybrid) or alternative fuels.
    - Prohibiting trucks from idling for more than two minutes.
    - Establishing truck routes to avoid sensitive receptors in the project. A truck route program, along with truck calming, parking, and delivery restrictions, shall be implemented.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

***b. Maintenance of Health Risk Reduction Measures***

Requirement: The project applicant shall maintain, repair, and/or replace installed health risk reduction measures, including but not limited to the HVAC system (if applicable), on an ongoing and as-needed basis. Prior to occupancy, the project applicant shall prepare and then distribute to the building manager/operator an operation and maintenance manual for the HVAC system and filter including the maintenance and replacement schedule for the filter.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that involve a stationary pollutant source requiring a permit from BAAQMD, including but not limited to back-up diesel generators. The California Building Code requires back-up diesel generators for all buildings over 70 feet tall.]**

**24. Stationary Sources of Air Pollution (Toxic Air Contaminants)**

Requirement: The project applicant shall incorporate appropriate measures into the project design in order to reduce the potential health risk due to on-site stationary sources of toxic air contaminants. The project applicant shall choose **one** of the following methods:

- a. The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment requirements to determine the health risk associated with proposed stationary sources of pollution in the project. The HRA shall be submitted to the City for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then health risk reduction measures are not required. If the HRA concludes the health risk exceeds acceptable levels, health risk reduction measures shall be identified to reduce the health risk to acceptable levels. Identified risk reduction measures shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City. The approved risk reduction measures shall be implemented during construction and/or operations as applicable.

- or -

- b. The project applicant shall incorporate the following health risk reduction measures into the project. These features shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City:
  - i. Installation of non-diesel fueled generators, if feasible, or;
  - ii. Installation of diesel generators with an EPA-certified Tier 4 engine or engines that are retrofitted with a CARB Level 3 Verified Diesel Emissions Control Strategy, if feasible.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that involve new truck loading docks or a truck fleet of any size registered to the project applicant/operator.]**

**25. Truck-Related Risk Reduction Measures (Toxic Air Contaminants)**

**a. *Truck Loading Docks***

Requirement: The project applicant shall locate proposed truck loading docks as far from nearby sensitive receptors as feasible.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**b. *Truck Fleet Emission Standards***

Requirement: The project applicant shall comply with all applicable California Air Resources Board (CARB) requirements to control emissions from diesel engines and demonstrate compliance to the satisfaction of the City. Methods to comply include, but are not limited to, new clean diesel trucks, higher-tier diesel engine trucks with added Particulate Matter (PM) filters, hybrid trucks, alternative energy trucks, or other methods that achieve the applicable CARB emission standard. Compliance with this requirement shall be verified through CARB's Verification Procedures for In-Use Strategies to Control Emissions from Diesel Engines.

When Required: Prior to building permit final; ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving either of the following:**

**a. Demolition of structures; or**

**b. Renovation of structures known to contain or may contain asbestos.]**

**26. Asbestos in Structures**

Requirement: The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

**[The following condition applies to all projects involving both of the following:**

- a. Construction, grading, or mining activities; and**
- b. Located in an area of naturally-occurring asbestos, serpentine soils, and/or ultramafic rock (generally above Highway 13 between Shepherd Canyon Rd. and Keller Ave.; staff can refer to the map on the City server).]**

### **27. Naturally-Occurring Asbestos**

Requirement: The project applicant shall comply with all applicable laws and regulations regarding construction in areas of naturally-occurring asbestos, including but not limited to, the Bay Area Air Quality Management District's (BAAQMD) Asbestos Airborne Toxic Control Measures for Construction, Grading, Quarrying, and Surface Mining Operations (implementing California Code of Regulations, section 93105, as may be amended) requiring preparation and implementation of an Asbestos Dust Mitigation Plan to minimize public exposure to naturally-occurring asbestos. Evidence of compliance shall be submitted to the City upon request.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

## **BIOLOGICAL RESOURCES**

**[The following condition applies to all construction projects which include glass as part of the building's exterior AND at least one of the following:**

- a. The project is located immediately adjacent to a substantial water body (e.g., Oakland Estuary, San Francisco Bay, Lake Merritt or other lake, reservoir, or wetland);**
- b. The project is located immediately adjacent to recreation area or park larger than one acre and which contains substantial vegetation;**
- c. The project includes a substantial vegetated or green roof (roofs with growing medium and plants taking the place of conventional roofing, such asphalt, tile, gravel, or shingles), but excluding container gardens; or**
- d. The project includes an existing or proposed substantial vegetated area (generally contiguous one acre in size or larger) located directly adjacent to project buildings.]**

### **28. Bird Collision Reduction Measures**

Requirement: The project applicant shall submit a Bird Collision Reduction Plan for City review and approval to reduce potential bird collisions to the maximum feasible extent. The Plan shall include all of the following mandatory measures, as well as applicable and specific project Best Management Practice (BMP) strategies to reduce bird strike impacts to the maximum feasible extent. The project applicant shall implement the approved Plan. Mandatory measures include all of the following:

- i. For large buildings subject to federal aviation safety regulations, install minimum intensity white strobe lighting with three second flash instead of solid red or rotating lights.
- ii. Minimize the number of and co-locate rooftop-antennas and other rooftop structures.

- iii. Monopole structures or antennas shall not include guy wires.
- iv. Avoid the use of mirrors in landscape design.
- v. Avoid placement of bird-friendly attractants (i.e., landscaped areas, vegetated roofs, water features) near glass unless shielded by architectural features taller than the attractant that incorporate bird friendly treatments no more than two inches horizontally, four inches vertically, or both (the “two-by-four” rule), as explained below.
- vi. Apply bird-friendly glazing treatments to no less than 90 percent of all windows and glass between the ground and 60 feet above ground or to the height of existing adjacent landscape or the height of the proposed landscape. Examples of bird-friendly glazing treatments include the following:
  - Use opaque glass in window panes instead of reflective glass.
  - Uniformly cover the interior or exterior of clear glass surface with patterns (e.g., dots, stripes, decals, images, abstract patterns). Patterns can be etched, fritted, or on films and shall have a density of no more than two inches horizontally, four inches vertically, or both (the “two-by-four” rule).
  - Install paned glass with fenestration patterns with vertical and horizontal mullions no more than two inches horizontally, four inches vertically, or both (the “two-by-four” rule).
  - Install external screens over non-reflective glass (as close to the glass as possible) for birds to perceive windows as solid objects.
  - Install UV-pattern reflective glass, laminated glass with a patterned UV-reflective coating, or UV-absorbing and UV-reflecting film on the glass since most birds can see ultraviolet light, which is invisible to humans.
  - Install decorative grilles, screens, netting, or louvers, with openings no more than two inches horizontally, four inches vertically, or both (the “two-by-four” rule).
  - Install awnings, overhangs, sunshades, or light shelves directly adjacent to clear glass which is recessed on all sides.
  - Install opaque window film or window film with a pattern/design which also adheres to the “two-by-four” rule for coverage.
- vi. Reduce light pollution. Examples include the following:
  - Extinguish night-time architectural illumination treatments during bird migration season (February 15 to May 15 and August 15 to November 30).
  - Install time switch control devices or occupancy sensors on non-emergency interior lights that can be programmed to turn off during non-work hours and between 11:00 p.m. and sunrise.
  - Reduce perimeter lighting whenever possible.
  - Install full cut-off, shielded, or directional lighting to minimize light spillage, glare, or light trespass.
  - Do not use beams of lights during the spring (February 15 to May 15) or fall (August 15 to November 30) migration.
- vii. Develop and implement a building operation and management manual that promotes bird safety. Example measures in the manual include the following:
  - Donation of discovered dead bird specimens to an authorized bird conservation organization or museums (e.g., UC Berkeley Museum of Vertebrate Zoology) to aid in

species identification and to benefit scientific study, as per all federal, state and local laws.

- Distribution of educational materials on bird-safe practices for the building occupants. Contact Golden Gate Audubon Society or American Bird Conservancy for materials.
- Asking employees to turn off task lighting at their work stations and draw office blinds, shades, curtains, or other window coverings at end of work day.
- Install interior blinds, shades, or other window coverings in windows above the ground floor visible from the exterior as part of the construction contract, lease agreement, or CC&Rs.
- Schedule nightly maintenance during the day or to conclude before 11 p.m., if possible.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**The following condition applies to all projects that involve removal of a tree (either protected or unprotected tree).]**

### **29. Tree Removal During Bird Breeding Season**

Requirement: To the extent feasible, removal of any tree and/or other vegetation suitable for nesting of birds shall not occur during the bird breeding season of February 1 to August 15 (or during December 15 to August 15 for trees located in or near marsh, wetland, or aquatic habitats). If tree removal must occur during the bird breeding season, all trees to be removed shall be surveyed by a qualified biologist to verify the presence or absence of nesting raptors or other birds. Pre-removal surveys shall be conducted within 15 days prior to the start of work and shall be submitted to the City for review and approval. If the survey indicates the potential presence of nesting raptors or other birds, the biologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be determined by the biologist in consultation with the California Department of Fish and Wildlife, and will be based to a large extent on the nesting species and its sensitivity to disturbance. In general, buffer sizes of 200 feet for raptors and 50 feet for other birds should suffice to prevent disturbance to birds nesting in the urban environment, but these buffers may be increased or decreased, as appropriate, depending on the bird species and the level of disturbance anticipated near the nest.

When Required: Prior to removal of trees

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**The following condition applies to all projects requiring a tree permit per the City's Tree Protection Ordinance (OMC Chap. 12.36).]**

### **30. Tree Permit**

#### ***a. Tree Permit Required***

Requirement: Pursuant to the City's Tree Protection Ordinance (OMC chapter 12.36), the project applicant shall obtain a tree permit and abide by the conditions of that permit.

When Required: Prior to approval of construction-related permit

Initial Approval: Permit approval by Public Works Department, Tree Division; evidence of approval submitted to Bureau of Building

Monitoring/Inspection: Bureau of Building

***b. Tree Protection During Construction***

Requirement: Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist:

- i. Before the start of any clearing, excavation, construction, or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the project's consulting arborist. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
- ii. Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filling, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the project's consulting arborist from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
- iii. No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the project's consulting arborist from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the project's consulting arborist. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.
- iv. Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.
- v. If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Department and the project's consulting arborist shall make a recommendation to the City Tree Reviewer as to whether the damaged tree can be preserved. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.
- vi. All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall

be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.

When Required: During construction

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

**c. *Tree Replacement Plantings***

Requirement: Replacement plantings shall be required for tree removals for the purposes of erosion control, groundwater replenishment, visual screening, wildlife habitat, and preventing excessive loss of shade, in accordance with the following criteria:

- i. No tree replacement shall be required for the removal of nonnative species, for the removal of trees which is required for the benefit of remaining trees, or where insufficient planting area exists for a mature tree of the species being considered.
- ii. Replacement tree species shall consist of *Sequoia sempervirens* (Coast Redwood), *Quercus agrifolia* (Coast Live Oak), *Arbutus menziesii* (Madrone), *Aesculus californica* (California Buckeye), *Umbellularia californica* (California Bay Laurel), or other tree species acceptable to the Tree Division.
- iii. Replacement trees shall be at least twenty-four (24) inch box size, unless a smaller size is recommended by the arborist, except that three fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.
- iv. Minimum planting areas must be available on site as follows:
  - For *Sequoia sempervirens*, three hundred fifteen (315) square feet per tree;
  - For other species listed, seven hundred (700) square feet per tree.
- v. In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee in accordance with the City's Master Fee Schedule may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.
- vi. The project applicant shall install the plantings and maintain the plantings until established. The Tree Reviewer of the Tree Division of the Public Works Department may require a landscape plan showing the replacement plantings and the method of irrigation. Any replacement plantings which fail to become established within one year of planting shall be replanted at the project applicant's expense.

When Required: Prior to building permit final

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

**The following condition applies to all projects located within the area mapped as critical habitat for the Alameda Whipsnake by the U.S. Fish & Wildlife Service and confirmed as habitat by a biological report prior to project approval. This area (in Oakland) is generally bounded by the Alameda/Contra Costa border to the north, Oakland/Berkeley border to the west, Snake Road to the east, and above Tunnel Road/Highway 13 (staff can refer to the City's GIS map). (\*\*\*)NOTE: PRESENCE OF HABITAT GENERALLY PRECLUDES USE OF A CEQA CATEGORICAL EXEMPTION(\*\*\*)]**

### **31. Alameda Whipsnake Protection Measures**

#### ***a. Pre-Construction Survey Required***

Requirement: The project applicant shall hire a qualified biologist to conduct an Alameda whipsnake survey to identify the potential presence of Alameda whipsnakes at the project site. If the presence of Alameda whipsnakes is confirmed, the whipsnakes shall be captured and relocated away from the construction area by a qualified biologist in accordance with all applicable regulations and guidelines. The biologist shall submit the results of the survey (and capture/relocation if applicable) to the City for review and approval.

When Required: Prior to any construction-related activity

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

#### ***b. Information and Protocols for Construction Workers***

Requirement: The biologist from section (a) above shall instruct the project superintendent and the construction crews (primarily the clearing, demolition, and foundation crews) of the potential presence, status, and identification of Alameda whipsnakes. The biologist shall also establish a set of protocols for use during construction concerning the steps to take if a whipsnake is seen on the project site, including who to contact, to ensure that whipsnakes are not harmed or killed. The project applicant shall submit evidence of compliance with these requirements to the City for review and approval.

When Required: Prior to any construction-related activity

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

#### ***c. Alameda Whipsnake Exclusion Fence***

Requirement: Unless alternative (equivalent or more effective) measures are recommended by the biologist, the project applicant shall install a solid fence to prevent whipsnakes from entering the work site. The snake exclusion fence shall be constructed as follows:

- i. Plywood sheets at least three feet in height, above ground. Heavy duty geotextile fabric approved by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife may also be used for the snake exclusion fence;
- ii. Buried four to six inches into the ground;
- iii. Soil back-filled against the plywood fence to create a solid barrier at the ground;
- iv. Plywood sheets maintained in an upright position with wooden or masonry stakes;
- v. Ends of each plywood sheet overlapped to ensure a continuous barrier; and
- vi. Work site or construction area shall be completely enclosed by the exclusion fence or approved traps shall be installed at the ends of exclusion fence segments to allow

capture and relocation of Alameda whipsnake away from the construction area by a qualified biologist.

The location and design of the proposed exclusion fence shall be submitted for review and approval by the City and be included on plans for all construction-related permits.

When Required: Prior to any construction-related activity

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

***d. Alameda Whipsnake Protection During Construction***

Requirement: The project applicant shall comply with the requirements in the above sections during construction activities. The approved protocol from section (b) above shall be followed in the event Alameda whipsnakes are encountered. The snake exclusion fence from section (c) above shall be installed and remain in place throughout the construction period. All construction activities and equipment/materials/debris storage shall take place on the project-side of the exclusion fence.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[See Hydrology and Water Quality section for other conditions related to biological resources.]**

## **CULTURAL RESOURCES**

**[The following condition applies to all projects involving construction.]**

### **32. Archaeological and Paleontological Resources – Discovery During Construction**

Requirement: Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.

In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions

applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.

In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that involve construction and are located in archaeologically sensitive areas. Archaeologically sensitive areas are areas in which previous CEQA documents or other sources of information identify a higher likelihood of archaeological finds.]**

### **33. Archaeologically Sensitive Areas – Pre-Construction Measures**

Requirement: The project applicant shall implement either Provision A (Intensive Pre-Construction Study) or Provision B (Construction ALERT Sheet) concerning archaeological resources.

#### **Provision A: Intensive Pre-Construction Study.**

The project applicant shall retain a qualified archaeologist to conduct a site-specific, intensive archaeological resources study for review and approval by the City prior to soil-disturbing activities occurring on the project site. The purpose of the site-specific, intensive archaeological resources study is to identify early the potential presence of history-period archaeological resources on the project site. At a minimum, the study shall include:

- a. Subsurface presence/absence studies of the project site. Field studies may include, but are not limited to, auguring and other common methods used to identify the presence of archaeological resources.
- b. A report disseminating the results of this research.
- c. Recommendations for any additional measures that could be necessary to mitigate any adverse impacts to recorded and/or inadvertently discovered cultural resources.

If the results of the study indicate a high potential presence of historic-period archaeological resources on the project site, or a potential resource is discovered, the project applicant shall hire a qualified archaeologist to monitor any ground disturbing activities on the project site during construction and prepare an ALERT sheet pursuant to Provision B below that details what could potentially be found at the project site. Archaeological monitoring would include briefing

construction personnel about the type of artifacts that may be present (as referenced in the ALERT sheet, required per Provision B below) and the procedures to follow if any artifacts are encountered, field recording and sampling in accordance with the Secretary of Interior's Standards and Guidelines for Archaeological Documentation, notifying the appropriate officials if human remains or cultural resources are discovered, and preparing a report to document negative findings after construction is completed if no archaeological resources are discovered during construction.

**Provision B: Construction ALERT Sheet.**

The project applicant shall prepare a construction "ALERT" sheet developed by a qualified archaeologist for review and approval by the City prior to soil-disturbing activities occurring on the project site. The ALERT sheet shall contain, at a minimum, visuals that depict each type of artifact that could be encountered on the project site. Training by the qualified archaeologist shall be provided to the project's prime contractor, any project subcontractor firms (including demolition, excavation, grading, foundation, and pile driving), and utility firms involved in soil-disturbing activities within the project site.

The ALERT sheet shall state, in addition to the basic archaeological resource protection measures contained in other standard conditions of approval, all work must stop and the City's Environmental Review Officer contacted in the event of discovery of the following cultural materials: concentrations of shellfish remains; evidence of fire (ashes, charcoal, burnt earth, fire-cracked rocks); concentrations of bones; recognizable Native American artifacts (arrowheads, shell beads, stone mortars [bowls], humanly shaped rock); building foundation remains; trash pits, privies (outhouse holes); floor remains; wells; concentrations of bottles, broken dishes, shoes, buttons, cut animal bones, hardware, household items, barrels, etc.; thick layers of burned building debris (charcoal, nails, fused glass, burned plaster, burned dishes); wood structural remains (building, ship, wharf); clay roof/floor tiles; stone walls or footings; or gravestones. Prior to any soil-disturbing activities, each contractor shall be responsible for ensuring that the ALERT sheet is circulated to all field personnel, including machine operators, field crew, pile drivers, and supervisory personnel. The ALERT sheet shall also be posted in a visible location at the project site.

When Required: Prior to approval of construction-related permit; during construction

Initial Approval: Bureau of Building; Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction.]**

**34. Human Remains – Discovery During Construction**

Requirement: Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt and the project applicant shall notify the City and the Alameda County Coroner. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made. In the event that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of section 7050.5 of the California Health and Safety Code. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe

required to resume construction activities. Monitoring, data recovery, determination of significance, and avoidance measures (if applicable) shall be completed expeditiously and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that involve demolition of a Potential Designated Historic Property (PDHP) or a CEQA Historic Resource.]**

### **35. Property Relocation**

Requirement: Pursuant to Policy 3.7 of the Historic Preservation Element of the Oakland General Plan, the project applicant shall make a good faith effort to relocate the historic resource to a site acceptable to the City. A good faith effort includes, at a minimum, all of the following:

- a. Advertising the availability of the building by: (1) posting of large visible signs (such as banners, at a minimum of 3' x 6' size or larger) at the site; (2) placement of advertisements in Bay Area news media acceptable to the City; and (3) contacting neighborhood associations and for-profit and not-for-profit housing and preservation organizations;
- b. Maintaining a log of all the good faith efforts and submitting that along with photos of the subject building showing the large signs (banners) to the City;
- c. Maintaining the signs and advertising in place for a minimum of 90 days; and
- d. Making the building available at no or nominal cost (the amount to be reviewed by the Oakland Cultural Heritage Survey) until removal is necessary for construction of a replacement project, but in no case for less than a period of 90 days after such advertisement.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning (including Oakland Cultural Resource Survey)

Monitoring/Inspection: N/A

## **GEOLOGY AND SOILS**

**[The following condition applies to all projects requiring a construction-related permit.]**

### **36. Construction-Related Permit(s)**

Requirement: The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving 1) a subdivision (except condominium subdivisions and subdivisions between existing buildings with no new structures) per OMC sections 16.20.060 and 16.24.090 or 2) a grading permit per OMC section 15.04.660. The condition does not apply to projects located in an Earthquake Fault Zone or a Seismic Hazards Zone (see other conditions applicable to those projects).]**

### **37. Soils Report**

**Requirement:** The project applicant shall submit a soils report prepared by a registered geotechnical engineer for City review and approval. The soils report shall contain, at a minimum, field test results and observations regarding the nature, distribution and strength of existing soils, and recommendations for appropriate grading practices and project design. The project applicant shall implement the recommendations contained in the approved report during project design and construction.

**When Required:** Prior to approval of construction-related permit

**Initial Approval:** Bureau of Building

**Monitoring/Inspection:** Bureau of Building

**[The following condition applies to all projects located in an Earthquake Fault Zone per the State Alquist-Priolo Fault Zoning Act and OMC chap. 15.20 (staff can refer to the City's GIS map) and involve at least one of the following:**

- a. New structures (except single-family wood or steel frame dwellings not exceeding two stories and not located within 100 feet of a potentially active fault);**
- b. Major additions or alterations (defined as exceeding 50% of the value of the structure or 50% of the floor area of the structure); or**
- c. Subdivisions (except condominium subdivisions and subdivisions between existing buildings with no new structures).**

**NOTE: The report referenced in this condition is typically required prior to project approval.]**

### **38. Earthquake Fault Zone**

**Requirement:** The project applicant shall submit a site-specific fault location investigation, as defined in California Geological Survey Note 49 (as amended), prepared by a certified engineering geologist for City review and approval containing at a minimum the results of subsurface investigations, locations of hazardous faults adjacent to the project site, recommended setback distances of proposed structures from hazardous faults, and additional recommended measures to accommodate warping and distributive deformation associated with faulting (e.g., strengthened foundations, engineering design, flexible utility connections). The project applicant shall implement the recommendations contained in the approved report during project design and construction.

**When Required:** Prior to approval of construction-related permit

**Initial Approval:** Bureau of Building

**Monitoring/Inspection:** Bureau of Building

[The following condition applies to all projects located in a Seismic Hazards Zone per the State Seismic Hazards Mapping Act (pertaining to seismically-induced liquefaction and landslides) (staff can refer to the City's GIS map) and involve at least one of the following:

- a. New structures (except single-family dwellings not part of a development of four or more dwellings);
- b. Major additions or alterations (defined as exceeding 50% of the value of the structure or 50% of the floor area of the structure); or
- c. Subdivisions (except condominium subdivisions and subdivisions between existing buildings with no new structures).

**NOTE: The report referenced in this condition is typically required prior to project approval.]**

### **39. Seismic Hazards Zone (Landslide/Liquefaction)**

Requirement: The project applicant shall submit a site-specific geotechnical report, consistent with California Geological Survey Special Publication 117 (as amended), prepared by a registered geotechnical engineer for City review and approval containing at a minimum a description of the geological and geotechnical conditions at the site, an evaluation of site-specific seismic hazards based on geological and geotechnical conditions, and recommended measures to reduce potential impacts related to liquefaction and/or slope stability hazards. The project applicant shall implement the recommendations contained in the approved report during project design and construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

[The following condition applies to all projects that meet all of the following criteria:

- a. Newly constructed land use facility (residential, civic, commercial, or industrial);
- b. Geologic hazard present, as defined in California Public Resources Code section 26507 as an actual or threatened landslide, land subsidence, soil erosion, earthquake, fault movement, or any other natural or unnatural movement of land or earth; and
- c. Technical report pertaining to the actual or threatened geologic hazard specifies the need for a Geologic Hazards Abatement District (GHAD) or a substantial degree of construction attention, site monitoring, or maintenance of project improvements.

### **40. Oakland Area Geologic Hazard Abatement District (GHAD)**

Requirement: Prior to approval of the final map or issuance of a building permit (whichever occurs first), the project applicant shall provide to the City 1) all required resolutions from the GHAD and City Council showing that the project property has been annexed into the GHAD, and 2) a statement from the GHAD Manager stating that an adequate funding mechanism is in place to fund the GHAD operations for the annexed property. To begin the annexation process, the project applicant shall submit a petition for annexation to the GHAD Manager which shall include but is not limited to a proposed Plan of Control as defined in Public Resource Code Section 26509, specifying all anticipated operations and maintenance responsibilities of the GHAD for the annexed property. The project applicant will be required to pay to the GHAD costs

and fees associated with the annexation request, which includes the preparation and review of all necessary documents and resolutions by the GHAD Manager and/or GHAD Attorney. The GHAD Manager may require the project applicant to provide initial funding to allow the GHAD to operate with respect to the annexed property during the time a secure and stable financing source is obtained to ultimately fund the long term operations of the GHAD for the annexed property. If a real property assessment is proposed as a financing mechanism, the project applicant shall prepare an engineer's report identifying the projected costs and budget for GHAD operations for the annexed property and comply with all assessment voting requirements and other requirements in Proposition 218. If annexation is not approved by the GHAD and/or City Council, the project applicant shall demonstrate to the City's satisfaction that 1) another entity will and has assumed the responsibilities proposed for the GHAD ("Other Responsible Entity") and 2) there is an adequate financing mechanism in place to carry out those responsibilities.

The project applicant shall defend, hold harmless, and indemnify the GHAD, its officers, and agents against any and all liability, damages, claims, demands, judgments, losses, or other forms of legal or equitable relief relating to the GHAD annexation process and the securing/approval of funding sources by the GHAD and in the case of the City Council members, actions taken by said members while acting as the GHAD Board of Directors.

The project applicant shall request the GHAD or Other Responsible Entity to defend, hold harmless, and indemnify the Indemnified Parties (as defined in these Conditions of Approval) and their insurers against any and all liability, damages, claims, demands, judgments, losses, or other forms of legal or equitable relief related to the responsibilities and operation of the GHAD or Other Responsible Entity (including, without limitation, maintenance of GHAD/Other Responsibility Entity owned property) relating to the annexed property ("Indemnified Geologic Claims") and in the case of the City Council members, actions taken by said members while acting as the GHAD Board of Directors. This indemnity shall include, without limitation, payment of litigation expenses relating to the qualified Indemnified Geologic Claims. The Indemnified Parties shall take all reasonable steps to promptly notify the GHAD/Other Responsible Entity of any claim, demand, or legal actions that may create a claim for indemnification under this condition of approval. Within 90 days of the annexation to the GHAD or acceptance by the Other Responsible Entity, the applicant shall request the GHAD or Other Responsible Entity to enter into an Indemnification Agreement to establish in more specific detail the terms and conditions of the indemnification obligations set forth herein. The parties acknowledge that the GHAD can only provide indemnification as allowed by law. Any failure of any party to timely execute such Indemnification Agreement shall not be construed to limit any right or obligation otherwise specified in these Conditions of Approval.

When Required: Ongoing as specified in the condition

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Planning

## **GREENHOUSE GAS EMISSIONS / GLOBAL CLIMATE CHANGE**

**[The following condition applies to all projects that submitted an Equitable Climate Action Plan (ECAP) Consistency Checklist that committed to all the measures in the ECAP Consistency Checklist.]**

#### **41. Project Compliance with the Equitable Climate Action Plan (ECAP) Consistency Checklist**

Requirement: The project applicant shall implement all the measures in the Equitable Climate Action Plan (ECAP) Consistency Checklist that was submitted during the Planning entitlement phase.

- a. For physical ECAP Consistency Checklist measures to be incorporated into the design of the project, the measures shall be included on the drawings submitted for construction-related permits.

When Required: Prior to approval of construction-related permit.

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Planning

- b. For physical ECAP Consistency Checklist measures to be incorporated into the design of the project, the measures shall be implemented during construction.

When Required: During construction

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

- c. For ECAP Consistency Checklist measures that are operational but not otherwise covered by these SCAs, including but not limited to the requirement for transit passes or additional Transportation Demand Management measures, the applicant shall provide notice of these measures to employees and/or residents and post these requirements in a public place such as a lobby or work area accessible to the employees and/or residents.

When Required: Ongoing

Monitoring/Inspection: Bureau of Planning

**[The following condition applies under any of the following scenarios for projects which require a consistency analysis or greenhouse gas (GHG) analysis under CEQA.]**

- a. **Scenario A: Projects which (a) involve a land use development (i.e., a project that does not require a permit from the Bay Area Air Quality Management District [BAAQMD] to operate), and (b) does not commit to all of the GHG emissions reductions strategies described on the ECAP Consistency Checklist, as originally adopted by the Planning Commission on \_\_\_\_\_, 2020 and as may be amended administratively from time to time.**
- b. **Scenario B: Projects which (a) involve a stationary source of GHG (i.e., a project that requires a permit from BAAQMD to operate) and (b) after a GHG analysis is prepared would produce total GHG emissions of more than 10,000 metric tons of CO<sub>2</sub>e annually).**

**[The Greenhouse Gas (GHG) Reduction Plan referenced in the following condition may be required prior to project approval.]**

#### **42. Greenhouse Gas (GHG) Reduction Plan**

- a. *Greenhouse Gas (GHG) Reduction Plan Required*

Requirement: The project applicant shall retain a qualified air quality consultant to develop a Greenhouse Gas (GHG) Reduction Plan for City review and approval and shall implement the approved GHG Reduction Plan.

The goal of the GHG Reduction Plan shall be to increase energy efficiency and

**[INCLUDE THIS LANGUAGE IF SCENARIO A:]** to reduce GHG emissions to at least the amount that would be achieved by committing to all of the emissions reductions strategies identified on the ECAP Consistency Checklist as the City’s project-level implementation of its Equitable Climate Action Plan (adopted in 2020), which calls for reducing city-wide GHG emissions by 56 percent below 2005 levels by 2030 and 83 percent by 2050. The GHG Reduction Plan shall include, at a minimum, (a) a detailed quantified GHG emissions inventory for the project taking into consideration energy efficiencies included as part of the project (including proposed mitigation measures, project design features, those strategies being implemented and other City requirements), (b) for each ECAP Consistency Checklist strategy that the project will not meet, a quantified calculation of the additional GHG emission reductions that would have occurred had it implemented the GHG emissions reduction measure consistent with the ECAP Consistency Checklist, (c) a quantified strategy for achieving an GHG emission reduction equivalent to the reduction that would have resulted from complying with the ECAP Consistency Checklist strategy, and (d) requirements for ongoing monitoring and reporting to demonstrate that the additional GHG reduction measures are being implemented.

**[INCLUDE THIS LANGUAGE IF SCENARIO B:]** to reduce GHG emissions to below the Bay Area Quality Management District’s (BAAQMD’s) CEQA Thresholds of Significance (10,000 metric tons of CO<sub>2</sub>e per year). The GHG Reduction Plan shall include, at a minimum, (a) a detailed quantified GHG emissions inventory for the project under a “business-as-usual” scenario with no consideration of project design features, or other energy efficiencies, (b) a quantified “adjusted” baseline GHG emissions inventory for the project, taking into consideration energy efficiencies included as part of the project (including proposed mitigation measures, project design features, those strategies being implemented and other City requirements), and any additional alternative GHG reduction measures available to further reduce GHG emissions to at least below the Checklist baseline, and (c) requirements for ongoing monitoring and reporting to demonstrate that the additional GHG reduction measures are being implemented.

**[INCLUDE FOR BOTH SCENARIO A AND SCENARIO B]**

If the project is to be constructed in phases, the GHG Reduction Plan shall provide GHG emission scenarios by phase.

Potential additional GHG reduction measures to be considered include, but are not be limited to, measures recommended in BAAQMD’s latest CEQA Air Quality Guidelines, the California Air Resources Board Scoping Plan (December 2008, as may be revised), the California Air Pollution Control Officers Association (CAPCOA) Quantifying Greenhouse Gas Mitigation Measures (August 2010, as may be revised), the California Attorney General’s website, and Reference Guides on Leadership in Energy and Environmental Design (LEED) published by the U.S. Green Building Council.

The types of allowable GHG reduction measures include the following (listed in order of City preference): (1) physical design features; (2) operational features; and (3) the payment of fees to fund GHG-reducing programs (i.e., the purchase of “carbon credits”) as explained below.

The allowable locations of the GHG reduction measures include the following (listed in order of City preference): (1) the project site; (2) off-site within the City of Oakland; (3) off-site within the San Francisco Bay Area Air Basin; then (4) off-site within the State of California;

As with preferred locations for the implementation of all GHG reductions measures, the preference for carbon credit purchases include those that can be achieved as follows (listed in order of City preference): (1) within the City of Oakland; (2) within the San Francisco Bay Area Air Basin; then (3) within the State of California. The cost of carbon credit purchases shall be based on current market value at the time purchased and shall be based on the project’s net difference operational emissions estimated in the GHG Reduction Plan for the project as compared to the Checklist baseline.

For physical GHG reduction measures to be incorporated into the design of the project, the measures shall be included on the drawings submitted for construction-related permits.

When Required: Prior to approval of construction-related permit.

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

**b. *GHG Reduction Plan Implementation During Construction***

Requirement: The project applicant shall implement the GHG Reduction Plan during construction of the project. For physical GHG reduction measures to be incorporated into the design of the project, the measures shall be implemented during construction. For physical GHG reduction measures to be incorporated into off-site projects, the project applicant shall obtain all necessary permits/approvals and the measures shall be included on drawings and submitted to the City Planning Director or his/her designee for review and approval. These off-site improvements shall be installed prior to completion of the subject project (or prior to completion of the project phase for phased projects). For GHG reduction measures involving the purchase of carbon credits, evidence of the payment/purchase shall be submitted to the City for review and approval prior to completion of the project (or prior to completion of the project phase, for phased projects).

When Required: During construction

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**c. *GHG Reduction Plan Implementation After Construction***

Requirement: The project applicant shall implement the GHG Reduction Plan after construction of the project (or at the completion of the project phase for phased projects). For operational GHG reduction measures to be incorporated into the project or off-site projects, the measures shall be implemented on an indefinite and ongoing basis.

The project applicant shall satisfy the following requirements for ongoing monitoring and reporting to demonstrate that the additional GHG reduction measures are being implemented. The GHG Reduction Plan requires regular periodic evaluation over the life of the project (generally estimated to be at least 40 years) to determine how the Plan is achieving required GHG emissions reductions over time, as well as the efficacy of the specific additional GHG reduction measures identified in the Plan.

**Annual Report.** Implementation of the GHG reduction measures and related requirements shall be ensured through compliance with Conditions of Approval adopted for the project. Generally, starting two years after the City issues the first Certificate of Occupancy for the project, the project applicant shall prepare each year of the useful life of the project an Annual GHG Emissions Reduction Report (“Annual Report”), for review and approval by the City Planning Director or his/her designee. The Annual Report shall be submitted to an independent reviewer of the City’s choosing, to be paid for by the project applicant.

The Annual Report shall summarize the project’s implementation of GHG reduction measures over the preceding year, intended upcoming changes, compliance with the conditions of the Plan, and include a brief summary of the previous year’s Annual Report results (starting the second year). The Annual Report shall include a comparison of annual project emissions to the Checklist baseline emissions reported in the GHG Plan.

The GHG Reduction Plan shall be considered fully attained when project emissions are less than the

**[INCLUDE THIS LANGUAGE IF SCENARIO A:]** Checklist baseline, as confirmed by the City through an established monitoring program. Monitoring and reporting activities will continue at the City’s discretion, as discussed below.

**[INCLUDE THIS LANGUAGE IF SCENARIO B:]** under the 10,000 metric tons of CO<sub>2</sub>e annually, as confirmed by the City through an established monitoring program. Monitoring and reporting activities will continue at the City’s discretion, as discussed below.

**Corrective Procedure.** If the third Annual Report, or any report thereafter, indicates that, in spite of the implementation of the GHG Reduction Plan, the project is not achieving the GHG reduction goal, the project applicant shall prepare a report for City review and approval, which proposes additional or revised GHG measures to better achieve the GHG emissions reduction goals, including without limitation, a discussion on the feasibility and effectiveness of the menu of other additional measures (“Corrective GHG Action Plan”). The project applicant shall then implement the approved Corrective GHG Action Plan.

If, one year after the Corrective GHG Action Plan is implemented, the required GHG emissions reduction target is still not being achieved, or if the project applicant fails to submit a report at the times described above, or if the reports do not meet City requirements outlined above, the City may, in addition to its other remedies, (a) assess the project applicant a financial penalty based upon actual percentage reduction in GHG emissions as compared to the percent reduction in GHG emissions established in the GHG Reduction Plan; or (b) refer the matter to the City Planning Commission for scheduling of a compliance hearing to determine whether the project’s approvals should be revoked, altered or additional conditions of approval imposed.

The penalty as described in (a) above shall be determined by the City Planning Director or his/her designee and be commensurate with the percentage GHG emissions reduction not achieved compared to the applicable numeric significance thresholds described in the GHG Reduction Plan.

In determining whether a financial penalty or other remedy is appropriate, the City shall not impose a penalty if the project applicant has made a good faith effort to comply with the GHG Reduction Plan.

The City would only have the ability to impose a monetary penalty after a reasonable cure period and in accordance with the enforcement process outlined in Planning Code

Chapter 17.152. If a financial penalty is imposed, such penalty sums shall be used by the City solely toward the implementation of the Equitable Climate Action Plan.

**Timeline Discretion and Summary.** The City shall have the discretion to reasonably modify the timing of reporting, with reasonable notice and opportunity to comment by the applicant, to coincide with other related monitoring and reporting required for the project.

When Required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Planning

## HAZARDS AND HAZARDOUS MATERIALS

**[The following condition applies to all projects involving construction activities.]**

### **43. Hazardous Materials Related to Construction**

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:

- a. Follow manufacturer's recommendations for use, storage, and disposal of chemical products used in construction;
- b. Avoid overtopping construction equipment fuel gas tanks;
- c. During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d. Properly dispose of discarded containers of fuels and other chemicals;
- e. Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and
- f. If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notifying the City and applicable regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving (a) redevelopment or change of use of a historically industrial or commercial site; (b) a contaminated site as identified in City records; or**

(c) a site listed on the State Cortese List; and site remediation activities are required based on an environmental site assessment. (Note 1: Presence on the Cortese List precludes use of a Categorical Exemption under CEQA, but a Statutory Exemption {such as section 15183 and/or 15183.3} may apply. In that case, staff should consult first with a supervisor and then with the City Attorney's Office. Note 2: The environmental site assessment referenced in this condition is typically required prior to project approval.)]

#### **44. Hazardous Building Materials and Site Contamination**

##### ***a. Hazardous Building Materials Assessment***

Requirement: The project applicant shall submit a comprehensive assessment report to the Bureau of Building, signed by a qualified environmental professional, documenting the presence or lack thereof of asbestos-containing materials (ACMs), lead-based paint, polychlorinated biphenyls (PCBs), and any other building materials or stored materials classified as hazardous materials by State or federal law. If lead-based paint, ACMs, PCBs, or any other building materials or stored materials classified as hazardous materials are present, the project applicant shall submit specifications prepared and signed by a qualified environmental professional, for the stabilization and/or removal of the identified hazardous materials in accordance with all applicable laws and regulations. The project applicant shall implement the approved recommendations and submit to the City evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.

When Required: Prior to approval of demolition, grading, or building permits

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

##### ***b. Environmental Site Assessment Required***

Requirement: The project applicant shall submit a Phase I Environmental Site Assessment report, and Phase II Environmental Site Assessment report if warranted by the Phase I report, for the project site for review and approval by the City. The report(s) shall be prepared by a qualified environmental assessment professional and include recommendations for remedial action, as appropriate, for hazardous materials. The project applicant shall implement the approved recommendations and submit to the City evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.

When Required: Prior to approval of construction-related permit.

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

##### ***c. Health and Safety Plan Required***

Requirement: The project applicant shall submit a Health and Safety Plan for the review and approval by the City in order to protect project construction workers from risks associated with hazardous materials. The project applicant shall implement the approved Plan.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

##### ***d. Best Management Practices (BMPs) Required for Contaminated Sites***

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential soil and groundwater hazards. These shall include the following:

- i. Soil generated by construction activities shall be stockpiled on-site in a secure and safe manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Specific sampling and handling and transport procedures for reuse or disposal shall be in accordance with applicable local, state, and federal requirements.
- ii. Groundwater pumped from the subsurface shall be contained on-site in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving the handling, storage, or transportation of hazardous materials during business operations.]**

#### **45. Hazardous Materials Business Plan**

Requirement: The project applicant shall submit a Hazardous Materials Business Plan for review and approval by the City, and shall implement the approved Plan. The approved Plan shall be kept on file with the City and the project applicant shall update the Plan as applicable. The purpose of the Hazardous Materials Business Plan is to ensure that employees are adequately trained to handle hazardous materials and provides information to the Fire Department should emergency response be required. Hazardous materials shall be handled in accordance with all applicable local, state, and federal requirements. The Hazardous Materials Business Plan shall include the following:

- a. The types of hazardous materials or chemicals stored and/or used on-site, such as petroleum fuel products, lubricants, solvents, and cleaning fluids.
- b. The location of such hazardous materials.
- c. An emergency response plan including employee training information.
- d. A plan that describes the manner in which these materials are handled, transported, and disposed.

When Required: Prior to building permit final

Initial Approval: Oakland Fire Department

Monitoring/Inspection: Oakland Fire Department

**[The following condition applies to all projects to be constructed in phases and the furthest structure is over 150' from the nearest fire hydrant.]**

#### **46. Fire Safety Phasing Plan**

Requirement: The project applicant shall submit a Fire Safety Phasing Plan for City review and approval, and shall implement the approved Plan. The Fire Safety Phasing Plan shall include all of the fire safety features and emergency vehicle access incorporated into each phase of the project and the schedule for implementation of the features.

When Required: Prior to approval of construction-related permit

Initial and Revision Approval: Oakland Fire Department

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction of new facilities (e.g., new primary dwellings, new commercial buildings) located in the Designated Very High Fire Severity Zone (staff can refer to the map on the City server).] (\*\*NOTE: if the parcel is located in the designated very high fire severity zone and is confirmed as habitat by a threatened or endangered plant or animal species this will generally preclude the use of a CEQA categorical exemption\*\*)]**

#### **47. Designated Very High Fire Severity Zone – Vegetation Management**

##### ***a. Vegetation Management Plan Required***

Requirement: The project applicant shall submit a Vegetation Management Plan for City review and approval, and shall implement the approved Plan prior to, during, and after construction of the project. The Vegetation Management Plan may be combined with the Landscape Plan otherwise required by the Conditions of Approval. The Vegetation Management Plan shall include, at a minimum, the following measures:

- i. Removal of all tree branches and vegetation that overhang the horizontal building roof line and chimney areas within 10 feet vertically;
- ii. Removal of leaves and needles from roofs and rain gutters;
- iii. Planting and placement of fire-resistant plants around the house and phasing out flammable vegetation, however, ornamental vegetation shall not be planted within 5 feet of the foundation of the residential structure;
- iv. Trimming back vegetation around windows;
- v. Removal of flammable vegetation on hillside slopes greater than 20%; Defensible space requirements shall clear all hillsides of non-ornamental vegetation within 30 feet of the residential structure on slopes of 5% or less, within 50 feet on slopes of 5 to 20% and within 100 feet or to the property line on slopes greater than 20%.

- vi. All trees shall be pruned up at least  $\frac{1}{4}$  the height of the tree from the ground at the base of the trunk;
- vii. Clearing out ground-level brush and debris; and All non-ornamental plants, seasonal weeds & grasses, brush, leaf litter and debris within 30 feet of the residential structure shall be cut, raked and removed from the parcel.
- viii. Stacking woodpiles away from structures at least 20 feet from residential structures.
- ix. If a biological report, prepared by a qualified biologist and reviewed by the Bureau of Planning, identifies threatened or endangered species on the parcel, the Vegetation Management Plan shall include islands of habitat refuge for the species noted on a site plan and appropriate fencing for the species shall be installed. Clearing of vegetation within these islands of refuge shall occur solely for the purpose of fire suppression within a designated Very High Fire Severity Zone and only upon the Fire Code Official approving specific methods and timeframes for clearing that take into account the specific flora and fauna species.

When Required: Prior to approval of construction-related permit

Initial Approval: Oakland Fire Department

Monitoring/Inspection: Oakland Fire Department

***b. Fire Safety Prior to Construction***

Requirement: The project plans shall specify that prior to construction, the project applicant shall ensure that the project contractor cuts, rakes and removes all combustible ground level vegetation project to a height of 6" or less from the construction, access and staging areas to reduce the threat of fire ignition per Sections 304.1.1 and 304.1.2 of the California Fire Code.

When Required: Prior to approval of construction-related permit

Initial Approval: Oakland Fire Department

Monitoring/Inspection: Oakland Fire Department

***c. Fire Safety During Construction***

Requirement: The project applicant shall require the construction contractor to implement spark arrestors on all construction vehicles and equipment to minimize accidental ignition of dry construction debris and surrounding dry vegetation. Per section 906 of the California Fire Code, during construction, the contractor shall have at minimum three (3) type 2A10BC fire extinguishers present on the job site, with current SFM service tags attached and these extinguishers shall be deployed in the immediate presence of workers for use in the event of an ignition.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

***d. Smoking Prohibition***

Requirement: The project applicant shall require the construction contractor to implement a no smoking policy on the site and surrounding area during construction per Section 310.8 of the California Fire Code.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building and Oakland Fire Department

## HYDROLOGY AND WATER QUALITY

[The following condition applies to all projects involving construction activities, except projects: a) requiring a grading permit; b) located on a hillside property (20% or greater slope); or c) requiring a category III or IV creek protection permit (see other conditions applicable to these other projects).]

### **48. Erosion and Sedimentation Control Measures for Construction**

Requirement: The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. At a minimum, the project applicant shall provide filter materials deemed acceptable to the City at nearby catch basins to prevent any debris and dirt from flowing into the City's storm drain system and creeks.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

[The following condition applies to all projects involving construction activities that require a grading permit per OMC sec. 15.04.660 or are located on a hillside property (20% or greater slope), except projects requiring a category III or IV creek protection permit (see other conditions for creek protection permits).]

### **49. Erosion and Sedimentation Control Plan for Construction**

#### ***a. Erosion and Sedimentation Control Plan Required***

Requirement: The project applicant shall submit an Erosion and Sedimentation Control Plan to the City for review and approval. The Erosion and Sedimentation Control Plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading and/or construction operations. The Plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the City. The Plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

#### ***b. Erosion and Sedimentation Control During Construction***

Requirement: The project applicant shall implement the approved Erosion and Sedimentation Control Plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Bureau of Building.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that disturb one acre or more of surface area.]**

#### **50. State Construction General Permit**

Requirement: The project applicant shall comply with the requirements of the Construction General Permit issued by the State Water Resources Control Board (SWRCB). The project applicant shall submit a Notice of Intent (NOI), Stormwater Pollution Prevention Plan (SWPPP), and other required Permit Registration Documents to SWRCB. The project applicant shall submit evidence of compliance with Permit requirements to the City.

When Required: Prior to approval of construction-related permit

Initial Approval: State Water Resources Control Board; evidence of compliance submitted to Bureau of Building

Monitoring/Inspection: State Water Resources Control Board

**[The following condition applies to all projects involving construction activities on hillside properties (20% or greater slopes), except projects considered Regulated Projects under the NPDES C.3 requirements (see other condition for NPDES C.3 Regulated Projects).]**

#### **51. Drainage Plan for Post-Construction Stormwater Runoff on Hillside Properties**

Requirement: The project applicant shall submit and implement a Drainage Plan to be reviewed and approved by the City. The Drainage Plan shall include measures to reduce the volume and velocity of post-construction stormwater runoff to the maximum extent practicable. Stormwater runoff shall not be augmented to adjacent properties, creeks, or storm drains. The Drainage Plan shall be included with the project drawings submitted to the City for site improvements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that create or replace (any amount) of impervious surface, except projects considered Regulated Projects under the NPDES C.3 requirements (see other condition for NPDES C.3 Regulated Projects).]**

#### **52. Site Design Measures to Reduce Stormwater Runoff**

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate site design measures into the project to reduce the amount of stormwater runoff. These measures may include, but are not limited to, the following:

- a. Minimize impervious surfaces, especially directly connected impervious surfaces and surface parking areas;
- b. Utilize permeable paving in place of impervious paving where appropriate;
- c. Cluster structures;
- d. Direct roof runoff to vegetated areas;
- e. Preserve quality open space; and
- f. Establish vegetated buffer areas.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

**[The following condition applies to all projects, except projects considered Regulated Projects under the NPDES C.3 requirements (see other condition for NPDES C.3 Regulated Projects).]**

### **53. Source Control Measures to Limit Stormwater Pollution**

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate source control measures to limit pollution in stormwater runoff. These measures may include, but are not limited to, the following:

- a. Stencil storm drain inlets “No Dumping – Drains to Bay;”
- b. Minimize the use of pesticides and fertilizers;
- c. Cover outdoor material storage areas, loading docks, repair/maintenance bays and fueling areas;
- d. Cover trash, food waste, and compactor enclosures; and
- e. Plumb the following discharges to the sanitary sewer system, subject to City approval:
- f. Discharges from indoor floor mats, equipment, hood filter, wash racks, and, covered outdoor wash racks for restaurants;
- g. Dumpster drips from covered trash, food waste, and compactor enclosures;
- h. Discharges from outdoor covered wash areas for vehicles, equipment, and accessories;
- i. Swimming pool water, if discharge to on-site vegetated areas is not feasible; and
- j. Fire sprinkler test water, if discharge to on-site vegetated areas is not feasible.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

**[The following condition applies to all projects considered Regulated Projects under the NPDES C.3 requirements. Regulated Projects are:**

- a. Projects that create or replace 10,000 square feet or more of new or existing impervious surface area; and**
- b. The following projects that create or replace 5,000 square feet or more of new or impervious surface area:**

- i. Auto servicing, auto repair, and gas stations;**
- ii. Restaurants (full service, limited service, and fast-food); and**
- iii. Uncovered surface parking lots (including stand-alone parking lots, parking lots serving an activity, and the uncovered portion of parking structures unless drainage from the uncovered portion of the parking structure is connected to the sanitary sewer system).**

**Regulated Projects do not include individual single-family dwellings (that are not part of a larger multi-unit development) or routine maintenance activities.]**

#### **54. NPDES C.3 Stormwater Requirements for Regulated Projects**

##### ***a. Post-Construction Stormwater Management Plan Required***

Requirement: The project applicant shall comply with the requirements of Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES). The project applicant shall submit a Post-Construction Stormwater Management Plan to the City for review and approval with the project drawings submitted for site improvements, and shall implement the approved Plan during construction. The Post-Construction Stormwater Management Plan shall include and identify the following:

- i. Location and size of new and replaced impervious surface;
- ii. Directional surface flow of stormwater runoff;
- iii. Location of proposed on-site storm drain lines;
- iv. Site design measures to reduce the amount of impervious surface area;
- v. Source control measures to limit stormwater pollution;
- vi. Stormwater treatment measures to remove pollutants from stormwater runoff, including the method used to hydraulically size the treatment measures; and
- vii. Hydromodification management measures, if required by Provision C.3, so that post-project stormwater runoff flow and duration match pre-project runoff.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

##### ***b. Maintenance Agreement Required***

Requirement: The project applicant shall enter into a maintenance agreement with the City, based on the Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement, in accordance with Provision C.3, which provides, in part, for the following:

- i. The project applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity; and
- ii. Legal access to the on-site stormwater treatment measures for representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary.

The maintenance agreement shall be recorded at the County Recorder's Office at the applicant's expense.

When Required: Prior to building permit final

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving either of the following:**

- a. Projects that create or replace at least 2,500 square feet, but less than 10,000 square feet, of new or existing impervious, except projects considered Regulated Projects under the NPDES C.3 requirements (see other condition for NPDES C.3 Regulated Projects); or**
- b. Individual single-family home projects that create or replace at least 2,500 square feet of new or existing impervious.]**

### **55. NPDES C.3 Stormwater Requirements for Small Projects**

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant shall incorporate one or more of the following site design measures into the project:

- a. Direct roof runoff into cisterns or rain barrels for reuse;
- b. Direct roof runoff onto vegetated areas;
- c. Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas;
- d. Direct runoff from driveways and/or uncovered parking lots onto vegetated areas;
- e. Construct sidewalks, walkways, and/or patios with permeable surfaces; or
- f. Construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces.

The project drawings submitted for construction-related permits shall include the proposed site design measure(s) and the approved measure(s) shall be installed during construction. The design and installation of the measure(s) shall comply with all applicable City requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving new architectural copper.]**

### **56. Architectural Copper**

Requirement: The project applicant shall implement Best Management Practices (BMPs) concerning the installation, treatment, and maintenance of exterior architectural copper during and after construction of the project in order to reduce potential water quality impacts in accordance with Provision C.13 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES). The required BMPs include, but are not limited to, the following:

- a. If possible, use copper materials that have been pre-patinated at the factory;
- b. If patination is done on-site, ensure rinse water is not discharged to the storm drain system by protecting storm drain inlets and implementing one or more of the following:
- c. Discharge rinse water to landscaped area;

- d. Collect rinse water in a tank and discharge to the sanitary sewer, with approval by the City; or haul off-site for proper disposal;
- e. During maintenance activities, protect storm drain inlets to prevent wash water discharge into storm drains; and
- f. Consider coating the copper with an impervious coating that prevents further corrosion.

When Required: During construction; ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects located on creekside properties.]**

**57. Vegetation Management on Creekside Properties**

Requirement: The project applicant shall comply with the following requirements when managing vegetation prior to, during, and after construction of the project:

- a. Identify and leave “islands” of vegetation in order to prevent erosion and landslides and protect habitat;
- b. Trim tree branches from the ground up (limbing up) and leave tree canopy intact;
- c. Leave stumps and roots from cut down trees to prevent erosion;
- d. Plant fire-appropriate, drought-tolerant, preferably native vegetation;
- e. Provide erosion and sediment control protection if cutting vegetation on a steep slope;
- f. Fence off sensitive plant habitats and creek areas if implementing goat grazing for vegetation management;
- g. Obtain a Tree Permit before removing a Protected Tree (any tree 9 inches diameter at breast height or dbh or greater and any oak tree 4 inches dbh or greater, except eucalyptus and Monterey pine);
- h. Do not clear-cut vegetation. This can lead to erosion and severe water quality problems and destroy important habitat;
- i. Do not remove vegetation within 20 feet of the top of the creek bank. If the top of bank cannot be identified, do not cut within 50 feet of the centerline of the creek or as wide a buffer as possible between the creek centerline and the development;
- j. Do not trim/prune branches that are larger than 4 inches in diameter;
- k. Do not remove tree canopy;
- l. Do not dump cut vegetation in the creek;
- m. Do not cut tall shrubbery to less than 3 feet high; and
- n. Do not cut short vegetation (e.g., grasses, ground-cover) to less than 6 inches high.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects requiring a category III or IV creek protection permit.]**

## **58. Creek Protection Plan**

### **a. *Creek Protection Plan Required***

Requirement: The project applicant shall submit a Creek Protection Plan for review and approval by the City. The Plan shall be included with the set of project drawings submitted to the City for site improvements and shall incorporate the contents required under section 13.16.150 of the Oakland Municipal Code including Best Management Practices (“BMPs”) during construction and after construction to protect the creek. Required BMPs are identified below in sections (b), (c), and (d).

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

### **b. *Construction BMPs***

Requirement: The Creek Protection Plan shall incorporate all applicable erosion, sedimentation, debris, and pollution control BMPs to protect the creek during construction. The measures shall include, but are not limited to, the following:

- i. On sloped properties, the downhill end of the construction area must be protected with silt fencing (such as sandbags, filter fabric, silt curtains, etc.) and hay bales oriented parallel to the contours of the slope (at a constant elevation) to prevent erosion into the creek.
- ii. The project applicant shall implement mechanical and vegetative measures to reduce erosion and sedimentation, including appropriate seasonal maintenance. One hundred (100) percent biodegradable erosion control fabric shall be installed on all graded slopes to protect and stabilize the slopes during construction and before permanent vegetation gets established. All graded areas shall be temporarily protected from erosion by seeding with fast growing annual species. All bare slopes must be covered with staked tarps when rain is occurring or is expected.
- iii. Minimize the removal of natural vegetation or ground cover from the site in order to minimize the potential for erosion and sedimentation problems. Maximize the replanting of the area with native vegetation as soon as possible.
- iv. All work in or near creek channels must be performed with hand tools and by a minimum number of people. Immediately upon completion of this work, soil must be repacked and native vegetation planted.
- v. Install filter materials (such as sandbags, filter fabric, etc.) acceptable to the City at the storm drain inlets nearest to the project site prior to the start of the wet weather season (October 15); site dewatering activities; street washing activities; saw cutting asphalt or concrete; and in order to retain any debris flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding.
- vi. Ensure that concrete/granite supply trucks or concrete/plaster finishing operations do not discharge wash water into the creek, street gutters, or storm drains.
- vii. Direct and locate tool and equipment cleaning so that wash water does not discharge into the creek.

- viii. Create a contained and covered area on the site for storage of bags of cement, paints, flammables, oils, fertilizers, pesticides, or any other materials used on the project site that have the potential for being discharged to the creek or storm drain system by the wind or in the event of a material spill. No hazardous waste material shall be stored on site.
- ix. Gather all construction debris on a regular basis and place it in a dumpster or other container which is emptied or removed at least on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.
- x. Remove all dirt, gravel, refuse, and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
- xi. Broom sweep the street pavement adjoining the project site on a daily basis. Caked-on mud or dirt shall be scraped from these areas before sweeping. At the end of each workday, the entire site must be cleaned and secured against potential erosion, dumping, or discharge to the creek, street, gutter, or storm drains.
- xii. All erosion and sedimentation control measures implemented during construction activities, as well as construction site and materials management shall be in strict accordance with the control standards listed in the latest edition of the Erosion and Sediment Control Field Manual published by the Regional Water Quality Control Board (RWQCB).
- xiii. Temporary fencing is required for sites without existing fencing between the creek and the construction site and shall be placed along the side adjacent to construction (or both sides of the creek if applicable) at the maximum practical distance from the creek centerline. This area shall not be disturbed during construction without prior approval of the City.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

**c. *Post-Construction BMPs***

Requirement: The project shall not result in a substantial increase in stormwater runoff volume or velocity to the creek or storm drains. The Creek Protection Plan shall include site design measures to reduce the amount of impervious surface to maximum extent practicable. New drain outfalls shall include energy dissipation to slow the velocity of the water at the point of outflow to maximize infiltration and minimize erosion.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

**d. *Creek Landscaping***

Requirement: The project applicant shall include final landscaping details for the site on the Creek Protection Plan, or on a Landscape Plan, for review and approval by the City. Landscaping information shall include a planting schedule, detailing plant types and locations, and a system to ensure adequate irrigation of plantings for at least one growing season.

Plant and maintain only drought-tolerant plants on the site where appropriate as well as native and riparian plants in and adjacent to riparian corridors. Along the riparian corridor, native plants shall not be disturbed to the maximum extent feasible. Any areas disturbed along the riparian corridor shall be replanted with mature native riparian vegetation and be maintained to ensure survival.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

***e. Creek Protection Plan Implementation***

Requirement: The project applicant shall implement the approved Creek Protection Plan during and after construction. During construction, all erosion, sedimentation, debris, and pollution control measures shall be monitored regularly by the project applicant. The City may require that a qualified consultant (paid for by the project applicant) inspect the control measures and submit a written report of the adequacy of the control measures to the City. If measures are deemed inadequate, the project applicant shall develop and implement additional and more effective measures immediately.

When Required: During construction; ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving creek dewatering or diversion (generally required when there is work within the creek channel).]**

**59. Creek Dewatering/Diversion**

Requirement: The project applicant shall submit a Dewatering and Diversion Plan for review and approval by the City, and shall implement the approved Plan. The Plan shall comply, at a minimum, with the following:

- a. All dewatering and diversion activities shall comply with the requirements of all necessary regulatory permits and authorizations from other agencies (e.g., Regional Water Quality Control Board, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and Army Corps of Engineers).
- b. All native aquatic life (e.g., fish, amphibians, and turtles) within the work site shall be relocated by a qualified biologist prior to dewatering, in accordance with applicable regional, state, and federal requirements. Captured native aquatic life shall be moved to the nearest appropriate site on the stream channel downstream. The biologist shall check daily for stranded aquatic life as the water level in the dewatering area drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered areas. Capture methods may include fish landing nets, dip nets, buckets, and by hand. Captured aquatic life shall be released immediately in the nearest appropriate downstream site. This condition does not allow the take or disturbance of any state or federally listed species, nor state-listed species of special concern, unless the applicant obtains a project specific authorization from the California Department of Fish and Wildlife and/or the U.S. Fish and Wildlife Service, as applicable.

- c. If any dam or other artificial obstruction is constructed, maintained, or placed in operation within the stream channel, ensure that sufficient water is allowed to pass down channel at all times to maintain native aquatic life below the dam or other artificial obstruction.
- d. Construction and operation of dewatering/diversion devices shall meet the standards contained in the latest edition of the Erosion and Sediment Control Field Manual published by the Regional Water Quality Control Board.
- e. Cofferdams and/or water diversion system shall be constructed of a non-erodible material which will cause little or no siltation. Cofferdams and the water diversion system shall be maintained in place and functional throughout the construction period. If the cofferdams or water diversion systems fail, they shall be repaired immediately based on the recommendations of a qualified environmental consultant. The devices shall be removed after construction is complete and the site is stabilized.
- f. Pumped water shall be passed through a sediment settling device before returning to the stream channel. Velocity dissipation measures are required at the outfall to prevent erosion.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that involve new construction within a 100-year flood zone as mapped on a Federal Hazard Boundary map, Flood Insurance Rate Map, or other flood hazard delineation map. Staff can refer to the City’s GIS map.]**

**60. Structures in a Flood Zone**

Requirement: The project shall be designed to ensure that new structures within a 100-year flood zone do not interfere with the flow of water or increase flooding. The project applicant shall submit plans and hydrological calculations for City review and approval with the construction-related drawings that show finished site grades and floor elevations elevated above the Base Flood Elevation (BFE).

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that require a permit from the Bay Conservation and Development Commission (BCDC). BCDC’s jurisdiction is generally limited to the first 100 feet inland from the shoreline of San Francisco Bay and the Oakland Estuary. Projects in BCDC’s jurisdiction requiring a permit include placing material in the Bay/Estuary, dredging material from the Bay/Estuary, substantially changing the use of a structure or area, constructing or repairing a structure, or grading land.]**

**61. Bay Conservation and Development Commission (BCDC) Approval**

Requirement: The project applicant shall obtain the necessary permit/approval, if required, from the Bay Conservation and Development Commission (BCDC) for work within BCDC’s jurisdiction to address issues such as but not limited to shoreline public access and sea level rise.

The project applicant shall submit evidence of the permit/approval to the City and comply with all requirements and conditions of the permit/approval.

When Required: Prior to activity requiring permit/approval from BCDC

Initial Approval: Approval by BCDC; evidence of approval submitted to Bureau of Planning

Monitoring/Inspection: BCDC

**[See Biological Resources section for other conditions related to hydrology and water quality.]**

## **NOISE**

**[The following condition applies to all projects involving construction.]**

### **62. Construction Days/Hours**

Requirement: The project applicant shall comply with the following restrictions concerning construction days and hours:

- a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m.
- b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.
- c. No construction is allowed on Sunday or federal holidays.

Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction.]**

### **63. Construction Noise**

Requirement: The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:

- a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible.
- b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.
- c. Applicant shall use temporary power poles instead of generators where feasible.
- d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- e. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction. The Construction Noise Management Plan may be required prior to project approval.]**

### **64. Extreme Construction Noise**

#### ***a. Construction Noise Management Plan Required***

Requirement: Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:

- i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- ii. Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;

- iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
- v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

***b. Public Notification Required***

Requirement: The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects for which a noise study was prepared during the project review process that resulted in preliminary recommended noise reduction measures to address specific adjacent sensitive receptors/ or businesses that may be impacted by construction noise more than typical (e.g. pre-school activity, meditation center, skilled nursing facility, etc.) .]**

**65. Project-Specific Construction Noise Reduction Measures**

Requirement: The project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction noise impacts on **[ENTER ADJACENT SENSITIVE RECPTOR OR BUSINESS]**. The project applicant shall implement the approved Plan during construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all major development projects, specifically those involving:**

- a. Construction of 50 or more residential dwelling units;**
- b. Construction of 50,000 sq. ft. or more of nonresidential floor area; or**
- c. CEQA review (e.g., negative declaration, mitigated negative declaration, or EIR).]**

## **66. Construction Noise Complaints**

Requirement: The project applicant shall submit to the City for review and approval a set of procedures for responding to and tracking complaints received pertaining to construction noise, and shall implement the procedures during construction. At a minimum, the procedures shall include:

- a. Designation of an on-site construction complaint and enforcement manager for the project;
- b. A large on-site sign near the public right-of-way containing permitted construction days/hours, complaint procedures, and phone numbers for the project complaint manager and City Code Enforcement unit;
- c. Protocols for receiving, responding to, and tracking received complaints; and
- d. Maintenance of a complaint log that records received complaints and how complaints were addressed, which shall be submitted to the City for review upon the City's request.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects for which a noise study was performed during the project review process and the project exposure to community noise is Conditionally Acceptable, Normally Unacceptable, or Clearly Unacceptable per the land use compatibility guidelines of the Noise Element of the Oakland General Plan.]**

## **67. Exposure to Community Noise**

Requirement: The project applicant shall submit a Noise Reduction Plan prepared by a qualified acoustical engineer for City review and approval that contains noise reduction measures (e.g., sound-rated window, wall, and door assemblies) to achieve an acceptable interior noise level in accordance with the land use compatibility guidelines of the Noise Element of the Oakland General Plan. The applicant shall implement the approved Plan during construction. To the maximum extent practicable, interior noise levels shall not exceed the following:

- a. 45 dBA: Residential activities, civic activities, hotels
- b. 50 dBA: Administrative offices; group assembly activities
- c. 55 dBA: Commercial activities
- d. 65 dBA: Industrial activities

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects.]**

## **68. Operational Noise**

Requirement: Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of chapter 17.120 of the Oakland Planning Code and chapter 8.18 of the Oakland Municipal Code. If noise levels exceed these

standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the City.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving new residential facilities or new dwelling units located adjacent to an active rail line.]**

#### **69. Exposure to Vibration**

Requirement: The project applicant shall submit a Vibration Reduction Plan prepared by a qualified acoustical consultant for City review and approval that contains vibration reduction measures to reduce groundborne vibration to acceptable levels per Federal Transit Administration (FTA) standards. The applicant shall implement the approved Plan during construction. Potential vibration reduction measures include, but are not limited to, the following:

- a. Isolation of foundation and footings using resilient elements such as rubber bearing pads or springs, such as a “spring isolation” system that consists of resilient spring supports that can support the podium or residential foundations. The specific system shall be selected so that it can properly support the structural loads, and provide adequate filtering of groundborne vibration to the residences above.
- b. Trenching, which involves excavating soil between the railway and the project so that the vibration path is interrupted, thereby reducing the vibration levels before they enter the project’s structures. Since the reduction in vibration level is based on a ratio between trench depth and vibration wavelength, additional measurements shall be conducted to determine the vibration wavelengths affecting the project. Based on the resulting measurement findings, an adequate trench depth and, if required, suitable fill shall be identified (such as foamed styrene packing pellets [i.e., Styrofoam] or low-density polyethylene).

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction that includes the use of heavy off-road equipment to perform earthwork in close proximity to adjacent properties that contain buildings near the adjoining property line or adjacent to vibration sensitive activities where vibration could substantially interfere with normal operations.]**

#### **70. Vibration Impacts on Adjacent Structures or Vibration-Sensitive Activities**

Requirement: The project applicant shall submit a Vibration Analysis prepared by an acoustical and/or structural engineer or other appropriate qualified professional for City review and approval that establishes pre-construction baseline conditions and threshold levels of vibration that could damage the structure and/or substantially interfere with activities located at **[ENTER ADDRESS OF ADJACENT PROPERTY OR VIBRATION SENSITIVE ACTIVITY]**. The Vibration Analysis shall identify design means and methods of construction that shall be utilized in order to

not exceed the thresholds. The applicant shall implement the recommendations during construction.

When Required: Prior to construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

## POPULATION AND HOUSING

**[The following condition applies to all projects per OMC chap. 15.68 involving new construction of office or warehousing activities containing at least 25,000 sq. ft. of floor area.]**

### **71. Jobs/Housing Impact Fee**

Requirement: The project applicant shall comply with the requirements of the City of Oakland Jobs/Housing Impact Fee Ordinance (chapter 15.68 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit; subsequent milestones pursuant to ordinance

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

**[The following condition applies to all projects subject to the Affordable Housing Impact Fee Ordinance per OMC chap. 15.72. Please refer to the ordinance and administrative regulations for project applicability and requirements.]**

### **72. Affordable Housing Impact Fee**

Requirement: The project applicant shall comply with the requirements of the City of Oakland Affordable Housing Impact Fee Ordinance (chapter 15.72 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit; subsequent milestones pursuant to ordinance

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

## PUBLIC SERVICES

**[The following condition applies to all projects subject to the Capital Improvements Impact Fee Ordinance per OMC chap. 15.74. Please refer to the ordinance and administrative regulations for project applicability and requirements.]**

### **73. Capital Improvements Impact Fee**

Requirement: The project applicant shall comply with the requirements of the City of Oakland Capital Improvements Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

## RECREATION

**[The following condition applies to all projects involving new construction adjacent to an existing open space such as parks, lakes, or the shoreline.]**

### **74. Access to Parks and Open Space**

Requirement: The project applicant shall submit a plan for City review and approval to enhance bicycle and pedestrian access from the project site and adjacent areas to [INSERT NAME OF EXISTING OPEN SPACE]. Examples of enhancements may include, but are not limited to, new or improved bikeways, bike parking, traffic control devices, sidewalks, pathways, bulb-outs, and signage. The project sponsor shall install the approved enhancements during construction and prior to completion of the project.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning, Department of Transportation

Monitoring/Inspection: Department of Transportation

## TRANSPORTATION/TRAFFIC

### **75. Construction Activity in the Public Right-of-Way**

#### ***a. Obstruction Permit Required***

Requirement: The project applicant shall obtain an obstruction permit from the City prior to placing any temporary construction-related obstruction in the public right-of-way, including City streets, sidewalks, bicycle facilities, and bus stops.

When Required: Prior to approval of construction-related permit

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

#### ***b. Traffic Control Plan Required***

Requirement: In the event of obstructions to vehicle or bicycle travel lanes, bus stops, or sidewalks, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian accommodations (or detours, if accommodations are not feasible), including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The Traffic Control Plan shall be in conformance with the City's Supplemental Design Guidance for Accommodating Pedestrians, Bicyclists, and Bus Facilities in Construction Zones. The project applicant shall implement the approved Plan during construction.

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

c. ***Repair of City Streets***

Requirement: The project applicant shall repair any damage to the public right-of way, including streets and sidewalks, caused by project construction at his/her expense within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to approval of the final inspection of the construction-related permit. All damage that is a threat to public health or safety shall be repaired immediately.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Department of Transportation

**[The following condition applies to all projects that require bicycle parking per chapter 17.117 of the Oakland Planning Code, such as:**

- a. New nonresidential construction of a certain size (see Code for size thresholds);**
- b. Additions to existing nonresidential facilities (see Code for size thresholds);**
- c. New residential units (in multi-family dwellings, see Code); or**
- d. Remodeling of existing facilities involving 10,000 square feet and valued at \$250,000 or more.]**

**76. Bicycle Parking**

Requirement: The project applicant shall comply with the City of Oakland Bicycle Parking Requirements (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall demonstrate compliance with the requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects for which a Transportation Impact Study was prepared during the project review process that contained recommended transportation improvements.]**

**77. Transportation Improvements**

Requirement: The project applicant shall implement the recommended on- and off-site transportation-related improvements contained within the Transportation Impact Review for the project (e.g., signal timing adjustments, restriping, signalization, traffic control devices, roadway reconfigurations, transportation demand management measures, and transit, pedestrian, and

bicyclist amenities). The project applicant is responsible for funding and installing the improvements, and shall obtain all necessary permits and approvals from the City and/or other applicable regulatory agencies such as, but not limited to, Caltrans (for improvements related to Caltrans facilities) and the California Public Utilities Commission (for improvements related to railroad crossings), prior to installing the improvements. To implement this measure for intersection modifications, the project applicant shall submit Plans, Specifications, and Estimates (PS&E) to the City for review and approval. All elements shall be designed to applicable City standards in effect at the time of construction and all new or upgraded signals shall include these enhancements as required by the City. All other facilities supporting vehicle travel and alternative modes through the intersection shall be brought up to both City standards and ADA standards (according to Federal and State Access Board guidelines) at the time of construction. Current City Standards call for, among other items, the elements listed below:

- a. 2070L Type Controller with cabinet accessory
- b. GPS communication (clock)
- c. Accessible pedestrian crosswalks according to Federal and State Access Board guidelines with signals (audible and tactile)
- d. Countdown pedestrian head module switch out
- e. City Standard ADA wheelchair ramps
- f. Video detection on existing (or new, if required)
- g. Mast arm poles, full activation (where applicable)
- h. Polara Push buttons (full activation)
- i. Bicycle detection (full activation)
- j. Pull boxes
- k. Signal interconnect and communication with trenching (where applicable), or through existing conduit (where applicable), 600 feet maximum
- l. Conduit replacement contingency
- m. Fiber switch
- n. PTZ camera (where applicable)
- o. Transit Signal Priority (TSP) equipment consistent with other signals along corridor
- p. Signal timing plans for the signals in the coordination group
- q. Bi-directional curb ramps (where feasible, and if project is on a street corner)
- r. Upgrade ramps on receiving curb (where feasible, and if project is on a street corner)

When Required: Prior to building permit final or as otherwise specified

Initial Approval: Bureau of Building; Department of Transportation

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects generating 50 or more net new a.m. or p.m. peak hour vehicle trips.] The Transportation and Parking Demand Management Plan referenced below may be required prior to project approval.**

## **78. Transportation and Parking Demand Management**

**a. Transportation and Parking Demand Management (TDM) Plan Required**

Requirement: The project applicant shall submit a Transportation and Parking Demand Management (TDM) Plan for review and approval by the City.

- i. The goals of the TDM Plan shall be the following:
  - Reduce vehicle traffic and parking demand generated by the project to the maximum extent practicable.
  - Achieve the following project vehicle trip reductions (VTR):
    - Projects generating 50-99 net new a.m. or p.m. peak hour vehicle trips: 10 percent VTR
    - Projects generating 100 or more net new a.m. or p.m. peak hour vehicle trips: 20 percent VTR
  - Increase pedestrian, bicycle, transit, and carpool/vanpool modes of travel. All four modes of travel shall be considered, as appropriate.
  - Enhance the City’s transportation system, consistent with City policies and programs.
- ii. The TDM Plan should include the following:
  - Baseline existing conditions of parking and curbside regulations within the surrounding neighborhood that could affect the effectiveness of TDM strategies, including inventory of parking spaces and occupancy if applicable.
  - Proposed TDM strategies to achieve VTR goals (see below).
- iii. For employers with 100 or more employees at the subject site, the TDM Plan shall also comply with the requirements of Oakland Municipal Code Chapter 10.68 Employer-Based Trip Reduction Program.
- iv. The following TDM strategies **must** be incorporated into a TDM Plan based on a project location or other characteristics. When required, these mandatory strategies should be identified as a credit toward a project’s VTR.

Improvement	Required by code or when...
<b>Bus boarding bulbs or islands</b>	<ul style="list-style-type: none"> <li>• A bus boarding bulb or island does not already exist and a bus stop is located along the project frontage; and/or</li> <li>• A bus stop along the project frontage serves a route with 15 minutes or better peak hour service and has a shared bus-bike lane curb</li> </ul>
<b>Bus shelter</b>	<ul style="list-style-type: none"> <li>• A stop with no shelter is located within the project frontage, or</li> <li>• The project is located within 0.10 miles of a flag stop with 25 or more boardings per day</li> </ul>
<b>Concrete bus pad</b>	<ul style="list-style-type: none"> <li>• A bus stop is located along the project frontage and a concrete bus pad does not already exist</li> </ul>
<b>Curb extensions or bulb-outs</b>	<ul style="list-style-type: none"> <li>• Identified as an improvement within site</li> </ul>

Improvement	Required by code or when...
	analysis
<b>Implementation of a corridor-level bikeway improvement</b>	<ul style="list-style-type: none"> <li>• A buffered Class II or Class IV bikeway facility is in a local or county adopted plan within 0.10 miles of the project location; and</li> <li>• The project would generate 500 or more daily bicycle trips</li> </ul>
<b>Implementation of a corridor-level transit capital improvement</b>	<ul style="list-style-type: none"> <li>• A high-quality transit facility is in a local or county adopted plan within 0.25 miles of the project location; and</li> <li>• The project would generate 400 or more peak period transit trips</li> </ul>
<b>Installation of amenities such as lighting; pedestrian-oriented green infrastructure, trees, or other greening landscape; and trash receptacles per the Pedestrian Master Plan and any applicable streetscape plan.</b>	<ul style="list-style-type: none"> <li>• Always required</li> </ul>
<b>Installation of safety improvements identified in the Pedestrian Master Plan (such as crosswalk striping, curb ramps, count down signals, bulb outs, etc.)</b>	<ul style="list-style-type: none"> <li>• When improvements are identified in the Pedestrian Master Plan along project frontage or at an adjacent intersection</li> </ul>
<b>In-street bicycle corral</b>	<ul style="list-style-type: none"> <li>• A project includes more than 10,000 square feet of ground floor retail, is located along a Tier 1 bikeway, and on-street vehicle parking is provided along the project frontages.</li> </ul>
<b>Intersection improvements<sup>1</sup></b>	<ul style="list-style-type: none"> <li>• Identified as an improvement within site analysis</li> </ul>
<b>New sidewalk, curb ramps, curb and gutter meeting current City and ADA standards</b>	<ul style="list-style-type: none"> <li>• Always required</li> </ul>
<b>No monthly permits and establish minimum price floor for public parking<sup>2</sup></b>	<ul style="list-style-type: none"> <li>• If proposed parking ratio exceeds 1:1000 sf. (commercial)</li> </ul>

<sup>1</sup> Including but not limited to visibility improvements, shortening corner radii, pedestrian safety islands, accounting for pedestrian desire lines.

<b>Improvement</b>	<b>Required by code or when...</b>
<b>Parking garage is designed with retrofit capability</b>	<ul style="list-style-type: none"> <li>Optional if proposed parking ratio exceeds 1:1.25 (residential) or 1:1000 sf. (commercial)</li> </ul>
<b>Parking space reserved for car share</b>	<ul style="list-style-type: none"> <li>If a project is providing parking and a project is located within downtown. One car share space reserved for buildings between 50 – 200 units, then one car share space per 200 units.</li> </ul>
<b>Paving, lane striping or restriping (vehicle and bicycle), and signs to midpoint of street section</b>	<ul style="list-style-type: none"> <li>Typically required</li> </ul>
<b>Pedestrian crossing improvements</b>	<ul style="list-style-type: none"> <li>Identified as an improvement within site analysis</li> </ul>
<b>Pedestrian-supportive signal changes<sup>3</sup></b>	<ul style="list-style-type: none"> <li>Identified as an improvement within operations analysis</li> </ul>
<b>Real-time transit information system</b>	<ul style="list-style-type: none"> <li>A project frontage block includes a bus stop or BART station and is along a Tier 1 transit route with 2 or more routes or peak period frequency of 15 minutes or better</li> </ul>
<b>Relocating bus stops to far side</b>	<ul style="list-style-type: none"> <li>A project is located within 0.10 mile of any active bus stop that is currently near-side</li> </ul>
<b>Signal upgrades<sup>4</sup></b>	<ul style="list-style-type: none"> <li>Project size exceeds 100 residential units, 80,000 sf. of retail, or 100,000 sf. of commercial; and</li> <li>Project frontage abuts an intersection with signal infrastructure older than 15 years</li> </ul>
<b>Transit queue jumps</b>	<ul style="list-style-type: none"> <li>Identified as a needed improvement within operations analysis of a project with frontage along a Tier 1 transit route with 2 or more routes or peak period frequency of 15 minutes or better</li> </ul>
<b>Trenching and placement of conduit for providing traffic</b>	<ul style="list-style-type: none"> <li>Project size exceeds 100 units, 80,000 sf. of retail, or 100,000 sf. of commercial; and</li> </ul>

<sup>2</sup> May also provide a cash incentive or transit pass alternative to a free parking space in commercial properties.

<sup>3</sup> Including but not limited to reducing signal cycle lengths to less than 90 seconds to avoid pedestrian crossings against the signal, providing a leading pedestrian interval, provide a “scramble” signal phase where appropriate.

<sup>4</sup> Including typical traffic lights, pedestrian signals, bike actuated signals, transit-only signals

Improvement	Required by code or when...
<b>signal interconnect</b>	<ul style="list-style-type: none"> <li>• Project frontage block is identified for signal interconnect improvements as part of a planned ITS improvement; and</li> <li>• A major transit improvement is identified within operations analysis requiring traffic signal interconnect</li> </ul>
<b>Unbundled parking</b>	<ul style="list-style-type: none"> <li>• If proposed parking ratio exceeds 1:1.25 (residential)</li> </ul>

v. Other TDM strategies to consider include, but are not limited to, the following:

- Inclusion of additional long-term and short-term bicycle parking that meets the design standards set forth in chapter five of the Bicycle Master Plan and the Bicycle Parking Ordinance (chapter 17.117 of the Oakland Planning Code), and shower and locker facilities in commercial developments that exceed the requirement.
- Construction of and/or access to bikeways per the Bicycle Master Plan; construction of priority bikeways, on-site signage and bike lane striping.
- Installation of safety elements per the Pedestrian Master Plan (such as crosswalk striping, curb ramps, count down signals, bulb outs, etc.) to encourage convenient and safe crossing at arterials, in addition to safety elements required to address safety impacts of the project.
- Installation of amenities such as lighting, street trees, and trash receptacles per the Pedestrian Master Plan, the Master Street Tree List and Tree Planting Guidelines (which can be viewed at <http://www2.oaklandnet.com/oakca1/groups/pwa/documents/report/oak042662.pdf> and <http://www2.oaklandnet.com/oakca1/groups/pwa/documents/form/oak025595.pdf>, respectively)

and any applicable streetscape plan.

- Construction and development of transit stops/shelters, pedestrian access, way finding signage, and lighting around transit stops per transit agency plans or negotiated improvements.
- Direct on-site sales of transit passes purchased and sold at a bulk group rate (through programs such as AC Transit Easy Pass or a similar program through another transit agency).
- Provision of a transit subsidy to employees or residents, determined by the project applicant and subject to review by the City, if employees or residents use transit or commute by other alternative modes.
- Provision of an ongoing contribution to transit service to the area between the project and nearest mass transit station prioritized as follows: 1) Contribution to AC Transit bus service; 2) Contribution to an existing area shuttle service; and 3) Establishment of new shuttle service. The amount of contribution (for any of the

above scenarios) would be based upon the cost of establishing new shuttle service (Scenario 3).

- Guaranteed ride home program for employees, either through 511.org or through separate program.
- Pre-tax commuter benefits (commuter checks) for employees.
- Free designated parking spaces for on-site car-sharing program (such as City Car Share, Zip Car, etc.) and/or car-share membership for employees or tenants.
- On-site carpooling and/or vanpool program that includes preferential (discounted or free) parking for carpools and vanpools.
- Distribution of information concerning alternative transportation options.
- Parking spaces sold/leased separately for residential units. Charge employees for parking, or provide a cash incentive or transit pass alternative to a free parking space in commercial properties.
- Parking management strategies including attendant/valet parking and shared parking spaces.
- Requiring tenants to provide opportunities and the ability to work off-site.
- Allow employees or residents to adjust their work schedule in order to complete the basic work requirement of five eight-hour workdays by adjusting their schedule to reduce vehicle trips to the worksite (e.g., working four, ten-hour days; allowing employees to work from home two days per week).
- Provide or require tenants to provide employees with staggered work hours involving a shift in the set work hours of all employees at the workplace or flexible work hours involving individually determined work hours.

The TDM Plan shall indicate the estimated VTR for each strategy, based on published research or guidelines where feasible. For TDM Plans containing ongoing operational VTR strategies, the Plan shall include an ongoing monitoring and enforcement program to ensure the Plan is implemented on an ongoing basis during project operation. If an annual compliance report is required, as explained below, the TDM Plan shall also specify the topics to be addressed in the annual report.

When Required: Prior to approval of planning application.

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

b. TDM Implementation – Physical Improvements

Requirement: For VTR strategies involving physical improvements, the project applicant shall obtain the necessary permits/approvals from the City and install the improvements prior to the completion of the project.

When Required: Prior to building permit final

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

c. TDM Implementation – Operational Strategies

Requirement: For projects that generate 100 or more net new a.m. or p.m. peak hour vehicle trips and contain ongoing operational VTR strategies, the project applicant shall submit an annual compliance report for the first five years following completion of the project (or completion of each phase for phased projects) for review and approval by the City. The annual report shall document the status and effectiveness of the TDM program, including the actual VTR achieved by the project during operation. If deemed necessary, the City may elect to have a peer review consultant, paid for by the project applicant, review the annual report. If timely reports are not submitted and/or the annual reports indicate that the project applicant has failed to implement the TDM Plan, the project will be considered in violation of the Conditions of Approval and the City may initiate enforcement action as provided for in these Conditions of Approval. The project shall not be considered in violation of this Condition if the TDM Plan is implemented but the VTR goal is not achieved.

When Required: Ongoing

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

**[The following condition applies to all projects subject to the Transportation Impact Fee Ordinance per OMC chap. 15.74. Please refer to the ordinance and administrative regulations for project applicability and requirements.]**

#### **79. Transportation Impact Fee**

Requirement: The project applicant shall comply with the requirements of the City of Oakland Transportation Impact Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

**[The following condition applies to all projects located within ¼-mile of an at-grade railroad crossing that generate substantial vehicle, bicyclist, and/or pedestrian traffic and a Transportation Impact Study otherwise required to be prepared for the project identifies potentially substantially dangerous crossing conditions at the at-grade crossing caused by the project.]**

#### **80. Railroad Crossings**

Requirement: The project applicant shall submit for City review and approval a Diagnostic Review to evaluate potential impacts to at-grade railroad crossings resulting from project-related traffic. In general, the major types of impacts to consider are collisions between trains and vehicles, trains and pedestrians, and trains and bicyclists. The Diagnostic Review shall include specific traffic elements, such as roadway and rail description, accident history, traffic volumes (all modes, including pedestrian and bicyclist crossing movements), train volumes, vehicular speeds, train speeds, and existing rail and traffic control.

Where the Diagnostic Review identifies potentially substantially dangerous crossing conditions at at-grade railroad crossings caused by the project, measures relative to the project's traffic

contribution to the crossings shall be applied through project redesign and/or incorporation of the appropriate measures to reduce potential adverse impacts at the crossings. These measures may include, without limitation, the following:

- a. Installation of grade separations at crossings, i.e., physically separating roads and railroad tracks by constructing overpasses or underpasses
- b. Improvements to warning devices at existing highway rail crossings that are impacted by project traffic
- c. Installation of additional warning signage
- d. Improvements to traffic signaling at intersections adjacent to crossings, e.g., signal preemption
- e. Installation of median separation to prevent vehicles from driving around railroad crossing gates
- f. Where sound walls, landscaping, buildings, etc. would be installed near crossings, maintaining the visibility of warning devices and approaching trains
- g. Prohibition of parking within 100 feet of the crossings to improve the visibility of warning devices and approaching trains
- h. Construction of pull-out lanes for buses and vehicles transporting hazardous materials
- i. Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way
- j. Elimination of driveways near crossings
- k. Increased enforcement of traffic laws at crossings
- l. Rail safety awareness programs to educate the public about the hazards of highway-rail grade crossings

Any proposed improvements must be coordinated with California Public Utility Commission (CPUC) and affected railroads and all necessary permits/approvals obtained, including a GO 88-B Request (Authorization to Alter Highway Rail Crossings). The project applicant shall implement the approved measures during construction of the project.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all new construction projects with (3) or more units that contain required onsite parking.]**

## **81. Plug-In Electric Vehicle (PEV) Charging Infrastructure**

### ***a. PEV-Ready Parking Spaces***

Requirement: The applicant shall submit, for review and approval of the Building Official and the Zoning Manager, plans that show the location of parking spaces equipped with full electrical circuits designated for future PEV charging (i.e. "PEV-Ready") per the requirements of Chapter 15.04 of the Oakland Municipal Code. Building electrical plans shall indicate sufficient electrical capacity to supply the required PEV-Ready parking spaces.

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following applies to residential and nonresidential projects with 11 or more onsite parking spaces]**

***b. PEV-Capable Parking Spaces***

Requirement: The applicant shall submit, for review and approval of the Building Official, plans that show the location of inaccessible conduit to supply PEV-capable parking spaces per the requirements of Chapter 15.04 of the Oakland Municipal Code. Building electrical plans shall indicate sufficient electrical capacity to supply the required PEV-capable parking spaces.

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following applies to to Public Buildings, Public Accommodations, Commercial Buildings, and Publicly Funded Housing]**

***c. ADA-Accessible Spaces***

Requirement: The applicant shall submit, for review and approval of the Building Official, plans that show the location of future accessible EV parking spaces as required under Title 24 Chapter 11B Table 11B-228.3.2.1, and specify plans to construct all future accessible EV parking spaces with appropriate grade, vertical clearance, and accessible path of travel to allow installation of accessible EV charging station(s).

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

## **UTILITY AND SERVICE SYSTEMS**

**[The following condition applies to all construction projects.]**

### **82. Construction and Demolition Waste Reduction and Recycling**

Requirement: The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at [www.greenhalosystems.com](http://www.greenhalosystems.com) or manually at the City's Green Building Resource

Center. Current standards, FAQs, and forms are available on the City’s website and in the Green Building Resource Center.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

**[The following condition applies to all construction projects.]**

**83. Underground Utilities**

Requirement: The project applicant shall place underground all new utilities serving the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project’s street frontage and from the project structures to the point of service. Utilities under the control of other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects per chapter of 17.118 of the Oakland Planning Code that involve any of the following:]**

- a. New residential development of five or more units;**
- b. Alterations to existing residential development of five or more units that increase the floor area by 30% or more;**
- c. New commercial or industrial development;**
- d. Alterations to existing commercial or industrial development that increase the floor area by 30% or more;**
- e. New public facilities; or**
- f. Alterations to areas of existing public facilities used for collecting and loading solid waste.]**

**84. Recycling Collection and Storage Space**

Requirement: The project applicant shall comply with the City of Oakland Recycling Space Allocation Ordinance (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall contain recycling collection and storage areas in compliance with the Ordinance. For residential projects, at least two (2) cubic feet of storage and collection space per residential unit is required, with a minimum of ten (10) cubic feet. For nonresidential projects, at least two (2) cubic feet of storage and collection space per 1,000 square feet of building floor area is required, with a minimum of ten (10) cubic feet.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

[The following condition applies to all projects involving any the following:

**Residential**

- a. **New Construction of a One or Two Family Dwelling**
- b. **New Construction of a Multi-Family Dwelling (3+ units);**
- c. **Additions or Alterations to a One or Two Family Dwelling over 1,000 sq. ft. of total floor area; or**
- d. **Construction of or Alteration to Residential Units (any amount) that Receive City Funding (NOFA projects)**

**Non-Residential**

- a. **New Construction of Non-Residential Building over 25,000 sq. ft. of total floor area; or**
- b. **Major Alterations (see Green Building Definitions) over 25,000 sq. ft. of total floor area to a Non-Residential Building.]**

**85. Green Building Requirements**

*a. Compliance with Green Building Requirements During Plan-Check*

Requirement: The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code).

- i. The following information shall be submitted to the City for review and approval with the application for a building permit:
  - Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
  - Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit.

- Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit.
  - Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below.
  - Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance.
  - Signed statement by the Green Building Certifier that the project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit.
  - Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.
- ii. The set of plans in subsection (i) shall demonstrate compliance with the following:
- CALGreen mandatory measures.
  - **[INSERT: Green building point level/certification requirement: (See Green Building Summary Table; for New Construction of Residential or Non-residential projects that remove a Historic Resource (as defined by the Green Building Ordinance) the point level certification requirement is 53 points for residential and LEED Gold for non-residential)]** per the appropriate checklist approved during the Planning entitlement process.
  - All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Bureau of Planning that shows the previously approved points that will be eliminated or substituted.
  - The required green building point minimums in the appropriate credit categories.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

***b. Compliance with Green Building Requirements During Construction***

Requirement: The project applicant shall comply with the applicable requirements of CALGreen and the Oakland Green Building Ordinance during construction of the project.

The following information shall be submitted to the City for review and approval:

- i. Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit.
- ii. Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance.
- iii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**c. *Compliance with Green Building Requirements After Construction***

Requirement: Prior to the finaling the Building Permit, the Green Building Certifier shall submit the appropriate documentation to City staff and attain the minimum required point level.

When Required: Prior to Final Approval

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving any of the following and are rated using the Small Commercial or Bay Friendly Basic Landscape Checklists:**

- a. New Construction of Non-Residential Buildings between 5,000 and 25,000 sq. ft. of total floor area;**
- b. Additions/Alterations 5,000 and 25,000 sq. ft. of total floor area to a Non-Residential Building;**
- c. Additions/Alterations (not meeting the Major Alteration Definition) over 25,000 sq. ft. of total floor area to a Non-Residential Building;**
- d. Alterations/Alterations 5,000 and 25,000 sq. ft. of total floor area to a Historic Non-Residential Building;**
- e. Additions/Alterations (not meeting the Major Alteration Definition) over 25,000 sq. ft. of total floor area to a Historic Non-Residential Building; or**
- f. Construction projects with over 25,000 sq. ft. of total floor area of new construction requiring a landscape plan.]**

**86. Green Building Requirements – Small Projects**

**a. *Compliance with Green Building Requirements During Plan-Check***

The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code) for projects using the **[INSERT: StopWaste.Org Small Commercial Checklist or Bay Friendly Basic Landscape Checklist]**.

- i. The following information shall be submitted to the City for review and approval with application for a building permit:
  - Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
  - Completed copy of the green building checklist approved during the review of a Planning and Zoning permit.

- Permit plans that show in general notes, detailed design drawings and specifications as necessary compliance with the items listed in subsection (b) below.
  - Other documentation to prove compliance.
- ii. The set of plans in subsection (a) shall demonstrate compliance with the following:
- CALGreen mandatory measures.
  - All applicable green building measures identified on the checklist approved during the review of a Planning and Zoning permit, or submittal of a Request for Revision Plan-check application that shows the previously approved points that will be eliminated or substituted.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

***b. Compliance with Green Building Requirements During Construction***

Requirement: The project applicant shall comply with the applicable requirements of CALGreen and the Green Building Ordinance during construction.

The following information shall be submitted to the City for review and approval:

- i. Completed copy of the green building checklists approved during review of the Planning and Zoning permit and during the review of the Building permit.
- ii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all major development projects, specifically those involving any of the following:**

- a. Construction of 50 or more residential dwelling units;**
- b. Construction of 50,000 sq. ft. or more of nonresidential floor area; or**
- c. CEQA review (e.g., negative declaration, mitigated negative declaration, or EIR).]**

**87. Sanitary Sewer System**

Requirement: The project applicant shall prepare and submit a Sanitary Sewer Impact Analysis to the City for review and approval in accordance with the City of Oakland Sanitary Sewer Design Guidelines. The Impact Analysis shall include an estimate of pre-project and post-project wastewater flow from the project site. In the event that the Impact Analysis indicates that the net increase in project wastewater flow exceeds City-projected increases in wastewater flow in the sanitary sewer system, the project applicant shall pay the Sanitary Sewer Impact Fee in accordance with the City’s Master Fee Schedule for funding improvements to the sanitary sewer system.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Department of Engineering and Construction

Monitoring/Inspection: N/A

**[The following condition applies to all major development projects, specifically those involving any of the following:**

- a. Construction of 50 or more residential dwelling units;**
- b. Construction of 50,000 sq. ft. or more of nonresidential floor area; or**
- c. CEQA review (e.g., negative declaration, mitigated negative declaration, or EIR).]**

### **88. Storm Drain System**

Requirement: The project storm drainage system shall be designed in accordance with the City of Oakland's Storm Drainage Design Guidelines. To the maximum extent practicable, peak stormwater runoff from the project site shall be reduced by at least 25 percent compared to the pre-project condition.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects per OMC section 16.08.030 involving a tentative map approval (tentative parcel map or tentative tract map) for a land subdivision or condominium subdivision located in the EBMUD Recycled Water Project area (generally portions of West Oakland, Downtown, and Jack London Square; staff can refer to the map on the City server).]**

### **89. Recycled Water**

Requirement: Pursuant to section 16.08.030 of the Oakland Municipal Code, the project applicant shall provide for the use of recycled water in the project for feasible recycled water uses unless the City determines that there is a higher and better use for the recycled water, the use of recycled water is not economically justified for the project, or the use of recycled water is not financially or technically feasible for the project. Feasible recycled water uses may include, but are not limited to, landscape irrigation, commercial and industrial process use, and toilet and urinal flushing in non-residential buildings. The project applicant shall contact the New Business Office of the East Bay Municipal Utility District (EBMUD) for a recycled water feasibility assessment by the Office of Water Recycling. If recycled water is to be provided in the project, the project drawings submitted for construction-related permits shall include the proposed recycled water system and the project applicant shall install the recycled water system during construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving:**

- a. New Construction Projects with an aggregate landscape area equal to or greater than 500 sq.ft. (For the purpose of this condition "New Construction" means a new building with a landscape or other new landscape not associated with a building);**

**b. Rehabilitated Landscape Projects with an aggregate landscape area equal to or greater than 2,500 sq. ft. (For the purpose of this Condition “Rehabilitated” means any re-landscaping project);**

**c. Existing Landscapes; and**

**d. Cemeteries**

## **90. Water Efficient Landscape Ordinance (WELO)**

Requirement: The project applicant shall comply with California’s Water Efficient Landscape Ordinance (WELO) in order to reduce landscape water usage. For the specific ordinance requirements, see the link below:

<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/docs/Title%202023%20extract%20-%20Official%20CCR%20pages.pdf>

For any landscape project with an aggregate (total noncontiguous) landscape area equal to 2,500 sq. ft. or less, the project applicant may implement either the Prescriptive Measures or the Performance Measures, of, and in accordance with the California’s Model Water Efficient Landscape Ordinance. For any landscape project with an aggregate (total noncontiguous) landscape area over 2,500 sq. ft., the project applicant shall implement the Performance Measures in accordance with the WELO.

*Prescriptive Measures:* Prior to construction, the project applicant shall submit the Project Information (detailed below) and documentation showing compliance with Appendix D of California’s Model Water Efficient Landscape Ordinance (see page 38.14(g) in the link above).

*Performance Measures:* Prior to construction, the project applicant shall prepare and submit a Landscape Documentation Package for review and approval, which includes the following

### *a. Project Information:*

- i. Date,
- ii. Applicant and property owner name,
- iii. Project address,
- iv. Total landscape area,
- v. Project type (new, rehabilitated, cemetery, or home owner installed),
- vi. Water supply type and water purveyor,
- vii. Checklist of documents in the package, and
- viii. Project contacts
- ix. Applicant signature and date with the statement: “I agree to comply with the requirements of the water efficient landscape ordinance and submit a complete Landscape Documentation Package.”

### *b. Water Efficient Landscape Worksheet*

- i. Hydrozone Information Table
- ii. Water Budget Calculations with Maximum Applied Water Allowance (MAWA) and Estimated Total Water Use

- c.* Soil Management Report
- d.* Landscape Design Plan
- e.* Irrigation Design Plan, and
- f.* Grading Plan

Upon installation of the landscaping and irrigation systems, and prior to the final of a construction-related permit, the Project applicant shall submit a Certificate of Completion (see page 38.6 in the link above) and landscape and irrigation maintenance schedule for review and approval by the City. The Certificate of Completion shall also be submitted to the local water purveyor and property owner or his or her designee.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

## Part 3: Standard Conditions of Approval – Other Standard Conditions

**[The following condition applies to all projects involving permanent (i.e., post-construction) employees.]**

### **91. Employee Rights**

Requirement: The project applicant and business owners in the project shall comply with all state and federal laws regarding employees' right to organize and bargain collectively with employers and shall comply with the City of Oakland Minimum Wage Ordinance (chapter 5.92 of the Oakland Municipal Code).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

**[The following condition applies to all projects that affect existing residential units on the site (including unpermitted units and live/work units) resulting in temporary or permanent eviction, displacement or relocation of existing residential tenants, or residential tenants previously evicted or relocated in the past 12 months, due to the project or City action related to the project (e.g., the building was “red-tagged” by the City in response to a code violation).**

### **92. Residential Tenants**

Requirement: The property owner shall comply with all applicable laws and requirements concerning residential tenants, including but not limited to, the City's Rent Adjustment Ordinance (OMC chap. 8.22, Article I), Just Cause Eviction Ordinance (OMC chap. 8.22, Articles II & III), Tenant Protection Ordinance (OMC chap. 8.22, Article V) and Code Compliance Relocation Ordinance (OMC chap. 15.60). Existing and former tenants temporarily or permanently evicted, displaced or relocated due to the project or City action related to the project may be entitled to protections and benefits, including, but not limited to, relocation payments and the right to return to previous units. The property owner may be required to submit evidence of compliance with applicable tenant protection laws upon request of the City. For more information, please contact the Oakland Housing Assistance Center: 250 Frank H. Ogawa Plaza, 6<sup>th</sup> Floor, Oakland, California, 94612; (510) 238-6182.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

**[The following condition shall apply to all projects that include either 2,000 square feet of new nonresidential floor area or 20 new dwelling units.]**

**93. Public Art for Private Development**

Requirement: The project is subject to the City’s Public Art Requirements for Private Development, adopted by Ordinance No. 13275 C.M.S. (“Ordinance”). The public art contribution requirements are equivalent to one-half percent (0.5%) for the “residential” building development costs, and one percent (1.0%) for the “non-residential” building development costs.

The contribution requirement can be met through: 1) the installation of freely accessible art at the site; 2) the installation of freely accessible art within one-quarter mile of the site; or 3) satisfaction of alternative compliance methods described in the Ordinance, including, but not limited to, payment of an in-lieu fee contribution. The applicant shall provide proof of full payment of the in-lieu contribution and/or provide plans, for review and approval by the Planning Director, showing the installation or improvements required by the Ordinance prior to issuance of a building permit.

Proof of installation of artwork, or other alternative requirement, is required prior to the City’s issuance of a final certificate of occupancy for each phase of a project unless a separate, legal binding instrument is executed ensuring compliance within a timely manner subject to City approval.

When Required: Payment of in-lieu fees and/or plans showing fulfillment of public art requirement – Prior to Issuance of Building permit

Installation of art/cultural space – Prior to Issuance of a Certificate of Occupancy.

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving 10,000 square feet or more of newly constructed or converted neighborhood-serving commercial space for which tenants have not yet been selected.]**

**94. Neighborhood Retail Survey**

Requirement: The project applicant shall conduct a survey of community members located within one-half mile of the project site to identify neighborhood needs and preferences for the proposed commercial space. The City strongly encourages the project applicant to seek tenants for the proposed commercial space that meet the needs and preferences of local community members. Please refer to the City’s Survey Guidelines for more information (contained in a separate document and available from the Oakland Planning Bureau).

When Required: Prior to commercial operations

Initial Approval: N/A

Monitoring/Inspection: N/A

**[The following condition applies to all projects involving a mini-lot development.]**

**95. Mini-lot Development – Future Expansions of Buildings**

***Ongoing***

Any future changes to the subject buildings on the property that impact the exterior envelope of any of the structures shall require a revision of the approved mini-lot development.

**[The following condition applies to all projects involving an affordable housing project which contains affordable ownership units.]**

**96. Affordable Residential Ownership Units - Agreement and Monitoring**

**a. Requirement #1:** Pursuant to Section 17.107 of the Oakland Planning Code and the State Density Bonus Law California Government Code Section 65915 et seq. (“State Density Bonus Law”), the proposed project shall provide a minimum of **[Enter number of units]** target dwelling units available at very low/ low/ moderate income (as **[Enter % of very low/ low and moderate income, i.e. 5%/10%/10%]** of the units) for receiving a density bonus, concession and/or waiver of development standards.

**b. Requirement #2:** Prior to submittal of a construction-related permit, the applicant shall contact the Housing and Community Development Department (Housing Development Services Division) to enter into an Affordability Agreement based on the City’s model documents, as may be amended from time to time, governing the target dwelling units. The Affordability Agreement shall provide that target dwelling units are offered at an affordable housing cost and that only households that (i) meet the eligibility standards for the target dwelling units, and (ii) agree to execute an equity share agreement with the City are eligible to occupy the target dwelling units.

The Affordability Agreement shall be recorded with the Alameda County Recorder’s Office as an encumbrance against the property, and a copy of the recorded agreement shall be provided to and retained by the City. The Affordability Agreement may not be subordinated in priority to any other lien interest in the property.

**c. Requirement #3** The restricted target dwelling units must comply with the City of Oakland Affordable Homeownership Development Program Guidelines. The applicant shall ensure that the initial occupant of all for-sale target dwelling units are Very Low-, Low, or Moderate-Income Households, as required, and that the units are offered at an Affordable Housing Cost in accordance with California Health and Safety Code Section 50052.5 and its implementing regulations.

**d. Requirement #4:** For-sale target living units require a one-time fee to determine the eligibility of the initial homebuyer. The City’s fee is \$250 per unit currently per the Master Fee Schedule, which is updated annually and available from the Budget Office of the City Oakland’s Finance Department: <https://www.oaklandca.gov/departments/finance-department>.

**e. Requirement #5:** The owner of a for-sale affordable unit may not rent out the unit. The unit must remain owner occupied.

*f. Requirement #6:* The applicant shall provide for initial homebuyer education to apprise buyers of the long-term affordability restrictions applicable to the targeted dwelling units, and shall submit information regarding the initial homebuyer's income, household size and other funding sources to City staff in the Housing and Community Development Division, for their review and approval. If a potential initial homebuyer does not meet the City's underwriting requirements, then the proposed homebuyer will not be allowed to purchase the home, and the applicant will be required to find qualified substitute buyer.

*g. Requirement #7:* The applicant shall submit for review and approval by the City Attorney, Bureau of Planning and any other relevant City departments as determined by the City, proof that all initial homebuyers of for-sale target dwelling units have entered into a density bonus equity share agreement, consistent with State Density Bonus Law, with the City prior to purchasing the unit or property, and the grant deed conveying title to the unit to the initial homebuyer shall reference the equity share agreement.

The equity share agreement shall specify that the title to the subject property or unit may not be transferred without prior approval of the City. Following City approval, the applicant shall record the equity share agreement against the parcel containing the target dwelling unit, as well as a Deed of Trust and Request for Notice in the event of default, sale, or refinancing, with the Alameda County Recorder's Office, and shall provide a copy of the recorded equity share agreement to the City. The equity share agreement shall further provide that upon future resale of a target dwelling unit, the initial homebuyer must notify the Housing and Community Development Division of its intent to sell the unit. Upon resale, the initial homebuyer may recoup the value of its own down payment, any improvements to the target dwelling unit, and the initial homebuyer's proportionate share of appreciation. The initial homebuyer shall repay to the City the City's initial subsidy and the City's proportionate share of appreciation. The City's initial subsidy is to be equal to the difference between the fair market value of the target dwelling unit at the time of initial sale and the initial sale price to the initial homebuyer, plus the amount of down payment assistance or mortgage assistance, if any. If upon resale the fair market value of the target dwelling unit is lower than the initial fair market value, then the value at the time of the resale shall be used as the initial fair market value. The City's proportionate share of appreciation is equal to the ratio of the local government's initial subsidy to the fair market value of the target dwelling unit at the time of the initial sale. The City will apply these repayment proceeds to the promotion of low to moderate income homeownership opportunities within five years of its receipt.

*h. Requirement #8:* The floor area, number of bedrooms, and amenities (such as fixtures, appliances, location and utilities) of the affordable units shall be substantially equal in size and quality to those of the market rate units. Further, the proportion of unit types (i.e. three-bedroom and four-bedroom, etc.) of the affordable units shall be roughly the same as the project's market rate units.

*i. Requirement #9:* Households in affordable units must have equal access to the project's services and facilities as households in all other units within the project.

*j. Requirement #10:* Affordable units must be evenly distributed throughout the project.

*k. Requirement #11:* The applicant shall comply with the requirements of Section 65915(c)(3)(A) of the State Density Bonus Law requiring, without limitation, replacement units in those circumstances where the parcel subject to the density bonus contains or contained affordable units within the last five years.

*l. Requirement #12:* The applicant shall comply with all applicable provisions of State Density Bonus Law and all provisions of the City’s density bonus law that are not preempted by state law.

*m. Requirement #13:* Affordable units shall be constructed prior to or concurrent with the construction of the market rate units in each phase of the project.

*n. Requirement #14:* The City will not issue final certificates of occupancy for more than fifty percent (50%) of the market rate units in any phase of development until final certificates of occupancy are issued for all of the affordable units in that phase.

When Required: First Construction Related Permit Application and Ongoing

Initial Approval: Housing and Community Development Department and Ongoing

Ongoing Monitoring and Inspections: Housing and Community Development, Housing Development Services Division

**[The following condition applies to all projects involving an affordable housing project which contains affordable rental units.]**

### **97. Affordable Residential Rental Units - Agreement and Monitoring**

*a. Requirement #1:* Pursuant to Section 17.107 of the Oakland Planning Code and the State Density Bonus Law California Government Code Section 65915 et seq. (“State Density Bonus Law”), the proposed project shall provide a minimum of **[Enter number of units]** target dwelling units available at very low/ low/ moderate income (as **[Enter % of very low/ low and moderate income, i.e. 5%/10%/10%]** of the units) for receiving a density bonus, concession and/or waiver of development standards.

*b. Requirement #2:* The approved residential affordable units that are part of this approval shall remain and continue to be affordable at the specified level in accordance with California Health and Safety Code Section 50053 and its implementing regulations for a term of not less than 55 years or a longer period of time if required by the construction or mortgage finance assistance program, mortgage insurance program, or rental subsidy program. This Condition of Approval must also be in compliance with Section 65915(c)(1) of the State Density Bonus Law specifically, as well as all other applicable provisions of the State Density Bonus Law.

*c. Requirement #3:* Prior to submittal of a construction-related permit, the applicant shall contact the Housing and Community Development Department (Housing Development Services Division) to enter into a Regulatory Agreement based on the City’s model documents, as may be amended from time to time, governing the target dwelling units. The Agreement shall contain restrictive covenants to ensure the continued affordability of the target dwelling units at the

specified rent levels for a period of not less than fifty-five (55) years pursuant Section 65915 (c)(1) of the State Density Bonus Law, and restrict the occupancy of those units only to residents who satisfy the affordability requirement as approved for this project. Only households meeting the eligibility standards for the target dwelling units shall be eligible to occupy the target dwelling units.

If the property has an approved condominium map and the developer chooses to rent the affordable units at initial occupancy, the units cannot convert to ownership during the term of the Agreement, even if the market rate units in the development convert to ownership.

The Regulatory Agreement shall be recorded with the Alameda County Recorder's Office as an encumbrance against the property, and a copy of the recorded agreement shall be provided to and retained by the City. The Regulatory Agreement may not be subordinated in priority to any other lien interest in the property.

***d. Requirement #4:*** Rental target dwelling units shall be managed / operated by the developer or developer's agent or the developer's successor. The developer of rental target dwelling units shall submit for review and approval by the Housing and Community Development Department and any other relevant City departments, an annual report identifying which units are target dwelling units, the monthly rent, vacancy information, monthly income for tenants of each target rental dwelling unit throughout the prior year, and other information required by the City. Said agreement shall maintain the tenants' privacy. The applicant shall pay to the Housing and Community Development Department an annual monitoring fee pursuant to the Master Fee Schedule (updated annually and available from the Budget Office of the City Oakland's Finance Department: <https://www.oaklandca.gov/departments/finance-department>) for City monitoring of target dwelling units.

***e. Requirement #5:*** The floor area, number of bedrooms, and amenities (such as fixtures, appliances, location and utilities) of the affordable units shall be substantially equal in size and quality to those of the market rate units. Further, the proportion of unit types (i.e. three-bedroom and four-bedroom, etc.) of the affordable units shall be roughly the same as the project's market rate units.

***f. Requirement #6:*** Tenant households in affordable units must have equal access to the project's services and facilities as tenant households in all other units within the project.

***g. Requirement #7:*** Affordable units must be evenly distributed throughout the project.

***h. Requirement #8:*** Applicant shall comply with the requirements of Section 65915(c)(3)(A) of the State Density Bonus Law requiring, without limitation, replacement units in those circumstances where the parcel subject to the density bonus requests contains or contained affordable units within the last five years.

***i. Requirement #9:*** Applicants shall comply with all applicable provisions of State Density Bonus Law and all provisions of the City's density bonus law that are not preempted by state law.

*j. Requirement #10:* Affordable units shall be constructed concurrent with the construction of the market rate units in each phase of the project.

*k. Requirement #11:* The City will not issue final certificates of occupancy for more than fifty percent (50%) of the market rate units in any phase of development until final certificates of occupancy are issued for all of the affordable units in that phase.

When Required: First Construction-Related Permit Application and Ongoing

Initial Approval: Housing and Community Development Department – Housing Development Services Division

Ongoing Monitoring/Inspections: Housing Development Services Division

**[Insert the following with the Approval letter (pertinent to Condition #6).]**

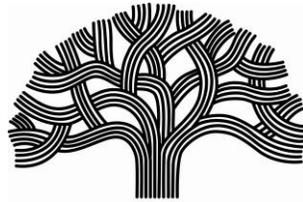
### **Applicant Statement**

I have read and accept responsibility for the Conditions of Approval. I agree to abide by and conform to the Conditions of Approval, as well as to all provisions of the Oakland Planning Code and Oakland Municipal Code pertaining to the project.

\_\_\_\_\_  
Name of Project Applicant

\_\_\_\_\_  
Signature of Project Applicant

\_\_\_\_\_  
Date



CITY OF OAKLAND

# STANDARD CONDITIONS OF APPROVAL

**Department of Planning and Building  
Bureau of Planning**

Adopted by City Council on November 3, 2008 (Ordinance No. 12899 C.M.S.)  
Revised ~~January 24~~December, 2020

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# INTRODUCTION

Generally, projects of the same type should have the same conditions of approval. Variations in conditions of approval should only occur if two projects have different characteristics such as different sizes, locations, environmental settings, or other considerations. The City of Oakland has developed Standard Conditions of Approval contained in this document to achieve this consistency. These Conditions are applied to projects when they receive discretionary planning-related approval (including permits issued under the Planning Code and Subdivision Regulations, Creek Protection Permits, and Development-Related Tree Permits). The Conditions should be applied to projects based on the guidance in this document. Variations in the application of the Conditions should only occur in special circumstances.

**Part 1** contains General Administrative Conditions. These Conditions pertain to the administrative aspects of the project approval.

**Part 2** contains Environmental Protection Measures. These Conditions are Uniformly Applied Development Standards that substantially mitigate environmental effects. The Conditions are incorporated into a project regardless of the project's environmental determination, pursuant, in part, to California Environmental Quality Act (CEQA) Guidelines sections 15183 and 15183.3. As applicable, the Conditions are adopted as requirements of an individual project when the project is approved by the City and are designed to, and will, substantially mitigate environmental effects. In reviewing project applications, the City determines which of the Conditions are applied, based upon the project's characteristics and location, zoning district, applicable plans, and type(s) of permit(s)/approvals(s) required for the project. For example, Conditions related to creek protection permits are applied to projects on creekside properties.

The Standard Conditions of Approval were initially and formally adopted by the Oakland City Council on November 3, 2008 (Ordinance No. 12899 C.M.S.), pursuant to Public Resources Code section 21083.3 and CEQA Guidelines section 15183 (and now section 15183.3), and incorporate development policies and standards from various adopted plans, policies, and ordinances (such as the Oakland Planning and Municipal Codes, Oakland Creek Protection, Stormwater Management and Discharge Control Ordinance, Oakland Tree Protection Ordinance, Oakland Grading Regulations, National Pollutant Discharge Elimination System (NPDES) requirements, Housing Element and other General Plan Element-related mitigation measures, California Building Code, Uniform Fire Code, Energy and Climate Action Plan, Complete Streets Policy, and Green Building Ordinance, among others), which have been found to substantially mitigate environmental effects.

Where there are peculiar circumstances associated with a project or project site that will result in significant environmental impacts despite implementation of the Standard Conditions of Approval the City will determine whether there are feasible mitigation measures to reduce the impact to less than significant levels in the course of appropriate CEQA review (mitigated negative declaration or EIR).

**Part 3** contains Other Standard Conditions. These Conditions contain requirements to substantially reduce the non-environmental impacts of projects.

## *Instructions for Use*

As stated above, the Standard Conditions of Approval are applied to projects depending upon the circumstances surrounding the project. This document provides guidance concerning when each Condition should be applied. In both Parts 1 and 2, bracketed text in **gray** should be deleted from the final document.

In a CEQA document, the Standard Conditions of Approval applicable to the project are considered requirements of the project and not mitigation. In an EIR, the Standard Conditions of Approval should be included in the discussion concerning the regulatory setting of the applicable environmental topic. In the event that Standard Conditions of Approval do not substantially mitigate an environmental effect, the City will determine if there are feasible mitigation measures to reduce the impact to a less-than-significant level.

Many of the Standard Conditions of Approval require technical studies to be prepared. In the case of a project subject to detailed CEQA review, the technical studies may be required to be performed during the course of the CEQA review (and the results of the studies incorporated into the CEQA document) rather than after project approval. In cases where a technical study required by a Standard Condition of Approval is conducted prior to project approval and includes project-specific recommendations for mitigating an environmental effect, these recommendations are considered implementation measures for the Standard Condition of Approval rather than separate mitigation measures.

# Part 1: Standard Conditions of Approval – General Administrative Conditions

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## 1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, **[insert staff report if applicable,]** and the approved plans **[identify final approved plans by date of plans and/or date plans received]**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

## 2. Effective Date, Expiration, Extensions and Extinguishment

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten (10) calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **[insert one calendar year for code enforcement cases; two years for all other cases]** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period a complete building permit application has been filed with the Bureau of Building and diligently pursued towards completion, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

## 3. Compliance with Other Requirements

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, Department of Transportation, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

## 4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning **[If known, insert examples of minor changes that may be applicable to the project, such as reduction of a certain limited number of units in a residential project.]**
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and

approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval. **[If known, insert examples of major changes that may be applicable to the project that may require processing as a major revision to the Approval and/or a new independent permit/approval. Factors to consider when determining if a revision is major include, but are not limited to, the following: the permitted uses of the project, the density or intensity of uses in the project, substantial changes to height, design, envelope, massing or size of improvements or provisions for dedications associated with the project, or changes that will result in any of the circumstances requiring further environmental review pursuant to CEQA Guidelines section 15162 or 15163. ]**

**[Note to staff: Consider making a formal written administrative determination/interpretation with public notice of a ten (10) day appeal period to interested parties when making determinations for minor or major changes under this Condition. Factors to consider include the controversial nature of the project, potential impact(s) on surrounding neighbors, ongoing interest in the project, and if the project applicant and/or interested parties have requested such notice.]**

## **5. Compliance with Conditions of Approval**

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant’s expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City’s Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

## **6. Signed Copy of the Approval/Conditions**

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

## **7. Blight/Nuisances**

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within sixty (60) days of approval, unless an earlier date is specified elsewhere.

## **8. Indemnification**

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called "City") 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 Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

## **9. Severability**

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

## **10. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring**

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval. The project applicant shall establish a deposit with Engineering Services and/or the Bureau of Building, if directed by the Director of Public Works, Building Official, Director of City Planning, Director of

Transportation, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

### **11. Public Improvements**

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement (“p-job”) permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, Engineering Services, Department of Transportation, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City. **[Note to staff: If project-specific public improvements are known, they should be listed with the project-specific conditions.]**

**[The following condition applies to all major development projects, specifically those involving any of the following:**

- a. Construction of 50 or more residential dwelling units;**
- b. Construction of 50,000 sq. ft. or more of nonresidential floor area; or**
- c. CEQA review (e.g., negative declaration, mitigated negative declaration, or EIR).]**

### **12. Compliance Matrix**

The project applicant shall submit a Compliance Matrix, in both written and electronic form, for review and approval by the Bureau of Planning and the Bureau of Building that lists each Condition of Approval (including each mitigation measure if applicable) in a sortable spreadsheet. The Compliance Matrix shall contain, at a minimum, each required Condition of Approval, when compliance with the Condition is required, and the status of compliance with each Condition. For multi-phased projects, the Compliance Matrix shall indicate which Condition applies to each phase. The project applicant shall submit the initial Compliance Matrix prior to the issuance of the first construction-related permit and shall submit an updated matrix upon request by the City.

**[The following condition applies to all major development projects, specifically those involving any of the following:**

- a. Construction of 50 or more residential dwelling units;**
- b. Construction of 50,000 sq. ft. or more of nonresidential floor area; or**
- c. CEQA review (e.g., negative declaration, mitigated negative declaration, or EIR).]**

### **13. Construction Management Plan**

Prior to the issuance of the first construction-related permit, the project applicant and his/her general contractor shall submit a Construction Management Plan (CMP) for review and approval by the Bureau of Planning, Bureau of Building, and other relevant City departments such as the Fire Department, Department of Transportation, and the Public Works Department as directed. The CMP shall contain measures to minimize potential construction impacts including measures to comply with all construction-related Conditions of Approval (and mitigation measures if

applicable) such as dust control, construction emissions, hazardous materials, construction days/hours, construction traffic control, waste reduction and recycling, stormwater pollution prevention, noise control, complaint management, and cultural resource management (see applicable Conditions below). The CMP shall provide project-specific information including descriptive procedures, approval documentation, and drawings (such as a site logistics plan, fire safety plan, construction phasing plan, proposed truck routes, traffic control plan, complaint management plan, construction worker parking plan, and litter/debris clean-up plan) that specify how potential construction impacts will be minimized and how each construction-related requirement will be satisfied throughout construction of the project.

**[The following condition applies to all projects requiring a Mitigation Monitoring and Reporting Program]**

**14. Standard Conditions of Approval / Mitigation Monitoring and Reporting Program (SCAMMRP)**

- a. All mitigation measures identified in the **[insert the name of the EIR/MND]** are included in the Standard Condition of Approval / Mitigation Monitoring and Reporting Program (SCAMMRP) which is included in these Conditions of Approval and are incorporated herein by reference, as Attachment **[insert attachment letter, and attach the SCAMMRP at the end of the Conditions of Approval]**, as Conditions of Approval of the project. The Standard Conditions of Approval identified in the **[insert the name of the EIR/MND]** are also included in the SCAMMRP, and are, therefore, incorporated into these Conditions by reference but are not repeated in these Conditions **[note to staff: the standard conditions of approval should be listed in the SCAMMRP so they do not need to be listed again in the conditions of approval]**. To the extent that there is any inconsistency between the SCAMMRP and these Conditions, the more restrictive Conditions shall govern. In the event a Standard Condition of Approval or mitigation measure recommended in the **[insert name of the EIR/MND]** has been inadvertently omitted from the SCAMMRP, that Standard Condition of Approval or mitigation measure is adopted and incorporated from the **[insert name of the EIR/MND]** into the SCAMMRP by reference, and adopted as a Condition of Approval. The project applicant and property owner shall be responsible for compliance with the requirements of any submitted and approved technical reports, all applicable mitigation measures adopted, and with all Conditions of Approval set forth herein at his/her sole cost and expense, unless otherwise expressly provided in a specific mitigation measure or Condition of Approval, and subject to the review and approval by the City of Oakland. The SCAMMRP identifies the timeframe and responsible party for implementation and monitoring for each Standard Condition of Approval and mitigation measure. Unless otherwise specified, monitoring of compliance with the Standard Conditions of Approval and mitigation measures will be the responsibility of the Bureau of Planning, with overall authority concerning compliance residing with the Environmental Review Officer. Adoption of the SCAMMRP will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in section 21081.6 of CEQA.
- b. Prior to the issuance of the first construction-related permit, the project applicant shall pay the applicable mitigation and monitoring fee to the City in accordance with the City's Master Fee Schedule.

## Part 2: Standard Conditions of Approval – Environmental Protection Measures

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### GENERAL

[The following condition applies to all projects requiring a permit or authorization from any regional, state, or federal resource or permitting agency (e.g., Regional Water Quality Control Board, Bay Area Air Quality Management District, Bay Conservation and Development Commission, California Dept. of Fish and Wildlife, U.S. Fish and Wildlife Service, and/or Army Corps of Engineers).]

#### **15. Regulatory Permits and Authorizations from Other Agencies**

Requirement: The project applicant shall obtain all necessary regulatory permits and authorizations from applicable resource/regulatory agencies including, but not limited to, the Regional Water Quality Control Board, Bay Area Air Quality Management District, Bay Conservation and Development Commission, California Department of Fish and Wildlife, U. S. Fish and Wildlife Service, and Army Corps of Engineers and shall comply with all requirements and conditions of the permits/authorizations. The project applicant shall submit evidence of the approved permits/authorizations to the City, along with evidence demonstrating compliance with any regulatory permit/authorization conditions of approval.

When Required: Prior to activity requiring permit/authorization from regulatory agency

Initial Approval: Approval by applicable regulatory agency with jurisdiction; evidence of approval submitted to Bureau of Planning

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

### AESTHETICS

[The following condition applies to all projects.]

#### **16. Trash and Blight Removal**

Requirement: The project applicant and his/her successors shall maintain the property free of blight, as defined in chapter 8.24 of the Oakland Municipal Code. For nonresidential and multi-family residential projects, the project applicant shall install and maintain trash receptacles near public entryways as needed to provide sufficient capacity for building users.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects.]**

## **17. Graffiti Control**

### Requirement:

- a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
  - i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
  - ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
  - iii. Use of paint with anti-graffiti coating.
  - iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).
  - v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.
- b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
  - i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
  - ii. Covering with new paint to match the color of the surrounding surface.
  - iii. Replacing with new surfacing (with City permits if required).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects requiring a landscape plan, specifically:**

- a. Establishment of one or more new residential units (excluding secondary units);**
- b. Residential additions over 500 sq. ft. of floor area;**
- c. Establishment of new nonresidential facilities; or**
- d. Nonresidential additions over 1,000 sq. ft. of floor area.]**

## **18. Landscape Plan**

### **a. *Landscape Plan Required***

- Requirement: The project applicant shall submit a final Landscape Plan for City review and approval that is consistent with the approved Landscape Plan. The Landscape Plan shall be included with the set of drawings submitted for the construction-related permit and shall comply with the landscape requirements of chapter 17.124 of the Planning Code. Proposed plants shall be predominantly drought-tolerant. Specification of any street trees shall comply with the Master Street Tree List and Tree Planting Guidelines (which can be viewed at

<http://www2.oaklandnet.com/oakca1/groups/pwa/documents/report/oak042662.pdf> and <http://www2.oaklandnet.com/oakca1/groups/pwa/documents/form/oak025595.pdf>, respectively), and with any applicable streetscape plan.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

**b. *Landscape Installation***

Requirement: The project applicant shall implement the approved Landscape Plan unless a bond, cash deposit, letter of credit, or other equivalent instrument acceptable to the Director of City Planning, is provided. The financial instrument shall equal the greater of \$2,500 or the estimated cost of implementing the Landscape Plan based on a licensed contractor's bid.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**c. *Landscape Maintenance***

Requirement: All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The property owner shall be responsible for maintaining planting in adjacent public rights-of-way. All required fences, walls, and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects containing new exterior lighting.]**

**19. Lighting**

Requirement: Proposed new exterior lighting fixtures shall be adequately shielded to a point below the light bulb and reflector to prevent unnecessary glare onto adjacent properties.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**AIR QUALITY**

**[The following condition applies to all projects involving construction activities.]**

**20. Dust Controls – Construction Related**

Requirement: The project applicant shall implement all of the following applicable dust control measures during construction of the project:

- a) Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.
- b) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d) Limit vehicle speeds on unpaved roads to 15 miles per hour.
- e) All demolition activities (if any) shall be suspended when average wind speeds exceed 20 mph.
- f) All trucks and equipment, including tires, shall be washed off prior to leaving the site.
- g) Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[ENHANCED CONTROLS: All "Basic" controls listed above plus the following controls if the project involves:**

- **Extensive site preparation (i.e., the construction site is four acres or more in size); or**
- **Extensive soil transport (i.e., 10,000 or more cubic yards of soil import/export).]**

- h) Apply and maintain vegetative ground cover (e.g., hydroseed) or non-toxic soil stabilizers to disturbed areas of soil that will be inactive for more than one month. Enclose, cover, water twice daily, or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- i) Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress.
- j) When working at a site, install appropriate wind breaks (e.g., trees, fences) on the windward side(s) of the site, to minimize wind-blown dust. Windbreaks must have a maximum 50 percent air porosity.
- k) Post a publicly visible large on-site sign that includes the contact name and phone number for the project complaint manager responsible for responding to dust complaints and the telephone numbers of the City's Code Enforcement unit and the Bay Area Air Quality Management District. When contacted, the project complaint manager shall respond and take corrective action within 48 hours.
- l) All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction activities.]**

**21. Criteria Air Pollutant Controls - Construction Related**

Requirement: The project applicant shall implement all of the following applicable basic control measures for criteria air pollutants during construction of the project as applicable:

- a) Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.
- b) Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”).
- c) All construction equipment shall be maintained and properly tuned in accordance with the manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. Equipment check documentation should be kept at the construction site and be available for review by the City and the Bay Area Air Quality District as needed.
- d) Portable equipment shall be powered by grid electricity if available. If electricity is not available, propane or natural gas generators shall be used if feasible. Diesel engines shall only be used if grid electricity is not available and propane or natural gas generators cannot meet the electrical demand.
- e) Low VOC (i.e., ROG) coatings shall be used that comply with BAAQMD Regulation 8, Rule 3: Architectural Coatings.
- f) All equipment to be used on the construction site shall comply with the requirements of Title 13, Section 2449, of the California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”) and upon request by the City (and the Air District if specifically requested), the project applicant shall provide written documentation that fleet requirements have been met.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[ENHANCED CONTROLS: All "Basic" controls listed above plus the following controls if the project involves: Construction activities with average daily emissions exceeding the CEQA thresholds for construction activity, currently 54 pounds per day of ROG, NOx, or PM2.5 or 82 pounds per day of PM10. In most cases, criteria pollutants from construction will not require SCA measures, but analysis must be performed to determine applicability**

**for projects that exceed 100,000 square feet of non-residential development or 200 residential dwelling units.**

g) Criteria Air Pollutant Reduction Measures

Requirement: The project applicant shall retain a qualified air quality consultant to identify criteria air pollutant reduction measures to reduce the project's average daily emissions below 54 pounds per day of ROG, NO<sub>x</sub>, or PM<sub>2.5</sub> or 82 pounds per day of PM<sub>10</sub>. Quantified emissions and identified reduction measures shall be submitted to the City (and the Air District if specifically requested) for review and approval prior to the issuance of building permits and the approved criteria air pollutant reduction measures shall be implemented during construction.

h) Construction Emissions Minimization Plan

Requirement: The project applicant shall prepare a Construction Emissions Minimization Plan (Emissions Plan) for all identified criteria air pollutant reduction measures. The Emissions Plan shall be submitted to the City (and the Air District if specifically requested) for review and approval prior to the issuance of building permits. The Emissions Plan shall include the following:

- i. An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all Verified Diesel Emissions Control Strategies (VDECS), the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
- ii. A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract.

When Required: Prior to issuance of a construction related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction activities involving greater than 100 dwelling units or 50,000 square feet of non-residential floor area OR for any project involving construction activities involving greater than 50 dwelling units or 25,000 square feet of non-residential floor area for any area defined as needing “Best Practices” or needing “Further Study” on the BAAQMD Healthy Places Map (<http://www.baaqmd.gov/plans-and-climate/planning-healthy-places>) which are typically within 1000 feet of a freeway or along major thoroughfares.**

## **22. Diesel Particulate Matter Controls-Construction Related**

### ***a. Diesel Particulate Matter Reduction Measures***

Requirement: The project applicant shall implement appropriate measures during construction to reduce potential health risks to sensitive receptors due to exposure to diesel particulate matter (DPM) from construction emissions. The project applicant shall choose **one** of the following methods:

- i. The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with current guidance from the California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment to determine the health risk to sensitive receptors exposed to DPM from project construction emissions. The HRA shall be submitted to the City (and the Air District if specifically requested) for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then DPM reduction measures are not required. If the HRA concludes that the health risk exceeds acceptable levels, DPM reduction measures shall be identified to reduce the health risk to acceptable levels as set forth under subsection b below. Identified DPM reduction measures shall be submitted to the City for review and approval prior to the issuance of building permits and the approved DPM reduction measures shall be implemented during construction.

-or-

- ii. All off-road diesel equipment shall be equipped with the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by CARB. The equipment shall be properly maintained and tuned in accordance with manufacturer specifications. This shall be verified through an equipment inventory submittal and Certification Statement that the Contractor agrees to compliance and acknowledges that a significant violation of this requirement shall constitute a material breach of contract.

When Required: Prior to issuance of a construction related permit (i), during construction (ii)

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

***b. Construction Emissions Minimization Plan (if required by a above)***

Requirement: The project applicant shall prepare a Construction Emissions Minimization Plan (Emissions Plan) for all identified DPM reduction measures (if any). The Emissions Plan shall be submitted to the City (and the Bay Area Air Quality District if specifically requested) for review and approval prior to the issuance of building permits. The Emissions Plan shall include the following:

- i. An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
- ii. A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract.

When Required: Prior to issuance of a construction related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

[The following condition applies to all projects that meet all of the following criteria:

- a. The project involves any of the following sensitive land uses:
  - i. Residential uses (new dwelling units, excluding secondary units); or
  - ii. New or expanded schools, daycare centers, parks, nursing homes, or medical facilities; and
- b. The project is located within 1,000' (or other distance as specified below) of one or more of the following sources of air pollution:
  - i. Freeway;
  - ii. Roadway with significant traffic (at least 10,000 vehicles/day);
  - iii. Rail line (except BART) with over 30 trains per day;
  - iv. Distribution center that accommodates more than 100 trucks per day, more than 40 trucks with operating Transportation Refrigeration Units (TRU) per day, or where the TRU unit operations exceed 300 hours per week;
  - v. Major rail or truck yard (such as the Union Pacific rail yard adjacent to the Port of Oakland);
  - vi. Ferry terminal;
  - vii. Stationary pollutant source requiring a permit from BAAQMD (such as a diesel generator);
  - viii. Within 0.5 miles of the Port of Oakland or Oakland Airport;
  - ix. Within 300 feet of a gas station; or
  - x. Within 300 feet of a dry cleaner with a machine using PERC (or within 500 feet of a dry cleaner with two or more machines using PERC); and
- c. The project exceeds the health risk screening criteria after a screening analysis is conducted in accordance with the Bay Area Air Quality Management (BAAQMD) CEQA Guidelines.]

### **23. Exposure to Air Pollution (Toxic Air Contaminants)**

#### ***a. Health Risk Reduction Measures***

**Requirement:** The project applicant shall incorporate appropriate measures into the project design in order to reduce the potential health risk due to exposure to toxic air contaminants. The project applicant shall choose **one** of the following methods:

- i. The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment requirements to determine the health risk of exposure of project residents/occupants/users to air pollutants. The HRA shall be submitted to the City for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then health risk reduction measures are not required. If the HRA concludes that the health risk exceeds acceptable levels, health risk reduction measures shall be identified to reduce the health risk to acceptable levels. Identified risk reduction measures shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City. The approved risk reduction measures shall be implemented during construction and/or operations as applicable.

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- ii. The project applicant shall incorporate the following health risk reduction measures into the project. These features shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City:
- Installation of air filtration to reduce cancer risks and Particulate Matter (PM) exposure for residents and other sensitive populations in the project that are in close proximity to sources of air pollution. Air filter devices shall be rated MERV-13 [insert MERV-16 for projects located in the West Oakland Specific Plan area] or higher. As part of implementing this measure, an ongoing maintenance plan for the building's HVAC air filtration system shall be required.
  - Where appropriate, install passive electrostatic filtering systems, especially those with low air velocities (i.e., 1 mph).
  - Phasing of residential developments when proposed within 500 feet of freeways such that homes nearest the freeway are built last, if feasible.
  - The project shall be designed to locate sensitive receptors as far away as feasible from the source(s) of air pollution. Operable windows, balconies, and building air intakes shall be located as far away from these sources as feasible. If near a distribution center, residents shall be located as far away as feasible from a loading dock or where trucks concentrate to deliver goods.
  - Sensitive receptors shall be located on the upper floors of buildings, if feasible.
  - Planting trees and/or vegetation between sensitive receptors and pollution source, if feasible. Trees that are best suited to trapping PM shall be planted, including one or more of the following: Pine (*Pinus nigra* var. *maritima*), Cypress (*X Cupressocyparis leylandii*), Hybrid poplar (*Populus deltoids X trichocarpa*), and Redwood (*Sequoia sempervirens*).
  - Sensitive receptors shall be located as far away from truck activity areas, such as loading docks and delivery areas, as feasible.
  - Existing and new diesel generators shall meet CARB's Tier 4 emission standards, if feasible.
  - Emissions from diesel trucks shall be reduced through implementing the following measures, if feasible:
    - Installing electrical hook-ups for diesel trucks at loading docks.
    - Requiring trucks to use Transportation Refrigeration Units (TRU) that meet Tier 4 emission standards.
    - Requiring truck-intensive projects to use advanced exhaust technology (e.g., hybrid) or alternative fuels.
    - Prohibiting trucks from idling for more than two minutes.
    - Establishing truck routes to avoid sensitive receptors in the project. A truck route program, along with truck calming, parking, and delivery restrictions, shall be implemented.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**b. Maintenance of Health Risk Reduction Measures**

Requirement: The project applicant shall maintain, repair, and/or replace installed health risk reduction measures, including but not limited to the HVAC system (if applicable), on an ongoing and as-needed basis. Prior to occupancy, the project applicant shall prepare and then distribute to the building manager/operator an operation and maintenance manual for the HVAC system and filter including the maintenance and replacement schedule for the filter.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that involve a stationary pollutant source requiring a permit from BAAQMD, including but not limited to back-up diesel generators. The California Building Code requires back-up diesel generators for all buildings over 70 feet tall.]**

**24. Stationary Sources of Air Pollution (Toxic Air Contaminants)**

Requirement: The project applicant shall incorporate appropriate measures into the project design in order to reduce the potential health risk due to on-site stationary sources of toxic air contaminants. The project applicant shall choose **one** of the following methods:

- a. The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment requirements to determine the health risk associated with proposed stationary sources of pollution in the project. The HRA shall be submitted to the City for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then health risk reduction measures are not required. If the HRA concludes the health risk exceeds acceptable levels, health risk reduction measures shall be identified to reduce the health risk to acceptable levels. Identified risk reduction measures shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City. The approved risk reduction measures shall be implemented during construction and/or operations as applicable.

- or -

- b. The project applicant shall incorporate the following health risk reduction measures into the project. These features shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City:
  - i. Installation of non-diesel fueled generators, if feasible, or;
  - ii. Installation of diesel generators with an EPA-certified Tier 4 engine or engines that are retrofitted with a CARB Level 3 Verified Diesel Emissions Control Strategy, if feasible.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that involve new truck loading docks or a truck fleet of any size registered to the project applicant/operator.]**

**25. Truck-Related Risk Reduction Measures (Toxic Air Contaminants)**

**a. *Truck Loading Docks***

Requirement: The project applicant shall locate proposed truck loading docks as far from nearby sensitive receptors as feasible.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**b. *Truck Fleet Emission Standards***

Requirement: The project applicant shall comply with all applicable California Air Resources Board (CARB) requirements to control emissions from diesel engines and demonstrate compliance to the satisfaction of the City. Methods to comply include, but are not limited to, new clean diesel trucks, higher-tier diesel engine trucks with added Particulate Matter (PM) filters, hybrid trucks, alternative energy trucks, or other methods that achieve the applicable CARB emission standard. Compliance with this requirement shall be verified through CARB's Verification Procedures for In-Use Strategies to Control Emissions from Diesel Engines.

When Required: Prior to building permit final; ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving either of the following:**

**a. Demolition of structures; or**

**b. Renovation of structures known to contain or may contain asbestos.]**

**26. Asbestos in Structures**

Requirement: The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

**[The following condition applies to all projects involving both of the following:**

- a. Construction, grading, or mining activities; and**
- b. Located in an area of naturally-occurring asbestos, serpentine soils, and/or ultramafic rock (generally above Highway 13 between Shepherd Canyon Rd. and Keller Ave.; staff can refer to the map on the City server).]**

### **27. Naturally-Occurring Asbestos**

Requirement: The project applicant shall comply with all applicable laws and regulations regarding construction in areas of naturally-occurring asbestos, including but not limited to, the Bay Area Air Quality Management District's (BAAQMD) Asbestos Airborne Toxic Control Measures for Construction, Grading, Quarrying, and Surface Mining Operations (implementing California Code of Regulations, section 93105, as may be amended) requiring preparation and implementation of an Asbestos Dust Mitigation Plan to minimize public exposure to naturally-occurring asbestos. Evidence of compliance shall be submitted to the City upon request.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

## **BIOLOGICAL RESOURCES**

**[The following condition applies to all construction projects which include glass as part of the building's exterior AND at least one of the following:**

- a. The project is located immediately adjacent to a substantial water body (e.g., Oakland Estuary, San Francisco Bay, Lake Merritt or other lake, reservoir, or wetland);**
- b. The project is located immediately adjacent to recreation area or park larger than one acre and which contains substantial vegetation;**
- c. The project includes a substantial vegetated or green roof (roofs with growing medium and plants taking the place of conventional roofing, such asphalt, tile, gravel, or shingles), but excluding container gardens; or**
- d. The project includes an existing or proposed substantial vegetated area (generally contiguous one acre in size or larger) located directly adjacent to project buildings.]**

### **28. Bird Collision Reduction Measures**

Requirement: The project applicant shall submit a Bird Collision Reduction Plan for City review and approval to reduce potential bird collisions to the maximum feasible extent. The Plan shall include all of the following mandatory measures, as well as applicable and specific project Best Management Practice (BMP) strategies to reduce bird strike impacts to the maximum feasible extent. The project applicant shall implement the approved Plan. Mandatory measures include all of the following:

- i. For large buildings subject to federal aviation safety regulations, install minimum intensity white strobe lighting with three second flash instead of solid red or rotating lights.
- ii. Minimize the number of and co-locate rooftop-antennas and other rooftop structures.

- iii. Monopole structures or antennas shall not include guy wires.
- iv. Avoid the use of mirrors in landscape design.
- v. Avoid placement of bird-friendly attractants (i.e., landscaped areas, vegetated roofs, water features) near glass unless shielded by architectural features taller than the attractant that incorporate bird friendly treatments no more than two inches horizontally, four inches vertically, or both (the “two-by-four” rule), as explained below.
- vi. Apply bird-friendly glazing treatments to no less than 90 percent of all windows and glass between the ground and 60 feet above ground or to the height of existing adjacent landscape or the height of the proposed landscape. Examples of bird-friendly glazing treatments include the following:
  - Use opaque glass in window panes instead of reflective glass.
  - Uniformly cover the interior or exterior of clear glass surface with patterns (e.g., dots, stripes, decals, images, abstract patterns). Patterns can be etched, fritted, or on films and shall have a density of no more than two inches horizontally, four inches vertically, or both (the “two-by-four” rule).
  - Install paned glass with fenestration patterns with vertical and horizontal mullions no more than two inches horizontally, four inches vertically, or both (the “two-by-four” rule).
  - Install external screens over non-reflective glass (as close to the glass as possible) for birds to perceive windows as solid objects.
  - Install UV-pattern reflective glass, laminated glass with a patterned UV-reflective coating, or UV-absorbing and UV-reflecting film on the glass since most birds can see ultraviolet light, which is invisible to humans.
  - Install decorative grilles, screens, netting, or louvers, with openings no more than two inches horizontally, four inches vertically, or both (the “two-by-four” rule).
  - Install awnings, overhangs, sunshades, or light shelves directly adjacent to clear glass which is recessed on all sides.
  - Install opaque window film or window film with a pattern/design which also adheres to the “two-by-four” rule for coverage.
- vi. Reduce light pollution. Examples include the following:
  - Extinguish night-time architectural illumination treatments during bird migration season (February 15 to May 15 and August 15 to November 30).
  - Install time switch control devices or occupancy sensors on non-emergency interior lights that can be programmed to turn off during non-work hours and between 11:00 p.m. and sunrise.
  - Reduce perimeter lighting whenever possible.
  - Install full cut-off, shielded, or directional lighting to minimize light spillage, glare, or light trespass.
  - Do not use beams of lights during the spring (February 15 to May 15) or fall (August 15 to November 30) migration.
- vii. Develop and implement a building operation and management manual that promotes bird safety. Example measures in the manual include the following:
  - Donation of discovered dead bird specimens to an authorized bird conservation organization or museums (e.g., UC Berkeley Museum of Vertebrate Zoology) to aid in

species identification and to benefit scientific study, as per all federal, state and local laws.

- Distribution of educational materials on bird-safe practices for the building occupants. Contact Golden Gate Audubon Society or American Bird Conservancy for materials.
- Asking employees to turn off task lighting at their work stations and draw office blinds, shades, curtains, or other window coverings at end of work day.
- Install interior blinds, shades, or other window coverings in windows above the ground floor visible from the exterior as part of the construction contract, lease agreement, or CC&Rs.
- Schedule nightly maintenance during the day or to conclude before 11 p.m., if possible.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**The following condition applies to all projects that involve removal of a tree (either protected or unprotected tree).]**

### **29. Tree Removal During Bird Breeding Season**

Requirement: To the extent feasible, removal of any tree and/or other vegetation suitable for nesting of birds shall not occur during the bird breeding season of February 1 to August 15 (or during December 15 to August 15 for trees located in or near marsh, wetland, or aquatic habitats). If tree removal must occur during the bird breeding season, all trees to be removed shall be surveyed by a qualified biologist to verify the presence or absence of nesting raptors or other birds. Pre-removal surveys shall be conducted within 15 days prior to the start of work and shall be submitted to the City for review and approval. If the survey indicates the potential presence of nesting raptors or other birds, the biologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be determined by the biologist in consultation with the California Department of Fish and Wildlife, and will be based to a large extent on the nesting species and its sensitivity to disturbance. In general, buffer sizes of 200 feet for raptors and 50 feet for other birds should suffice to prevent disturbance to birds nesting in the urban environment, but these buffers may be increased or decreased, as appropriate, depending on the bird species and the level of disturbance anticipated near the nest.

When Required: Prior to removal of trees

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**The following condition applies to all projects requiring a tree permit per the City's Tree Protection Ordinance (OMC Chap. 12.36).]**

### **30. Tree Permit**

#### ***a. Tree Permit Required***

Requirement: Pursuant to the City's Tree Protection Ordinance (OMC chapter 12.36), the project applicant shall obtain a tree permit and abide by the conditions of that permit.

When Required: Prior to approval of construction-related permit

Initial Approval: Permit approval by Public Works Department, Tree Division; evidence of approval submitted to Bureau of Building

Monitoring/Inspection: Bureau of Building

**b. *Tree Protection During Construction***

Requirement: Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist:

- i. Before the start of any clearing, excavation, construction, or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the project's consulting arborist. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
- ii. Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filling, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the project's consulting arborist from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
- iii. No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the project's consulting arborist from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the project's consulting arborist. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.
- iv. Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.
- v. If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Department and the project's consulting arborist shall make a recommendation to the City Tree Reviewer as to whether the damaged tree can be preserved. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.
- vi. All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall

be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.

When Required: During construction

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

**c. *Tree Replacement Plantings***

Requirement: Replacement plantings shall be required for tree removals for the purposes of erosion control, groundwater replenishment, visual screening, wildlife habitat, and preventing excessive loss of shade, in accordance with the following criteria:

- i. No tree replacement shall be required for the removal of nonnative species, for the removal of trees which is required for the benefit of remaining trees, or where insufficient planting area exists for a mature tree of the species being considered.
- ii. Replacement tree species shall consist of *Sequoia sempervirens* (Coast Redwood), *Quercus agrifolia* (Coast Live Oak), *Arbutus menziesii* (Madrone), *Aesculus californica* (California Buckeye), *Umbellularia californica* (California Bay Laurel), or other tree species acceptable to the Tree Division.
- iii. Replacement trees shall be at least twenty-four (24) inch box size, unless a smaller size is recommended by the arborist, except that three fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.
- iv. Minimum planting areas must be available on site as follows:
  - For *Sequoia sempervirens*, three hundred fifteen (315) square feet per tree;
  - For other species listed, seven hundred (700) square feet per tree.
- v. In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee in accordance with the City's Master Fee Schedule may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.
- vi. The project applicant shall install the plantings and maintain the plantings until established. The Tree Reviewer of the Tree Division of the Public Works Department may require a landscape plan showing the replacement plantings and the method of irrigation. Any replacement plantings which fail to become established within one year of planting shall be replanted at the project applicant's expense.

When Required: Prior to building permit final

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

**The following condition applies to all projects located within the area mapped as critical habitat for the Alameda Whipsnake by the U.S. Fish & Wildlife Service and confirmed as habitat by a biological report prior to project approval. This area (in Oakland) is generally bounded by the Alameda/Contra Costa border to the north, Oakland/Berkeley border to the west, Snake Road to the east, and above Tunnel Road/Highway 13 (staff can refer to the City's GIS map). (\*\*NOTE: PRESENCE OF HABITAT GENERALLY PRECLUDES USE OF A CEQA CATEGORICAL EXEMPTION\*\*)]**

### **31. Alameda Whipsnake Protection Measures**

#### ***a. Pre-Construction Survey Required***

Requirement: The project applicant shall hire a qualified biologist to conduct an Alameda whipsnake survey to identify the potential presence of Alameda whipsnakes at the project site. If the presence of Alameda whipsnakes is confirmed, the whipsnakes shall be captured and relocated away from the construction area by a qualified biologist in accordance with all applicable regulations and guidelines. The biologist shall submit the results of the survey (and capture/relocation if applicable) to the City for review and approval.

When Required: Prior to any construction-related activity

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

#### ***b. Information and Protocols for Construction Workers***

Requirement: The biologist from section (a) above shall instruct the project superintendent and the construction crews (primarily the clearing, demolition, and foundation crews) of the potential presence, status, and identification of Alameda whipsnakes. The biologist shall also establish a set of protocols for use during construction concerning the steps to take if a whipsnake is seen on the project site, including who to contact, to ensure that whipsnakes are not harmed or killed. The project applicant shall submit evidence of compliance with these requirements to the City for review and approval.

When Required: Prior to any construction-related activity

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

#### ***c. Alameda Whipsnake Exclusion Fence***

Requirement: Unless alternative (equivalent or more effective) measures are recommended by the biologist, the project applicant shall install a solid fence to prevent whipsnakes from entering the work site. The snake exclusion fence shall be constructed as follows:

- i. Plywood sheets at least three feet in height, above ground. Heavy duty geotextile fabric approved by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife may also be used for the snake exclusion fence;
- ii. Buried four to six inches into the ground;
- iii. Soil back-filled against the plywood fence to create a solid barrier at the ground;
- iv. Plywood sheets maintained in an upright position with wooden or masonry stakes;
- v. Ends of each plywood sheet overlapped to ensure a continuous barrier; and
- vi. Work site or construction area shall be completely enclosed by the exclusion fence or approved traps shall be installed at the ends of exclusion fence segments to allow

capture and relocation of Alameda whipsnake away from the construction area by a qualified biologist.

The location and design of the proposed exclusion fence shall be submitted for review and approval by the City and be included on plans for all construction-related permits.

When Required: Prior to any construction-related activity

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

***d. Alameda Whipsnake Protection During Construction***

Requirement: The project applicant shall comply with the requirements in the above sections during construction activities. The approved protocol from section (b) above shall be followed in the event Alameda whipsnakes are encountered. The snake exclusion fence from section (c) above shall be installed and remain in place throughout the construction period. All construction activities and equipment/materials/debris storage shall take place on the project-side of the exclusion fence.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[See Hydrology and Water Quality section for other conditions related to biological resources.]**

## **CULTURAL RESOURCES**

**[The following condition applies to all projects involving construction.]**

### **32. Archaeological and Paleontological Resources – Discovery During Construction**

Requirement: Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.

In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions

applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.

In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that involve construction and are located in archaeologically sensitive areas. Archaeologically sensitive areas are areas in which previous CEQA documents or other sources of information identify a higher likelihood of archaeological finds.]**

### **33. Archaeologically Sensitive Areas – Pre-Construction Measures**

Requirement: The project applicant shall implement either Provision A (Intensive Pre-Construction Study) or Provision B (Construction ALERT Sheet) concerning archaeological resources.

#### **Provision A: Intensive Pre-Construction Study.**

The project applicant shall retain a qualified archaeologist to conduct a site-specific, intensive archaeological resources study for review and approval by the City prior to soil-disturbing activities occurring on the project site. The purpose of the site-specific, intensive archaeological resources study is to identify early the potential presence of history-period archaeological resources on the project site. At a minimum, the study shall include:

- a. Subsurface presence/absence studies of the project site. Field studies may include, but are not limited to, auguring and other common methods used to identify the presence of archaeological resources.
- b. A report disseminating the results of this research.
- c. Recommendations for any additional measures that could be necessary to mitigate any adverse impacts to recorded and/or inadvertently discovered cultural resources.

If the results of the study indicate a high potential presence of historic-period archaeological resources on the project site, or a potential resource is discovered, the project applicant shall hire a qualified archaeologist to monitor any ground disturbing activities on the project site during construction and prepare an ALERT sheet pursuant to Provision B below that details what could potentially be found at the project site. Archaeological monitoring would include briefing

construction personnel about the type of artifacts that may be present (as referenced in the ALERT sheet, required per Provision B below) and the procedures to follow if any artifacts are encountered, field recording and sampling in accordance with the Secretary of Interior's Standards and Guidelines for Archaeological Documentation, notifying the appropriate officials if human remains or cultural resources are discovered, and preparing a report to document negative findings after construction is completed if no archaeological resources are discovered during construction.

**Provision B: Construction ALERT Sheet.**

The project applicant shall prepare a construction "ALERT" sheet developed by a qualified archaeologist for review and approval by the City prior to soil-disturbing activities occurring on the project site. The ALERT sheet shall contain, at a minimum, visuals that depict each type of artifact that could be encountered on the project site. Training by the qualified archaeologist shall be provided to the project's prime contractor, any project subcontractor firms (including demolition, excavation, grading, foundation, and pile driving), and utility firms involved in soil-disturbing activities within the project site.

The ALERT sheet shall state, in addition to the basic archaeological resource protection measures contained in other standard conditions of approval, all work must stop and the City's Environmental Review Officer contacted in the event of discovery of the following cultural materials: concentrations of shellfish remains; evidence of fire (ashes, charcoal, burnt earth, fire-cracked rocks); concentrations of bones; recognizable Native American artifacts (arrowheads, shell beads, stone mortars [bowls], humanly shaped rock); building foundation remains; trash pits, privies (outhouse holes); floor remains; wells; concentrations of bottles, broken dishes, shoes, buttons, cut animal bones, hardware, household items, barrels, etc.; thick layers of burned building debris (charcoal, nails, fused glass, burned plaster, burned dishes); wood structural remains (building, ship, wharf); clay roof/floor tiles; stone walls or footings; or gravestones. Prior to any soil-disturbing activities, each contractor shall be responsible for ensuring that the ALERT sheet is circulated to all field personnel, including machine operators, field crew, pile drivers, and supervisory personnel. The ALERT sheet shall also be posted in a visible location at the project site.

When Required: Prior to approval of construction-related permit; during construction

Initial Approval: Bureau of Building; Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction.]**

**34. Human Remains – Discovery During Construction**

Requirement: Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt and the project applicant shall notify the City and the Alameda County Coroner. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made. In the event that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of section 7050.5 of the California Health and Safety Code. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe

required to resume construction activities. Monitoring, data recovery, determination of significance, and avoidance measures (if applicable) shall be completed expeditiously and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that involve demolition of a Potential Designated Historic Property (PDHP) or a CEQA Historic Resource.]**

### **35. Property Relocation**

Requirement: Pursuant to Policy 3.7 of the Historic Preservation Element of the Oakland General Plan, the project applicant shall make a good faith effort to relocate the historic resource to a site acceptable to the City. A good faith effort includes, at a minimum, all of the following:

- a. Advertising the availability of the building by: (1) posting of large visible signs (such as banners, at a minimum of 3' x 6' size or larger) at the site; (2) placement of advertisements in Bay Area news media acceptable to the City; and (3) contacting neighborhood associations and for-profit and not-for-profit housing and preservation organizations;
- b. Maintaining a log of all the good faith efforts and submitting that along with photos of the subject building showing the large signs (banners) to the City;
- c. Maintaining the signs and advertising in place for a minimum of 90 days; and
- d. Making the building available at no or nominal cost (the amount to be reviewed by the Oakland Cultural Heritage Survey) until removal is necessary for construction of a replacement project, but in no case for less than a period of 90 days after such advertisement.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning (including Oakland Cultural Resource Survey)

Monitoring/Inspection: N/A

## **GEOLOGY AND SOILS**

**[The following condition applies to all projects requiring a construction-related permit.]**

### **36. Construction-Related Permit(s)**

Requirement: The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

[The following condition applies to all projects involving 1) a subdivision (except condominium subdivisions and subdivisions between existing buildings with no new structures) per OMC sections 16.20.060 and 16.24.090 or 2) a grading permit per OMC section 15.04.660. The condition does not apply to projects located in an Earthquake Fault Zone or a Seismic Hazards Zone (see other conditions applicable to those projects).]

### **37. Soils Report**

Requirement: The project applicant shall submit a soils report prepared by a registered geotechnical engineer for City review and approval. The soils report shall contain, at a minimum, field test results and observations regarding the nature, distribution and strength of existing soils, and recommendations for appropriate grading practices and project design. The project applicant shall implement the recommendations contained in the approved report during project design and construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

[The following condition applies to all projects located in an Earthquake Fault Zone per the State Alquist-Priolo Fault Zoning Act and OMC chap. 15.20 (staff can refer to the City's GIS map) and involve at least one of the following:

- a. New structures (except single-family wood or steel frame dwellings not exceeding two stories and not located within 100 feet of a potentially active fault);
- b. Major additions or alterations (defined as exceeding 50% of the value of the structure or 50% of the floor area of the structure); or
- c. Subdivisions (except condominium subdivisions and subdivisions between existing buildings with no new structures).

**NOTE: The report referenced in this condition is typically required prior to project approval.]**

### **38. Earthquake Fault Zone**

Requirement: The project applicant shall submit a site-specific fault location investigation, as defined in California Geological Survey Note 49 (as amended), prepared by a certified engineering geologist for City review and approval containing at a minimum the results of subsurface investigations, locations of hazardous faults adjacent to the project site, recommended setback distances of proposed structures from hazardous faults, and additional recommended measures to accommodate warping and distributive deformation associated with faulting (e.g., strengthened foundations, engineering design, flexible utility connections). The project applicant shall implement the recommendations contained in the approved report during project design and construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

[The following condition applies to all projects located in a Seismic Hazards Zone per the State Seismic Hazards Mapping Act (pertaining to seismically-induced liquefaction and landslides) (staff can refer to the City’s GIS map) and involve at least one of the following:

- a. New structures (except single-family dwellings not part of a development of four or more dwellings);
- b. Major additions or alterations (defined as exceeding 50% of the value of the structure or 50% of the floor area of the structure); or
- c. Subdivisions (except condominium subdivisions and subdivisions between existing buildings with no new structures).

**NOTE: The report referenced in this condition is typically required prior to project approval.]**

### **39. Seismic Hazards Zone (Landslide/Liquefaction)**

Requirement: The project applicant shall submit a site-specific geotechnical report, consistent with California Geological Survey Special Publication 117 (as amended), prepared by a registered geotechnical engineer for City review and approval containing at a minimum a description of the geological and geotechnical conditions at the site, an evaluation of site-specific seismic hazards based on geological and geotechnical conditions, and recommended measures to reduce potential impacts related to liquefaction and/or slope stability hazards. The project applicant shall implement the recommendations contained in the approved report during project design and construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

[The following condition applies to all projects that meet all of the following criteria:

- a. Newly constructed land use facility (residential, civic, commercial, or industrial);
- b. Geologic hazard present, as defined in California Public Resources Code section 26507 as an actual or threatened landslide, land subsidence, soil erosion, earthquake, fault movement, or any other natural or unnatural movement of land or earth; and
- c. Technical report pertaining to the actual or threatened geologic hazard specifies the need for a Geologic Hazards Abatement District (GHAD) or a substantial degree of construction attention, site monitoring, or maintenance of project improvements.

### **40. Oakland Area Geologic Hazard Abatement District (GHAD)**

Requirement: Prior to approval of the final map or issuance of a building permit (whichever occurs first), the project applicant shall provide to the City 1) all required resolutions from the GHAD and City Council showing that the project property has been annexed into the GHAD, and 2) a statement from the GHAD Manager stating that an adequate funding mechanism is in place to fund the GHAD operations for the annexed property. To begin the annexation process, the project applicant shall submit a petition for annexation to the GHAD Manager which shall include but is not limited to a proposed Plan of Control as defined in Public Resource Code Section 26509, specifying all anticipated operations and maintenance responsibilities of the GHAD for the annexed property. The project applicant will be required to pay to the GHAD costs

and fees associated with the annexation request, which includes the preparation and review of all necessary documents and resolutions by the GHAD Manager and/or GHAD Attorney. The GHAD Manager may require the project applicant to provide initial funding to allow the GHAD to operate with respect to the annexed property during the time a secure and stable financing source is obtained to ultimately fund the long term operations of the GHAD for the annexed property. If a real property assessment is proposed as a financing mechanism, the project applicant shall prepare an engineer's report identifying the projected costs and budget for GHAD operations for the annexed property and comply with all assessment voting requirements and other requirements in Proposition 218. If annexation is not approved by the GHAD and/or City Council, the project applicant shall demonstrate to the City's satisfaction that 1) another entity will and has assumed the responsibilities proposed for the GHAD ("Other Responsible Entity") and 2) there is an adequate financing mechanism in place to carry out those responsibilities.

The project applicant shall defend, hold harmless, and indemnify the GHAD, its officers, and agents against any and all liability, damages, claims, demands, judgments, losses, or other forms of legal or equitable relief relating to the GHAD annexation process and the securing/approval of funding sources by the GHAD and in the case of the City Council members, actions taken by said members while acting as the GHAD Board of Directors.

The project applicant shall request the GHAD or Other Responsible Entity to defend, hold harmless, and indemnify the Indemnified Parties (as defined in these Conditions of Approval) and their insurers against any and all liability, damages, claims, demands, judgments, losses, or other forms of legal or equitable relief related to the responsibilities and operation of the GHAD or Other Responsible Entity (including, without limitation, maintenance of GHAD/Other Responsibility Entity owned property) relating to the annexed property ("Indemnified Geologic Claims") and in the case of the City Council members, actions taken by said members while acting as the GHAD Board of Directors. This indemnity shall include, without limitation, payment of litigation expenses relating to the qualified Indemnified Geologic Claims. The Indemnified Parties shall take all reasonable steps to promptly notify the GHAD/Other Responsible Entity of any claim, demand, or legal actions that may create a claim for indemnification under this condition of approval. Within 90 days of the annexation to the GHAD or acceptance by the Other Responsible Entity, the applicant shall request the GHAD or Other Responsible Entity to enter into an Indemnification Agreement to establish in more specific detail the terms and conditions of the indemnification obligations set forth herein. The parties acknowledge that the GHAD can only provide indemnification as allowed by law. Any failure of any party to timely execute such Indemnification Agreement shall not be construed to limit any right or obligation otherwise specified in these Conditions of Approval.

When Required: Ongoing as specified in the condition

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Planning

## **GREENHOUSE GAS EMISSIONS / GLOBAL CLIMATE CHANGE**

**[The following condition applies to all projects that submitted an Equitable Climate Action Plan (ECAP) Consistency Checklist that committed to all the measures in the ECAP Consistency Checklist.]**

#### 41. Project Compliance with the Equitable Climate Action Plan (ECAP) Consistency Checklist

Requirement: The project applicant shall implement all the measures in the Equitable Climate Action Plan (ECAP) Consistency Checklist that was submitted during the Planning entitlement phase.

- a. For physical ECAP Consistency Checklist measures to be incorporated into the design of the project, the measures shall be included on the drawings submitted for construction-related permits.

When Required: Prior to approval of construction-related permit.

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Planning

- b. For physical ECAP Consistency Checklist measures to be incorporated into the design of the project, the measures shall be implemented during construction.

When Required: During construction

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

- c. For ECAP Consistency Checklist measures that are operational but not otherwise covered by these SCAs, including but not limited to the requirement for transit passes or additional Transportation Demand Management measures, the applicant shall provide notice of these measures to employees and/or residents and post these requirements in a public place such as a lobby or work area accessible to the employees and/or residents.

When Required: Ongoing

Monitoring/Inspection: Bureau of Planning

**[The following condition applies under any of the following scenarios for projects which require a consistency analysis or greenhouse gas (GHG) analysis under CEQA. result in a net increase in greenhouse gas (GHG) emissions:**

- a. **Scenario A: Projects which (a) involve a land use development (i.e., a project that does not require a permit from the Bay Area Air Quality Management District [BAAQMD] to operate), (b) exceed the GHG emissions screening criteria contained in the BAAQMD CEQA Guidelines,<sup>1</sup> and (c) after a GHG analysis is prepared would produce total GHG emissions of more than 1,100 metric tons of CO<sub>2</sub>e annually and more than 4.6 metric tons of CO<sub>2</sub>e per service population annually (with “service population” defined as the total number of employees and residents of the project), and (b) does not commit to all of the GHG emissions reductions strategies described on the ECAP Consistency Checklist, as originally adopted by the Planning Commission on \_\_\_\_\_, 2020 and as may be amended administratively from time to time.**
- b. **Scenario B: Projects which (a) involve a land use development, (b) exceed the GHG emissions screening criteria contained in the BAAQMD CEQA Guidelines,<sup>2</sup> (c) after a GHG analysis is prepared would exceed at least one of the BAAQMD Thresholds of Significance (more than 1,100 metric tons of CO<sub>2</sub>e annually OR more than 4.6 metric tons of CO<sub>2</sub>e per service population annually), and (d) are considered to be “Very Large Projects.”<sup>3</sup>**

**e.b. Scenario ~~CB~~: Projects which (a) involve a stationary source of GHG (i.e., a project that requires a permit from BAAQMD to operate) and (b) after a GHG analysis is prepared would produce total GHG emissions of more than 10,000 metric tons of CO<sub>2</sub>e annually).**

**[The Greenhouse Gas (GHG) Reduction Plan referenced in the following condition may be required prior to project approval.]**

#### **41.42. Greenhouse Gas (GHG) Reduction Plan**

##### ***a. Greenhouse Gas (GHG) Reduction Plan Required***

Requirement: The project applicant shall retain a qualified air quality consultant to develop a Greenhouse Gas (GHG) Reduction Plan for City review and approval and shall implement the approved GHG Reduction Plan.

The goal of the GHG Reduction Plan shall be to increase energy efficiency and ~~reduce GHG emissions to below~~ **[INCLUDE THIS LANGUAGE IF SCENARIO A OR B:]** at least one of the Bay Area Quality Management District's (BAAQMD's) CEQA Thresholds of Significance (1,100 metric tons of CO<sub>2</sub>e per year or 4.6 metric tons of CO<sub>2</sub>e per year per service population) **[INCLUDE THIS LANGUAGE IF SCENARIO C:]** the Bay Area Quality Management District's (BAAQMD's) CEQA Thresholds of Significance (10,000 metric tons of CO<sub>2</sub>e per year) **[INCLUDE THIS LANGUAGE IF SCENARIO B]** AND to reduce GHG emissions by 36 percent below the project's 2005 "business as usual" baseline GHG emissions (as explained below) to help implement the City's Energy and Climate Action Plan (adopted in 2012) which calls for reducing GHG emissions by 36 percent below 2005 levels. ~~The GHG Reduction Plan shall include, at a minimum, (a) a detailed GHG emissions inventory for the project under a "business as usual" scenario with no consideration of project design features, or other energy efficiencies, (b) an "adjusted" baseline GHG emissions inventory for the project, taking into consideration energy efficiencies included as part of the project (including the City's Standard Conditions of Approval, proposed mitigation measures, project design features, and other City requirements), and additional GHG reduction measures available to further reduce GHG emissions, and (c) requirements for ongoing monitoring and reporting to demonstrate that the additional GHG reduction measures are being implemented.~~

**[INCLUDE THIS LANGUAGE IF SCENARIO A:]** to reduce GHG emissions to at least the amount that would be achieved by committing to all of the emissions reductions strategies identified on the ECAP Consistency Checklist as the City's project-level implementation of its Equitable Climate Action Plan (adopted in 2020), which calls for reducing city-wide GHG emissions by 56 percent below 2005 levels by 2030 and 83 percent by 2050. The GHG Reduction Plan shall include, at a minimum, (a) a detailed quantified GHG emissions inventory for the project taking into consideration energy efficiencies included as part of the project (including proposed mitigation measures, project design features, those strategies being implemented and other City requirements), (b) for each ECAP Consistency Checklist strategy that the project will not meet, a quantified calculation of the additional GHG emission reductions that would have occurred had it implemented the GHG emissions reduction measure consistent with the ECAP Consistency Checklist, (c) a quantified strategy for achieving an GHG emission reduction equivalent to the reduction that would have resulted

from complying with the ECAP Consistency Checklist strategy, and (d) requirements for ongoing monitoring and reporting to demonstrate that the additional GHG reduction measures are being implemented.

**[INCLUDE THIS LANGUAGE IF SCENARIO BC:]** to reduce GHG emissions to below the Bay Area Quality Management District's (BAAQMD's) CEQA Thresholds of Significance (10,000 metric tons of CO<sub>2</sub>e per year). The GHG Reduction Plan shall include, at a minimum, (a) a detailed quantified GHG emissions inventory for the project under a "business-as-usual" scenario with no consideration of project design features, or other energy efficiencies, (b) a quantified "adjusted" baseline GHG emissions inventory for the project, taking into consideration energy efficiencies included as part of the project (including proposed mitigation measures, project design features, those strategies being implemented and other City requirements), and any additional alternative GHG reduction measures available to further reduce GHG emissions to at least below the Checklist baseline, and (c) requirements for ongoing monitoring and reporting to demonstrate that the additional GHG reduction measures are being implemented.

**[INCLUDE FOR BOTH SCENARIO A AND SCENARIO B]**

If the project is to be constructed in phases, the GHG Reduction Plan shall provide GHG emission scenarios by phase.

Potential additional GHG reduction measures to be considered include, but are not be limited to, measures recommended in BAAQMD's latest CEQA Air Quality Guidelines, the California Air Resources Board Scoping Plan (December 2008, as may be revised), the California Air Pollution Control Officers Association (CAPCOA) Quantifying Greenhouse Gas Mitigation Measures (August 2010, as may be revised), the California Attorney General's website, and Reference Guides on Leadership in Energy and Environmental Design (LEED) published by the U.S. Green Building Council.

The types of allowable GHG reduction measures include the following (listed in order of City preference): (1) physical design features; (2) operational features; and (3) the payment of fees to fund GHG-reducing programs (i.e., the purchase of "carbon credits") as explained below.

The allowable locations of the GHG reduction measures include the following (listed in order of City preference): (1) the project site; (2) off-site within the City of Oakland; (3) off-site within the San Francisco Bay Area Air Basin; then (4) off-site within the State of California; ~~then (5) elsewhere in the United States.~~

As with preferred locations for the implementation of all GHG reductions measures, the preference for carbon credit purchases include those that can be achieved as follows (listed in order of City preference): (1) within the City of Oakland; (2) within the San Francisco Bay Area Air Basin; then (3) within the State of California; ~~then (4) elsewhere in the United States.~~ The cost of carbon credit purchases shall be based on current market value at the time purchased and shall be based on the project's net difference operational emissions estimated in the GHG Reduction Plan ~~or subsequent approved emissions inventory, which may result in emissions that are higher or lower than those estimated in the GHG Reduction Plan for the project as compared to the Checklist baseline.~~

For physical GHG reduction measures to be incorporated into the design of the project, the measures shall be included on the drawings submitted for construction-related permits.

When Required: Prior to approval of construction-related permit.

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

**b. *GHG Reduction Plan Implementation During Construction***

Requirement: The project applicant shall implement the GHG Reduction Plan during construction of the project. For physical GHG reduction measures to be incorporated into the design of the project, the measures shall be implemented during construction. For physical GHG reduction measures to be incorporated into off-site projects, the project applicant shall obtain all necessary permits/approvals and the measures shall be included on drawings and submitted to the City Planning Director or his/her designee for review and approval. These off-site improvements shall be installed prior to completion of the subject project (or prior to completion of the project phase for phased projects). For GHG reduction measures involving the purchase of carbon credits, evidence of the payment/purchase shall be submitted to the City for review and approval prior to completion of the project (or prior to completion of the project phase, for phased projects).

When Required: During construction

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**c. *GHG Reduction Plan Implementation After Construction***

Requirement: The project applicant shall implement the GHG Reduction Plan after construction of the project (or at the completion of the project phase for phased projects). For operational GHG reduction measures to be incorporated into the project or off-site projects, the measures shall be implemented on an indefinite and ongoing basis.

The project applicant shall satisfy the following requirements for ongoing monitoring and reporting to demonstrate that the additional GHG reduction measures are being implemented. The GHG Reduction Plan requires regular periodic evaluation over the life of the project (generally estimated to be at least 40 years) to determine how the Plan is achieving required GHG emissions reductions over time, as well as the efficacy of the specific additional GHG reduction measures identified in the Plan.

**Annual Report.** Implementation of the GHG reduction measures and related requirements shall be ensured through compliance with Conditions of Approval adopted for the project. Generally, starting two years after the City issues the first Certificate of Occupancy for the project, the project applicant shall prepare each year of the useful life of the project an Annual GHG Emissions Reduction Report (“Annual Report”), for review and approval by the City Planning Director or his/her designee. The Annual Report shall be submitted to an independent reviewer of the City’s choosing, to be paid for by the project applicant.

The Annual Report shall summarize the project’s implementation of GHG reduction measures over the preceding year, intended upcoming changes, compliance with the conditions of the Plan, and include a brief summary of the previous year’s Annual Report results (starting the second year). The Annual Report shall include a comparison of annual project emissions to the Checklist baseline emissions reported in the GHG Plan.

The GHG Reduction Plan shall be considered fully attained when project emissions are less than the ~~either applicable numeric BAAQMD CEQA Thresholds [INCLUDE THIS LANGUAGE IF SCENARIO B:] AND GHG emissions are 36 percent below the project's 2005 "business as usual" baseline GHG emissions, as confirmed by the City through an established monitoring program. Monitoring and reporting activities will continue at the City's discretion, as discussed below.~~

[INCLUDE THIS LANGUAGE IF SCENARIO A:] Checklist baseline, as confirmed by the City through an established monitoring program. Monitoring and reporting activities will continue at the City's discretion, as discussed below.

[INCLUDE THIS LANGUAGE IF SCENARIO B:] under the 10,000 metric tons of CO<sub>2</sub>e annually, as confirmed by the City through an established monitoring program. Monitoring and reporting activities will continue at the City's discretion, as discussed below.

**Corrective Procedure.** If the third Annual Report, or any report thereafter, indicates that, in spite of the implementation of the GHG Reduction Plan, the project is not achieving the GHG reduction goal, the project applicant shall prepare a report for City review and approval, which proposes additional or revised GHG measures to better achieve the GHG emissions reduction goals, including without limitation, a discussion on the feasibility and effectiveness of the menu of other additional measures ("Corrective GHG Action Plan"). The project applicant shall then implement the approved Corrective GHG Action Plan.

If, one year after the Corrective GHG Action Plan is implemented, the required GHG emissions reduction target is still not being achieved, or if the project applicant fails to submit a report at the times described above, or if the reports do not meet City requirements outlined above, the City may, in addition to its other remedies, (a) assess the project applicant a financial penalty based upon actual percentage reduction in GHG emissions as compared to the percent reduction in GHG emissions established in the GHG Reduction Plan; or (b) refer the matter to the City Planning Commission for scheduling of a compliance hearing to determine whether the project's approvals should be revoked, altered or additional conditions of approval imposed.

The penalty as described in (a) above shall be determined by the City Planning Director or his/her designee and be commensurate with the percentage GHG emissions reduction not achieved compared to the applicable numeric significance thresholds described in the GHG Reduction Plan.

In determining whether a financial penalty or other remedy is appropriate, the City shall not impose a penalty if the project applicant has made a good faith effort to comply with the GHG Reduction Plan.

The City would only have the ability to impose a monetary penalty after a reasonable cure period and in accordance with the enforcement process outlined in Planning Code Chapter 17.152. If a financial penalty is imposed, such penalty sums shall be used by the City solely toward the implementation of the GHG Reduction Plan-Equitable Climate Action Plan.

**Timeline Discretion and Summary.** The City shall have the discretion to reasonably modify the timing of reporting, with reasonable notice and opportunity to comment by the applicant, to coincide with other related monitoring and reporting required for the project.

When Required: Ongoing

Initial Approval: Bureau of Planning

## HAZARDS AND HAZARDOUS MATERIALS

**[The following condition applies to all projects involving construction activities.]**

### **42.43. Hazardous Materials Related to Construction**

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:

- a. Follow manufacture's recommendations for use, storage, and disposal of chemical products used in construction;
- b. Avoid overtopping construction equipment fuel gas tanks;
- c. During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d. Properly dispose of discarded containers of fuels and other chemicals;
- e. Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and
- f. If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notifying the City and applicable regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving (a) redevelopment or change of use of a historically industrial or commercial site; (b) a contaminated site as identified in City records; or (c) a site listed on the State Cortese List; and site remediation activities are required based on an environmental site assessment. (Note 1: Presence on the Cortese List precludes use of a Categorical Exemption under CEQA, but a Statutory Exemption {such as section 15183 and/or 15183.3} may apply. In that case, staff should consult first with a supervisor and then with the City Attorney's Office. Note 2: The environmental site assessment referenced in this condition is typically required prior to project approval.)]**

### **43.44. Hazardous Building Materials and Site Contamination**

**a. *Hazardous Building Materials Assessment***

Requirement: The project applicant shall submit a comprehensive assessment report to the Bureau of Building, signed by a qualified environmental professional, documenting the presence or lack thereof of asbestos-containing materials (ACMs), lead-based paint, polychlorinated biphenyls (PCBs), and any other building materials or stored materials classified as hazardous materials by State or federal law. If lead-based paint, ACMs, PCBs, or any other building materials or stored materials classified as hazardous materials are present, the project applicant shall submit specifications prepared and signed by a qualified environmental professional, for the stabilization and/or removal of the identified hazardous materials in accordance with all applicable laws and regulations. The project applicant shall implement the approved recommendations and submit to the City evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.

When Required: Prior to approval of demolition, grading, or building permits

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**b. *Environmental Site Assessment Required***

Requirement: The project applicant shall submit a Phase I Environmental Site Assessment report, and Phase II Environmental Site Assessment report if warranted by the Phase I report, for the project site for review and approval by the City. The report(s) shall be prepared by a qualified environmental assessment professional and include recommendations for remedial action, as appropriate, for hazardous materials. The project applicant shall implement the approved recommendations and submit to the City evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.

When Required: Prior to approval of construction-related permit.

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

**c. *Health and Safety Plan Required***

Requirement: The project applicant shall submit a Health and Safety Plan for the review and approval by the City in order to protect project construction workers from risks associated with hazardous materials. The project applicant shall implement the approved Plan.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**d. *Best Management Practices (BMPs) Required for Contaminated Sites***

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential soil and groundwater hazards. These shall include the following:

- i. Soil generated by construction activities shall be stockpiled on-site in a secure and safe manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Specific sampling and handling and transport procedures

for reuse or disposal shall be in accordance with applicable local, state, and federal requirements.

- ii. Groundwater pumped from the subsurface shall be contained on-site in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving the handling, storage, or transportation of hazardous materials during business operations.]**

#### **44.45. Hazardous Materials Business Plan**

Requirement: The project applicant shall submit a Hazardous Materials Business Plan for review and approval by the City, and shall implement the approved Plan. The approved Plan shall be kept on file with the City and the project applicant shall update the Plan as applicable. The purpose of the Hazardous Materials Business Plan is to ensure that employees are adequately trained to handle hazardous materials and provides information to the Fire Department should emergency response be required. Hazardous materials shall be handled in accordance with all applicable local, state, and federal requirements. The Hazardous Materials Business Plan shall include the following:

- a. The types of hazardous materials or chemicals stored and/or used on-site, such as petroleum fuel products, lubricants, solvents, and cleaning fluids.
- b. The location of such hazardous materials.
- c. An emergency response plan including employee training information.
- d. A plan that describes the manner in which these materials are handled, transported, and disposed.

When Required: Prior to building permit final

Initial Approval: Oakland Fire Department

Monitoring/Inspection: Oakland Fire Department

**[The following condition applies to all projects to be constructed in phases and the furthest structure is over 150' from the nearest fire hydrant.]**

#### **45.46. Fire Safety Phasing Plan**

Requirement: The project applicant shall submit a Fire Safety Phasing Plan for City review and approval, and shall implement the approved Plan. The Fire Safety Phasing Plan shall include all of the fire safety features and emergency vehicle access incorporated into each phase of the project and the schedule for implementation of the features.

When Required: Prior to approval of construction-related permit

Initial and Revision Approval: Oakland Fire Department  
Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction of new facilities (e.g., new primary dwellings, new commercial buildings) located in the Designated Very High Fire Severity Zone (staff can refer to the map on the City server).] (\*\*NOTE: if the parcel is located in the designated very high fire severity zone and is confirmed as habitat by a threatened or endangered plant or animal species this will generally preclude the use of a CEQA categorical exemption\*\*)]**

#### **46.47. Designated Very High Fire Severity Zone – Vegetation Management**

##### ***a. Vegetation Management Plan Required***

Requirement: The project applicant shall submit a Vegetation Management Plan for City review and approval, and shall implement the approved Plan prior to, during, and after construction of the project. The Vegetation Management Plan may be combined with the Landscape Plan otherwise required by the Conditions of Approval. The Vegetation Management Plan shall include, at a minimum, the following measures:

- i. Removal of all tree branches and vegetation that overhang the horizontal building roof line and chimney areas within 10 feet vertically;
- ii. Removal of leaves and needles from roofs and rain gutters;
- iii. Planting and placement of fire-resistant plants around the house and phasing out flammable vegetation, however, ornamental vegetation shall not be planted within 5 feet of the foundation of the residential structure;
- iv. Trimming back vegetation around windows;
- v. Removal of flammable vegetation on hillside slopes greater than 20%; Defensible space requirements shall clear all hillsides of non-ornamental vegetation within 30 feet of the residential structure on slopes of 5% or less, within 50 feet on slopes of 5 to 20% and within 100 feet or to the property line on slopes greater than 20%.
- vi. All trees shall be pruned up at least  $\frac{1}{4}$  the height of the tree from the ground at the base of the trunk;
- vii. Clearing out ground-level brush and debris; and All non-ornamental plants, seasonal weeds & grasses, brush, leaf litter and debris within 30 feet of the residential structure shall be cut, raked and removed from the parcel.
- viii. Stacking woodpiles away from structures at least 20 feet from residential structures.
- ix. If a biological report, prepared by a qualified biologist and reviewed by the Bureau of Planning, identifies threatened or endangered species on the parcel, the Vegetation

Management Plan shall include islands of habitat refuge for the species noted on a site plan and appropriate fencing for the species shall be installed. Clearing of vegetation within these islands of refuge shall occur solely for the purpose of fire suppression within a designated Very High Fire Severity Zone and only upon the Fire Code Official approving specific methods and timeframes for clearing that take into account the specific flora and fauna species.

When Required: Prior to approval of construction-related permit

Initial Approval: Oakland Fire Department

Monitoring/Inspection: Oakland Fire Department

***b. Fire Safety Prior to Construction***

Requirement: The project plans shall specify that prior to construction, the project applicant shall ensure that the project contractor cuts, rakes and removes all combustible ground level vegetation project to a height of 6” or less from the construction, access and staging areas to reduce the threat of fire ignition per Sections 304.1.1 and 304.1.2 of the California Fire Code.

When Required: Prior to approval of construction-related permit

Initial Approval: Oakland Fire Department

Monitoring/Inspection: Oakland Fire Department

***c. Fire Safety During Construction***

Requirement: The project applicant shall require the construction contractor to implement spark arrestors on all construction vehicles and equipment to minimize accidental ignition of dry construction debris and surrounding dry vegetation. Per section 906 of the California Fire Code, during construction, the contractor shall have at minimum three (3) type 2A10BC fire extinguishers present on the job site, with current SFM service tags attached and these extinguishers shall be deployed in the immediate presence of workers for use in the event of an ignition.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

***d. Smoking Prohibition***

Requirement: The project applicant shall require the construction contractor to implement a no smoking policy on the site and surrounding area during construction per Section 310.8 of the California Fire Code.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building and Oakland Fire Department

## **HYDROLOGY AND WATER QUALITY**

[The following condition applies to all projects involving construction activities, except projects: a) requiring a grading permit; b) located on a hillside property (20% or greater slope); or c) requiring a category III or IV creek protection permit (see other conditions applicable to these other projects).]

**47.48. Erosion and Sedimentation Control Measures for Construction**

Requirement: The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. At a minimum, the project applicant shall provide filter materials deemed acceptable to the City at nearby catch basins to prevent any debris and dirt from flowing into the City’s storm drain system and creeks.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

[The following condition applies to all projects involving construction activities that require a grading permit per OMC sec. 15.04.660 or are located on a hillside property (20% or greater slope), except projects requiring a category III or IV creek protection permit (see other conditions for creek protection permits).]

**48.49. Erosion and Sedimentation Control Plan for Construction**

***a. Erosion and Sedimentation Control Plan Required***

Requirement: The project applicant shall submit an Erosion and Sedimentation Control Plan to the City for review and approval. The Erosion and Sedimentation Control Plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading and/or construction operations. The Plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the City. The Plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

***b. Erosion and Sedimentation Control During Construction***

Requirement: The project applicant shall implement the approved Erosion and Sedimentation Control Plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Bureau of Building.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that disturb one acre or more of surface area.]**

**49.50.State Construction General Permit**

Requirement: The project applicant shall comply with the requirements of the Construction General Permit issued by the State Water Resources Control Board (SWRCB). The project applicant shall submit a Notice of Intent (NOI), Stormwater Pollution Prevention Plan (SWPPP), and other required Permit Registration Documents to SWRCB. The project applicant shall submit evidence of compliance with Permit requirements to the City.

When Required: Prior to approval of construction-related permit

Initial Approval: State Water Resources Control Board; evidence of compliance submitted to Bureau of Building

Monitoring/Inspection: State Water Resources Control Board

**[The following condition applies to all projects involving construction activities on hillside properties (20% or greater slopes), except projects considered Regulated Projects under the NPDES C.3 requirements (see other condition for NPDES C.3 Regulated Projects).]**

**50.51.Drainage Plan for Post-Construction Stormwater Runoff on Hillside Properties**

Requirement: The project applicant shall submit and implement a Drainage Plan to be reviewed and approved by the City. The Drainage Plan shall include measures to reduce the volume and velocity of post-construction stormwater runoff to the maximum extent practicable. Stormwater runoff shall not be augmented to adjacent properties, creeks, or storm drains. The Drainage Plan shall be included with the project drawings submitted to the City for site improvements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that create or replace (any amount) of impervious surface, except projects considered Regulated Projects under the NPDES C.3 requirements (see other condition for NPDES C.3 Regulated Projects).]**

**51.52.Site Design Measures to Reduce Stormwater Runoff**

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate site design measures into the project to reduce the amount of stormwater runoff. These measures may include, but are not limited to, the following:

- a. Minimize impervious surfaces, especially directly connected impervious surfaces and surface parking areas;
- b. Utilize permeable paving in place of impervious paving where appropriate;
- c. Cluster structures;
- d. Direct roof runoff to vegetated areas;
- e. Preserve quality open space; and
- f. Establish vegetated buffer areas.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

**[The following condition applies to all projects, except projects considered Regulated Projects under the NPDES C.3 requirements (see other condition for NPDES C.3 Regulated Projects).]**

**52-53. Source Control Measures to Limit Stormwater Pollution**

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate source control measures to limit pollution in stormwater runoff. These measures may include, but are not limited to, the following:

- a. Stencil storm drain inlets “No Dumping – Drains to Bay;”
- b. Minimize the use of pesticides and fertilizers;
- c. Cover outdoor material storage areas, loading docks, repair/maintenance bays and fueling areas;
- d. Cover trash, food waste, and compactor enclosures; and
- e. Plumb the following discharges to the sanitary sewer system, subject to City approval:
- f. Discharges from indoor floor mats, equipment, hood filter, wash racks, and, covered outdoor wash racks for restaurants;
- g. Dumpster drips from covered trash, food waste, and compactor enclosures;
- h. Discharges from outdoor covered wash areas for vehicles, equipment, and accessories;
- i. Swimming pool water, if discharge to on-site vegetated areas is not feasible; and
- j. Fire sprinkler test water, if discharge to on-site vegetated areas is not feasible.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

**[The following condition applies to all projects considered Regulated Projects under the NPDES C.3 requirements. Regulated Projects are:**

- a. Projects that create or replace 10,000 square feet or more of new or existing impervious surface area; and**
- b. The following projects that create or replace 5,000 square feet or more of new or impervious surface area:**
  - i. Auto servicing, auto repair, and gas stations;**
  - ii. Restaurants (full service, limited service, and fast-food); and**
  - iii. Uncovered surface parking lots (including stand-alone parking lots, parking lots serving an activity, and the uncovered portion of parking structures unless drainage from the uncovered portion of the parking structure is connected to the sanitary sewer system).**

**Regulated Projects do not include individual single-family dwellings (that are not part of a larger multi-unit development) or routine maintenance activities.]**

**53.54.NPDES C.3 Stormwater Requirements for Regulated Projects**

***a. Post-Construction Stormwater Management Plan Required***

Requirement: The project applicant shall comply with the requirements of Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES). The project applicant shall submit a Post-Construction Stormwater Management Plan to the City for review and approval with the project drawings submitted for site improvements, and shall implement the approved Plan during construction. The Post-Construction Stormwater Management Plan shall include and identify the following:

- i. Location and size of new and replaced impervious surface;
- ii. Directional surface flow of stormwater runoff;
- iii. Location of proposed on-site storm drain lines;
- iv. Site design measures to reduce the amount of impervious surface area;
- v. Source control measures to limit stormwater pollution;
- vi. Stormwater treatment measures to remove pollutants from stormwater runoff, including the method used to hydraulically size the treatment measures; and
- vii. Hydromodification management measures, if required by Provision C.3, so that post-project stormwater runoff flow and duration match pre-project runoff.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

***b. Maintenance Agreement Required***

Requirement: The project applicant shall enter into a maintenance agreement with the City, based on the Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement, in accordance with Provision C.3, which provides, in part, for the following:

- i. The project applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity; and
- ii. Legal access to the on-site stormwater treatment measures for representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary.

The maintenance agreement shall be recorded at the County Recorder's Office at the applicant's expense.

When Required: Prior to building permit final

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving either of the following:**

- a. Projects that create or replace at least 2,500 square feet, but less than 10,000 square feet, of new or existing impervious, except projects considered Regulated Projects under the NPDES C.3 requirements (see other condition for NPDES C.3 Regulated Projects); or**
- b. Individual single-family home projects that create or replace at least 2,500 square feet of new or existing impervious.]**

#### **54.55. NPDES C.3 Stormwater Requirements for Small Projects**

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant shall incorporate one or more of the following site design measures into the project:

- a. Direct roof runoff into cisterns or rain barrels for reuse;
- b. Direct roof runoff onto vegetated areas;
- c. Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas;
- d. Direct runoff from driveways and/or uncovered parking lots onto vegetated areas;
- e. Construct sidewalks, walkways, and/or patios with permeable surfaces; or
- f. Construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces.

The project drawings submitted for construction-related permits shall include the proposed site design measure(s) and the approved measure(s) shall be installed during construction. The design and installation of the measure(s) shall comply with all applicable City requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving new architectural copper.]**

#### **55.56. Architectural Copper**

Requirement: The project applicant shall implement Best Management Practices (BMPs) concerning the installation, treatment, and maintenance of exterior architectural copper during and after construction of the project in order to reduce potential water quality impacts in accordance with Provision C.13 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES). The required BMPs include, but are not limited to, the following:

- a. If possible, use copper materials that have been pre-patinated at the factory;
- b. If patination is done on-site, ensure rinse water is not discharged to the storm drain system by protecting storm drain inlets and implementing one or more of the following:
- c. Discharge rinse water to landscaped area;
- d. Collect rinse water in a tank and discharge to the sanitary sewer, with approval by the City; or haul off-site for proper disposal;
- e. During maintenance activities, protect storm drain inlets to prevent wash water discharge into storm drains; and

f. Consider coating the copper with an impervious coating that prevents further corrosion.

When Required: During construction; ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects located on creekside properties.]**

**56.57. Vegetation Management on Creekside Properties**

Requirement: The project applicant shall comply with the following requirements when managing vegetation prior to, during, and after construction of the project:

- a. Identify and leave “islands” of vegetation in order to prevent erosion and landslides and protect habitat;
- b. Trim tree branches from the ground up (limbing up) and leave tree canopy intact;
- c. Leave stumps and roots from cut down trees to prevent erosion;
- d. Plant fire-appropriate, drought-tolerant, preferably native vegetation;
- e. Provide erosion and sediment control protection if cutting vegetation on a steep slope;
- f. Fence off sensitive plant habitats and creek areas if implementing goat grazing for vegetation management;
- g. Obtain a Tree Permit before removing a Protected Tree (any tree 9 inches diameter at breast height or dbh or greater and any oak tree 4 inches dbh or greater, except eucalyptus and Monterey pine);
- h. Do not clear-cut vegetation. This can lead to erosion and severe water quality problems and destroy important habitat;
- i. Do not remove vegetation within 20 feet of the top of the creek bank. If the top of bank cannot be identified, do not cut within 50 feet of the centerline of the creek or as wide a buffer as possible between the creek centerline and the development;
- j. Do not trim/prune branches that are larger than 4 inches in diameter;
- k. Do not remove tree canopy;
- l. Do not dump cut vegetation in the creek;
- m. Do not cut tall shrubbery to less than 3 feet high; and
- n. Do not cut short vegetation (e.g., grasses, ground-cover) to less than 6 inches high.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects requiring a category III or IV creek protection permit.]**

**57.58. Creek Protection Plan**

- a. *Creek Protection Plan Required*

Requirement: The project applicant shall submit a Creek Protection Plan for review and approval by the City. The Plan shall be included with the set of project drawings submitted to the City for site improvements and shall incorporate the contents required under section 13.16.150 of the Oakland Municipal Code including Best Management Practices (“BMPs”) during construction and after construction to protect the creek. Required BMPs are identified below in sections (b), (c), and (d).

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

**b. Construction BMPs**

Requirement: The Creek Protection Plan shall incorporate all applicable erosion, sedimentation, debris, and pollution control BMPs to protect the creek during construction. The measures shall include, but are not limited to, the following:

- i. On sloped properties, the downhill end of the construction area must be protected with silt fencing (such as sandbags, filter fabric, silt curtains, etc.) and hay bales oriented parallel to the contours of the slope (at a constant elevation) to prevent erosion into the creek.
- ii. The project applicant shall implement mechanical and vegetative measures to reduce erosion and sedimentation, including appropriate seasonal maintenance. One hundred (100) percent biodegradable erosion control fabric shall be installed on all graded slopes to protect and stabilize the slopes during construction and before permanent vegetation gets established. All graded areas shall be temporarily protected from erosion by seeding with fast growing annual species. All bare slopes must be covered with staked tarps when rain is occurring or is expected.
- iii. Minimize the removal of natural vegetation or ground cover from the site in order to minimize the potential for erosion and sedimentation problems. Maximize the replanting of the area with native vegetation as soon as possible.
- iv. All work in or near creek channels must be performed with hand tools and by a minimum number of people. Immediately upon completion of this work, soil must be repacked and native vegetation planted.
- v. Install filter materials (such as sandbags, filter fabric, etc.) acceptable to the City at the storm drain inlets nearest to the project site prior to the start of the wet weather season (October 15); site dewatering activities; street washing activities; saw cutting asphalt or concrete; and in order to retain any debris flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding.
- vi. Ensure that concrete/granite supply trucks or concrete/plaster finishing operations do not discharge wash water into the creek, street gutters, or storm drains.
- vii. Direct and locate tool and equipment cleaning so that wash water does not discharge into the creek.
- viii. Create a contained and covered area on the site for storage of bags of cement, paints, flammables, oils, fertilizers, pesticides, or any other materials used on the project site that have the potential for being discharged to the creek or storm drain system by the

wind or in the event of a material spill. No hazardous waste material shall be stored on site.

- ix. Gather all construction debris on a regular basis and place it in a dumpster or other container which is emptied or removed at least on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.
- x. Remove all dirt, gravel, refuse, and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
- xi. Broom sweep the street pavement adjoining the project site on a daily basis. Caked-on mud or dirt shall be scraped from these areas before sweeping. At the end of each workday, the entire site must be cleaned and secured against potential erosion, dumping, or discharge to the creek, street, gutter, or storm drains.
- xii. All erosion and sedimentation control measures implemented during construction activities, as well as construction site and materials management shall be in strict accordance with the control standards listed in the latest edition of the Erosion and Sediment Control Field Manual published by the Regional Water Quality Control Board (RWQCB).
- xiii. Temporary fencing is required for sites without existing fencing between the creek and the construction site and shall be placed along the side adjacent to construction (or both sides of the creek if applicable) at the maximum practical distance from the creek centerline. This area shall not be disturbed during construction without prior approval of the City.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

**c. *Post-Construction BMPs***

Requirement: The project shall not result in a substantial increase in stormwater runoff volume or velocity to the creek or storm drains. The Creek Protection Plan shall include site design measures to reduce the amount of impervious surface to maximum extent practicable. New drain outfalls shall include energy dissipation to slow the velocity of the water at the point of outflow to maximize infiltration and minimize erosion.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

**d. *Creek Landscaping***

Requirement: The project applicant shall include final landscaping details for the site on the Creek Protection Plan, or on a Landscape Plan, for review and approval by the City. Landscaping information shall include a planting schedule, detailing plant types and locations, and a system to ensure adequate irrigation of plantings for at least one growing season.

Plant and maintain only drought-tolerant plants on the site where appropriate as well as native and riparian plants in and adjacent to riparian corridors. Along the riparian corridor, native plants shall not be disturbed to the maximum extent feasible. Any areas disturbed along the

riparian corridor shall be replanted with mature native riparian vegetation and be maintained to ensure survival.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

***e. Creek Protection Plan Implementation***

Requirement: The project applicant shall implement the approved Creek Protection Plan during and after construction. During construction, all erosion, sedimentation, debris, and pollution control measures shall be monitored regularly by the project applicant. The City may require that a qualified consultant (paid for by the project applicant) inspect the control measures and submit a written report of the adequacy of the control measures to the City. If measures are deemed inadequate, the project applicant shall develop and implement additional and more effective measures immediately.

When Required: During construction; ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving creek dewatering or diversion (generally required when there is work within the creek channel).]**

**58.59. Creek Dewatering/Diversion**

Requirement: The project applicant shall submit a Dewatering and Diversion Plan for review and approval by the City, and shall implement the approved Plan. The Plan shall comply, at a minimum, with the following:

- a. All dewatering and diversion activities shall comply with the requirements of all necessary regulatory permits and authorizations from other agencies (e.g., Regional Water Quality Control Board, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and Army Corps of Engineers).
- b. All native aquatic life (e.g., fish, amphibians, and turtles) within the work site shall be relocated by a qualified biologist prior to dewatering, in accordance with applicable regional, state, and federal requirements. Captured native aquatic life shall be moved to the nearest appropriate site on the stream channel downstream. The biologist shall check daily for stranded aquatic life as the water level in the dewatering area drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered areas. Capture methods may include fish landing nets, dip nets, buckets, and by hand. Captured aquatic life shall be released immediately in the nearest appropriate downstream site. This condition does not allow the take or disturbance of any state or federally listed species, nor state-listed species of special concern, unless the applicant obtains a project specific authorization from the California Department of Fish and Wildlife and/or the U.S. Fish and Wildlife Service, as applicable.
- c. If any dam or other artificial obstruction is constructed, maintained, or placed in operation within the stream channel, ensure that sufficient water is allowed to pass down channel at all times to maintain native aquatic life below the dam or other artificial obstruction.

- d. Construction and operation of dewatering/diversion devices shall meet the standards contained in the latest edition of the Erosion and Sediment Control Field Manual published by the Regional Water Quality Control Board.
- e. Cofferdams and/or water diversion system shall be constructed of a non-erodible material which will cause little or no siltation. Cofferdams and the water diversion system shall be maintained in place and functional throughout the construction period. If the cofferdams or water diversion systems fail, they shall be repaired immediately based on the recommendations of a qualified environmental consultant. The devices shall be removed after construction is complete and the site is stabilized.
- f. Pumped water shall be passed through a sediment settling device before returning to the stream channel. Velocity dissipation measures are required at the outfall to prevent erosion.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that involve new construction within a 100-year flood zone as mapped on a Federal Hazard Boundary map, Flood Insurance Rate Map, or other flood hazard delineation map. Staff can refer to the City’s GIS map.]**

**59.60. Structures in a Flood Zone**

Requirement: The project shall be designed to ensure that new structures within a 100-year flood zone do not interfere with the flow of water or increase flooding. The project applicant shall submit plans and hydrological calculations for City review and approval with the construction-related drawings that show finished site grades and floor elevations elevated above the Base Flood Elevation (BFE).

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects that require a permit from the Bay Conservation and Development Commission (BCDC). BCDC’s jurisdiction is generally limited to the first 100 feet inland from the shoreline of San Francisco Bay and the Oakland Estuary. Projects in BCDC’s jurisdiction requiring a permit include placing material in the Bay/Estuary, dredging material from the Bay/Estuary, substantially changing the use of a structure or area, constructing or repairing a structure, or grading land.]**

**60.61. Bay Conservation and Development Commission (BCDC) Approval**

Requirement: The project applicant shall obtain the necessary permit/approval, if required, from the Bay Conservation and Development Commission (BCDC) for work within BCDC’s jurisdiction to address issues such as but not limited to shoreline public access and sea level rise. The project applicant shall submit evidence of the permit/approval to the City and comply with all requirements and conditions of the permit/approval.

When Required: Prior to activity requiring permit/approval from BCDC

Initial Approval: Approval by BCDC; evidence of approval submitted to Bureau of Planning  
Monitoring/Inspection: BCDC

**[See Biological Resources section for other conditions related to hydrology and water quality.]**

## NOISE

**[The following condition applies to all projects involving construction.]**

### **61.62. Construction Days/Hours**

Requirement: The project applicant shall comply with the following restrictions concerning construction days and hours:

- a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m.
- b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.
- c. No construction is allowed on Sunday or federal holidays.

Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction.]**

### **62.63. Construction Noise**

Requirement: The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:

- a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible.
- b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.
- c. Applicant shall use temporary power poles instead of generators where feasible.
- d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- e. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction. The Construction Noise Management Plan may be required prior to project approval.]**

### **63.64. Extreme Construction Noise**

#### ***a. Construction Noise Management Plan Required***

Requirement: Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:

- i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- ii. Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;

- iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
- v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

***b. Public Notification Required***

Requirement: The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects for which a noise study was prepared during the project review process that resulted in preliminary recommended noise reduction measures to address specific adjacent sensitive receptors/ or businesses that may be impacted by construction noise more than typical (e.g. pre-school activity, meditation center, skilled nursing facility, etc.) .]**

**64.65. Project-Specific Construction Noise Reduction Measures**

Requirement: The project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction noise impacts on **[ENTER ADJACENT SENSITIVE RECEPTOR OR BUSINESS]**. The project applicant shall implement the approved Plan during construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all major development projects, specifically those involving:**

- a. Construction of 50 or more residential dwelling units;**
- b. Construction of 50,000 sq. ft. or more of nonresidential floor area; or**
- c. CEQA review (e.g., negative declaration, mitigated negative declaration, or EIR).]**

### **65.66. Construction Noise Complaints**

Requirement: The project applicant shall submit to the City for review and approval a set of procedures for responding to and tracking complaints received pertaining to construction noise, and shall implement the procedures during construction. At a minimum, the procedures shall include:

- a. Designation of an on-site construction complaint and enforcement manager for the project;
- b. A large on-site sign near the public right-of-way containing permitted construction days/hours, complaint procedures, and phone numbers for the project complaint manager and City Code Enforcement unit;
- c. Protocols for receiving, responding to, and tracking received complaints; and
- d. Maintenance of a complaint log that records received complaints and how complaints were addressed, which shall be submitted to the City for review upon the City's request.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects for which a noise study was performed during the project review process and the project exposure to community noise is Conditionally Acceptable, Normally Unacceptable, or Clearly Unacceptable per the land use compatibility guidelines of the Noise Element of the Oakland General Plan.]**

### **66.67. Exposure to Community Noise**

Requirement: The project applicant shall submit a Noise Reduction Plan prepared by a qualified acoustical engineer for City review and approval that contains noise reduction measures (e.g., sound-rated window, wall, and door assemblies) to achieve an acceptable interior noise level in accordance with the land use compatibility guidelines of the Noise Element of the Oakland General Plan. The applicant shall implement the approved Plan during construction. To the maximum extent practicable, interior noise levels shall not exceed the following:

- a. 45 dBA: Residential activities, civic activities, hotels
- b. 50 dBA: Administrative offices; group assembly activities
- c. 55 dBA: Commercial activities
- d. 65 dBA: Industrial activities

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects.]**

### **67.68. Operational Noise**

Requirement: Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of chapter 17.120 of the Oakland Planning Code and chapter 8.18 of the Oakland Municipal Code. If noise levels exceed these

standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the City.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving new residential facilities or new dwelling units located adjacent to an active rail line.]**

### **68-69. Exposure to Vibration**

Requirement: The project applicant shall submit a Vibration Reduction Plan prepared by a qualified acoustical consultant for City review and approval that contains vibration reduction measures to reduce groundborne vibration to acceptable levels per Federal Transit Administration (FTA) standards. The applicant shall implement the approved Plan during construction. Potential vibration reduction measures include, but are not limited to, the following:

- a. Isolation of foundation and footings using resilient elements such as rubber bearing pads or springs, such as a “spring isolation” system that consists of resilient spring supports that can support the podium or residential foundations. The specific system shall be selected so that it can properly support the structural loads, and provide adequate filtering of groundborne vibration to the residences above.
- b. Trenching, which involves excavating soil between the railway and the project so that the vibration path is interrupted, thereby reducing the vibration levels before they enter the project’s structures. Since the reduction in vibration level is based on a ratio between trench depth and vibration wavelength, additional measurements shall be conducted to determine the vibration wavelengths affecting the project. Based on the resulting measurement findings, an adequate trench depth and, if required, suitable fill shall be identified (such as foamed styrene packing pellets [i.e., Styrofoam] or low-density polyethylene).

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving construction that includes the use of heavy off-road equipment to perform earthwork in close proximity to adjacent properties that contain buildings near the adjoining property line or adjacent to vibration sensitive activities where vibration could substantially interfere with normal operations.]**

### **69-70. Vibration Impacts on Adjacent Structures or Vibration-Sensitive Activities**

Requirement: The project applicant shall submit a Vibration Analysis prepared by an acoustical and/or structural engineer or other appropriate qualified professional for City review and approval that establishes pre-construction baseline conditions and threshold levels of vibration that could damage the structure and/or substantially interfere with activities located at **[ENTER ADDRESS OF ADJACENT PROPERTY OR VIBRATION SENSITIVE ACTIVITY]**. The Vibration Analysis shall identify design means and methods of construction that shall be utilized in order to

not exceed the thresholds. The applicant shall implement the recommendations during construction.

When Required: Prior to construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

## POPULATION AND HOUSING

**[The following condition applies to all projects per OMC chap. 15.68 involving new construction of office or warehousing activities containing at least 25,000 sq. ft. of floor area.]**

### **70.71. Jobs/Housing Impact Fee**

Requirement: The project applicant shall comply with the requirements of the City of Oakland Jobs/Housing Impact Fee Ordinance (chapter 15.68 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit; subsequent milestones pursuant to ordinance

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

**[The following condition applies to all projects subject to the Affordable Housing Impact Fee Ordinance per OMC chap. 15.72. Please refer to the ordinance and administrative regulations for project applicability and requirements.]**

### **71.72. Affordable Housing Impact Fee**

Requirement: The project applicant shall comply with the requirements of the City of Oakland Affordable Housing Impact Fee Ordinance (chapter 15.72 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit; subsequent milestones pursuant to ordinance

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

## PUBLIC SERVICES

**[The following condition applies to all projects subject to the Capital Improvements Impact Fee Ordinance per OMC chap. 15.74. Please refer to the ordinance and administrative regulations for project applicability and requirements.]**

### **72.73. Capital Improvements Impact Fee**

Requirement: The project applicant shall comply with the requirements of the City of Oakland Capital Improvements Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

## RECREATION

**[The following condition applies to all projects involving new construction adjacent to an existing open space such as parks, lakes, or the shoreline.]**

### **73.74. Access to Parks and Open Space**

Requirement: The project applicant shall submit a plan for City review and approval to enhance bicycle and pedestrian access from the project site and adjacent areas to **[INSERT NAME OF EXISTING OPEN SPACE]**. Examples of enhancements may include, but are not limited to, new or improved bikeways, bike parking, traffic control devices, sidewalks, pathways, bulb-outs, and signage. The project sponsor shall install the approved enhancements during construction and prior to completion of the project.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning, Department of Transportation

Monitoring/Inspection: Department of Transportation

## TRANSPORTATION/TRAFFIC

### **74.75. Construction Activity in the Public Right-of-Way**

#### ***a. Obstruction Permit Required***

Requirement: The project applicant shall obtain an obstruction permit from the City prior to placing any temporary construction-related obstruction in the public right-of-way, including City streets, sidewalks, bicycle facilities, and bus stops.

When Required: Prior to approval of construction-related permit

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

#### ***b. Traffic Control Plan Required***

Requirement: In the event of obstructions to vehicle or bicycle travel lanes, bus stops, or sidewalks, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian accommodations (or detours, if accommodations are not feasible), including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The Traffic Control Plan shall be in conformance with the City's Supplemental Design Guidance for Accommodating Pedestrians, Bicyclists, and Bus Facilities in Construction Zones. The project applicant shall implement the approved Plan during construction.

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

c. **Repair of City Streets**

Requirement: The project applicant shall repair any damage to the public right-of way, including streets and sidewalks, caused by project construction at his/her expense within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to approval of the final inspection of the construction-related permit. All damage that is a threat to public health or safety shall be repaired immediately.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Department of Transportation

**[The following condition applies to all projects that require bicycle parking per chapter 17.117 of the Oakland Planning Code, such as:**

- a. New nonresidential construction of a certain size (see Code for size thresholds);**
- b. Additions to existing nonresidential facilities (see Code for size thresholds);**
- c. New residential units (in multi-family dwellings, see Code); or**
- d. Remodeling of existing facilities involving 10,000 square feet and valued at \$250,000 or more.]**

**75.76. Bicycle Parking**

Requirement: The project applicant shall comply with the City of Oakland Bicycle Parking Requirements (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall demonstrate compliance with the requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects for which a Transportation Impact Study was prepared during the project review process that contained recommended transportation improvements.]**

**76.77. Transportation Improvements**

Requirement: The project applicant shall implement the recommended on- and off-site transportation-related improvements contained within the Transportation Impact Review for the project (e.g., signal timing adjustments, restriping, signalization, traffic control devices, roadway reconfigurations, transportation demand management measures, and transit, pedestrian, and

bicyclist amenities). The project applicant is responsible for funding and installing the improvements, and shall obtain all necessary permits and approvals from the City and/or other applicable regulatory agencies such as, but not limited to, Caltrans (for improvements related to Caltrans facilities) and the California Public Utilities Commission (for improvements related to railroad crossings), prior to installing the improvements. To implement this measure for intersection modifications, the project applicant shall submit Plans, Specifications, and Estimates (PS&E) to the City for review and approval. All elements shall be designed to applicable City standards in effect at the time of construction and all new or upgraded signals shall include these enhancements as required by the City. All other facilities supporting vehicle travel and alternative modes through the intersection shall be brought up to both City standards and ADA standards (according to Federal and State Access Board guidelines) at the time of construction. Current City Standards call for, among other items, the elements listed below:

- a. 2070L Type Controller with cabinet accessory
- b. GPS communication (clock)
- c. Accessible pedestrian crosswalks according to Federal and State Access Board guidelines with signals (audible and tactile)
- d. Countdown pedestrian head module switch out
- e. City Standard ADA wheelchair ramps
- f. Video detection on existing (or new, if required)
- g. Mast arm poles, full activation (where applicable)
- h. Polara Push buttons (full activation)
- i. Bicycle detection (full activation)
- j. Pull boxes
- k. Signal interconnect and communication with trenching (where applicable), or through existing conduit (where applicable), 600 feet maximum
- l. Conduit replacement contingency
- m. Fiber switch
- n. PTZ camera (where applicable)
- o. Transit Signal Priority (TSP) equipment consistent with other signals along corridor
- p. Signal timing plans for the signals in the coordination group
- q. Bi-directional curb ramps (where feasible, and if project is on a street corner)
- r. Upgrade ramps on receiving curb (where feasible, and if project is on a street corner)

When Required: Prior to building permit final or as otherwise specified

Initial Approval: Bureau of Building; Department of Transportation

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects generating 50 or more net new a.m. or p.m. peak hour vehicle trips.] The Transportation and Parking Demand Management Plan referenced below may be required prior to project approval.**

### **77.78. Transportation and Parking Demand Management**

**a. *Transportation and Parking Demand Management (TDM) Plan Required***

**Requirement:** The project applicant shall submit a Transportation and Parking Demand Management (TDM) Plan for review and approval by the City.

- i. The goals of the TDM Plan shall be the following:
  - Reduce vehicle traffic and parking demand generated by the project to the maximum extent practicable.
  - Achieve the following project vehicle trip reductions (VTR):
    - Projects generating 50-99 net new a.m. or p.m. peak hour vehicle trips: 10 percent VTR
    - Projects generating 100 or more net new a.m. or p.m. peak hour vehicle trips: 20 percent VTR
  - Increase pedestrian, bicycle, transit, and carpool/vanpool modes of travel. All four modes of travel shall be considered, as appropriate.
  - Enhance the City’s transportation system, consistent with City policies and programs.
- ii. The TDM Plan should include the following:
  - Baseline existing conditions of parking and curbside regulations within the surrounding neighborhood that could affect the effectiveness of TDM strategies, including inventory of parking spaces and occupancy if applicable.
  - Proposed TDM strategies to achieve VTR goals (see below).
- iii. For employers with 100 or more employees at the subject site, the TDM Plan shall also comply with the requirements of Oakland Municipal Code Chapter 10.68 Employer-Based Trip Reduction Program.
- iv. The following TDM strategies **must** be incorporated into a TDM Plan based on a project location or other characteristics. When required, these mandatory strategies should be identified as a credit toward a project’s VTR.

<b>Improvement</b>	<b>Required by code or when...</b>
<b>Bus boarding bulbs or islands</b>	<ul style="list-style-type: none"> <li>• A bus boarding bulb or island does not already exist and a bus stop is located along the project frontage; and/or</li> <li>• A bus stop along the project frontage serves a route with 15 minutes or better peak hour service and has a shared bus-bike lane curb</li> </ul>
<b>Bus shelter</b>	<ul style="list-style-type: none"> <li>• A stop with no shelter is located within the project frontage, or</li> <li>• The project is located within 0.10 miles of a flag stop with 25 or more boardings per day</li> </ul>
<b>Concrete bus pad</b>	<ul style="list-style-type: none"> <li>• A bus stop is located along the project frontage and a concrete bus pad does not already exist</li> </ul>
<b>Curb extensions or bulb-outs</b>	<ul style="list-style-type: none"> <li>• Identified as an improvement within site</li> </ul>

Improvement	Required by code or when...
	analysis
<b>Implementation of a corridor-level bikeway improvement</b>	<ul style="list-style-type: none"> <li>• A buffered Class II or Class IV bikeway facility is in a local or county adopted plan within 0.10 miles of the project location; and</li> <li>• The project would generate 500 or more daily bicycle trips</li> </ul>
<b>Implementation of a corridor-level transit capital improvement</b>	<ul style="list-style-type: none"> <li>• A high-quality transit facility is in a local or county adopted plan within 0.25 miles of the project location; and</li> <li>• The project would generate 400 or more peak period transit trips</li> </ul>
<b>Installation of amenities such as lighting; pedestrian-oriented green infrastructure, trees, or other greening landscape; and trash receptacles per the Pedestrian Master Plan and any applicable streetscape plan.</b>	<ul style="list-style-type: none"> <li>• Always required</li> </ul>
<b>Installation of safety improvements identified in the Pedestrian Master Plan (such as crosswalk striping, curb ramps, count down signals, bulb outs, etc.)</b>	<ul style="list-style-type: none"> <li>• When improvements are identified in the Pedestrian Master Plan along project frontage or at an adjacent intersection</li> </ul>
<b>In-street bicycle corral</b>	<ul style="list-style-type: none"> <li>• A project includes more than 10,000 square feet of ground floor retail, is located along a Tier 1 bikeway, and on-street vehicle parking is provided along the project frontages.</li> </ul>
<b>Intersection improvements<sup>1</sup></b>	<ul style="list-style-type: none"> <li>• Identified as an improvement within site analysis</li> </ul>
<b>New sidewalk, curb ramps, curb and gutter meeting current City and ADA standards</b>	<ul style="list-style-type: none"> <li>• Always required</li> </ul>
<b>No monthly permits and establish minimum price floor for public parking<sup>2</sup></b>	<ul style="list-style-type: none"> <li>• If proposed parking ratio exceeds 1:1000 sf. (commercial)</li> </ul>

<sup>1</sup> Including but not limited to visibility improvements, shortening corner radii, pedestrian safety islands, accounting for pedestrian desire lines.

<b>Improvement</b>	<b>Required by code or when...</b>
<b>Parking garage is designed with retrofit capability</b>	<ul style="list-style-type: none"> <li>Optional if proposed parking ratio exceeds 1:1.25 (residential) or 1:1000 sf. (commercial)</li> </ul>
<b>Parking space reserved for car share</b>	<ul style="list-style-type: none"> <li>If a project is providing parking and a project is located within downtown. One car share space reserved for buildings between 50 – 200 units, then one car share space per 200 units.</li> </ul>
<b>Paving, lane striping or restriping (vehicle and bicycle), and signs to midpoint of street section</b>	<ul style="list-style-type: none"> <li>Typically required</li> </ul>
<b>Pedestrian crossing improvements</b>	<ul style="list-style-type: none"> <li>Identified as an improvement within site analysis</li> </ul>
<b>Pedestrian-supportive signal changes<sup>3</sup></b>	<ul style="list-style-type: none"> <li>Identified as an improvement within operations analysis</li> </ul>
<b>Real-time transit information system</b>	<ul style="list-style-type: none"> <li>A project frontage block includes a bus stop or BART station and is along a Tier 1 transit route with 2 or more routes or peak period frequency of 15 minutes or better</li> </ul>
<b>Relocating bus stops to far side</b>	<ul style="list-style-type: none"> <li>A project is located within 0.10 mile of any active bus stop that is currently near-side</li> </ul>
<b>Signal upgrades<sup>4</sup></b>	<ul style="list-style-type: none"> <li>Project size exceeds 100 residential units, 80,000 sf. of retail, or 100,000 sf. of commercial; and</li> <li>Project frontage abuts an intersection with signal infrastructure older than 15 years</li> </ul>
<b>Transit queue jumps</b>	<ul style="list-style-type: none"> <li>Identified as a needed improvement within operations analysis of a project with frontage along a Tier 1 transit route with 2 or more routes or peak period frequency of 15 minutes or better</li> </ul>
<b>Trenching and placement of conduit for providing traffic</b>	<ul style="list-style-type: none"> <li>Project size exceeds 100 units, 80,000 sf. of retail, or 100,000 sf. of commercial; and</li> </ul>

<sup>2</sup> May also provide a cash incentive or transit pass alternative to a free parking space in commercial properties.

<sup>3</sup> Including but not limited to reducing signal cycle lengths to less than 90 seconds to avoid pedestrian crossings against the signal, providing a leading pedestrian interval, provide a “scramble” signal phase where appropriate.

<sup>4</sup> Including typical traffic lights, pedestrian signals, bike actuated signals, transit-only signals

Improvement	Required by code or when...
<b>signal interconnect</b>	<ul style="list-style-type: none"> <li>• Project frontage block is identified for signal interconnect improvements as part of a planned ITS improvement; and</li> <li>• A major transit improvement is identified within operations analysis requiring traffic signal interconnect</li> </ul>
<b>Unbundled parking</b>	<ul style="list-style-type: none"> <li>• If proposed parking ratio exceeds 1:1.25 (residential)</li> </ul>

v. Other TDM strategies to consider include, but are not limited to, the following:

- Inclusion of additional long-term and short-term bicycle parking that meets the design standards set forth in chapter five of the Bicycle Master Plan and the Bicycle Parking Ordinance (chapter 17.117 of the Oakland Planning Code), and shower and locker facilities in commercial developments that exceed the requirement.
- Construction of and/or access to bikeways per the Bicycle Master Plan; construction of priority bikeways, on-site signage and bike lane striping.
- Installation of safety elements per the Pedestrian Master Plan (such as crosswalk striping, curb ramps, count down signals, bulb outs, etc.) to encourage convenient and safe crossing at arterials, in addition to safety elements required to address safety impacts of the project.
- Installation of amenities such as lighting, street trees, and trash receptacles per the Pedestrian Master Plan, the Master Street Tree List and Tree Planting Guidelines (which can be viewed at <http://www2.oaklandnet.com/oakca1/groups/pwa/documents/report/oak042662.pdf> and <http://www2.oaklandnet.com/oakca1/groups/pwa/documents/form/oak025595.pdf>, respectively) and any applicable streetscape plan.
- Construction and development of transit stops/shelters, pedestrian access, way finding signage, and lighting around transit stops per transit agency plans or negotiated improvements.
- Direct on-site sales of transit passes purchased and sold at a bulk group rate (through programs such as AC Transit Easy Pass or a similar program through another transit agency).
- Provision of a transit subsidy to employees or residents, determined by the project applicant and subject to review by the City, if employees or residents use transit or commute by other alternative modes.
- Provision of an ongoing contribution to transit service to the area between the project and nearest mass transit station prioritized as follows: 1) Contribution to AC Transit bus service; 2) Contribution to an existing area shuttle service; and 3) Establishment of new shuttle service. The amount of contribution (for any of the

above scenarios) would be based upon the cost of establishing new shuttle service (Scenario 3).

- Guaranteed ride home program for employees, either through 511.org or through separate program.
- Pre-tax commuter benefits (commuter checks) for employees.
- Free designated parking spaces for on-site car-sharing program (such as City Car Share, Zip Car, etc.) and/or car-share membership for employees or tenants.
- On-site carpooling and/or vanpool program that includes preferential (discounted or free) parking for carpools and vanpools.
- Distribution of information concerning alternative transportation options.
- Parking spaces sold/leased separately for residential units. Charge employees for parking, or provide a cash incentive or transit pass alternative to a free parking space in commercial properties.
- Parking management strategies including attendant/valet parking and shared parking spaces.
- Requiring tenants to provide opportunities and the ability to work off-site.
- Allow employees or residents to adjust their work schedule in order to complete the basic work requirement of five eight-hour workdays by adjusting their schedule to reduce vehicle trips to the worksite (e.g., working four, ten-hour days; allowing employees to work from home two days per week).
- Provide or require tenants to provide employees with staggered work hours involving a shift in the set work hours of all employees at the workplace or flexible work hours involving individually determined work hours.

The TDM Plan shall indicate the estimated VTR for each strategy, based on published research or guidelines where feasible. For TDM Plans containing ongoing operational VTR strategies, the Plan shall include an ongoing monitoring and enforcement program to ensure the Plan is implemented on an ongoing basis during project operation. If an annual compliance report is required, as explained below, the TDM Plan shall also specify the topics to be addressed in the annual report.

When Required: Prior to approval of planning application.

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

b. TDM Implementation – Physical Improvements

Requirement: For VTR strategies involving physical improvements, the project applicant shall obtain the necessary permits/approvals from the City and install the improvements prior to the completion of the project.

When Required: Prior to building permit final

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

c. TDM Implementation – Operational Strategies

Requirement: For projects that generate 100 or more net new a.m. or p.m. peak hour vehicle trips and contain ongoing operational VTR strategies, the project applicant shall submit an annual compliance report for the first five years following completion of the project (or completion of each phase for phased projects) for review and approval by the City. The annual report shall document the status and effectiveness of the TDM program, including the actual VTR achieved by the project during operation. If deemed necessary, the City may elect to have a peer review consultant, paid for by the project applicant, review the annual report. If timely reports are not submitted and/or the annual reports indicate that the project applicant has failed to implement the TDM Plan, the project will be considered in violation of the Conditions of Approval and the City may initiate enforcement action as provided for in these Conditions of Approval. The project shall not be considered in violation of this Condition if the TDM Plan is implemented but the VTR goal is not achieved.

When Required: Ongoing

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

**[The following condition applies to all projects subject to the Transportation Impact Fee Ordinance per OMC chap. 15.74. Please refer to the ordinance and administrative regulations for project applicability and requirements.]**

#### **78.79. Transportation Impact Fee**

Requirement: The project applicant shall comply with the requirements of the City of Oakland Transportation Impact Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

**[The following condition applies to all projects located within 1/4-mile of an at-grade railroad crossing that generate substantial vehicle, bicyclist, and/or pedestrian traffic and a Transportation Impact Study otherwise required to be prepared for the project identifies potentially substantially dangerous crossing conditions at the at-grade crossing caused by the project.]**

#### **79.80. Railroad Crossings**

Requirement: The project applicant shall submit for City review and approval a Diagnostic Review to evaluate potential impacts to at-grade railroad crossings resulting from project-related traffic. In general, the major types of impacts to consider are collisions between trains and vehicles, trains and pedestrians, and trains and bicyclists. The Diagnostic Review shall include specific traffic elements, such as roadway and rail description, accident history, traffic volumes (all modes, including pedestrian and bicyclist crossing movements), train volumes, vehicular speeds, train speeds, and existing rail and traffic control.

Where the Diagnostic Review identifies potentially substantially dangerous crossing conditions at at-grade railroad crossings caused by the project, measures relative to the project's traffic

contribution to the crossings shall be applied through project redesign and/or incorporation of the appropriate measures to reduce potential adverse impacts at the crossings. These measures may include, without limitation, the following:

- a. Installation of grade separations at crossings, i.e., physically separating roads and railroad tracks by constructing overpasses or underpasses
- b. Improvements to warning devices at existing highway rail crossings that are impacted by project traffic
- c. Installation of additional warning signage
- d. Improvements to traffic signaling at intersections adjacent to crossings, e.g., signal preemption
- e. Installation of median separation to prevent vehicles from driving around railroad crossing gates
- f. Where sound walls, landscaping, buildings, etc. would be installed near crossings, maintaining the visibility of warning devices and approaching trains
- g. Prohibition of parking within 100 feet of the crossings to improve the visibility of warning devices and approaching trains
- h. Construction of pull-out lanes for buses and vehicles transporting hazardous materials
- i. Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way
- j. Elimination of driveways near crossings
- k. Increased enforcement of traffic laws at crossings
- l. Rail safety awareness programs to educate the public about the hazards of highway-rail grade crossings

Any proposed improvements must be coordinated with California Public Utility Commission (CPUC) and affected railroads and all necessary permits/approvals obtained, including a GO 88-B Request (Authorization to Alter Highway Rail Crossings). The project applicant shall implement the approved measures during construction of the project.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all new construction projects with (3) or more units that contain required onsite parking.]**

### **80.81. Plug-In Electric Vehicle (PEV) Charging Infrastructure**

#### ***a. PEV-Ready Parking Spaces***

Requirement: The applicant shall submit, for review and approval of the Building Official and the Zoning Manager, plans that show the location of parking spaces equipped with full electrical circuits designated for future PEV charging (i.e. "PEV-Ready") per the requirements of Chapter 15.04 of the Oakland Municipal Code. Building electrical plans shall indicate sufficient electrical capacity to supply the required PEV-Ready parking spaces.

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following applies to residential and nonresidential projects with 11 or more onsite parking spaces]**

***b. PEV-Capable Parking Spaces***

Requirement: The applicant shall submit, for review and approval of the Building Official, plans that show the location of inaccessible conduit to supply PEV-capable parking spaces per the requirements of Chapter 15.04 of the Oakland Municipal Code. Building electrical plans shall indicate sufficient electrical capacity to supply the required PEV-capable parking spaces.

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following applies to to Public Buildings, Public Accommodations, Commercial Buildings, and Publicly Funded Housing]**

***c. ADA-Accessible Spaces***

Requirement: The applicant shall submit, for review and approval of the Building Official, plans that show the location of future accessible EV parking spaces as required under Title 24 Chapter 11B Table 11B-228.3.2.1, and specify plans to construct all future accessible EV parking spaces with appropriate grade, vertical clearance, and accessible path of travel to allow installation of accessible EV charging station(s).

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

## UTILITY AND SERVICE SYSTEMS

**[The following condition applies to all construction projects.]**

**81.82. Construction and Demolition Waste Reduction and Recycling**

Requirement: The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at [www.greenhalosystems.com](http://www.greenhalosystems.com) or manually at the City's Green Building Resource

Center. Current standards, FAQs, and forms are available on the City’s website and in the Green Building Resource Center.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

**[The following condition applies to all construction projects.]**

**82.83. Underground Utilities**

Requirement: The project applicant shall place underground all new utilities serving the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project’s street frontage and from the project structures to the point of service. Utilities under the control of other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects per chapter of 17.118 of the Oakland Planning Code that involve any of the following:]**

- a. New residential development of five or more units;**
- b. Alterations to existing residential development of five or more units that increase the floor area by 30% or more;**
- c. New commercial or industrial development;**
- d. Alterations to existing commercial or industrial development that increase the floor area by 30% or more;**
- e. New public facilities; or**
- f. Alterations to areas of existing public facilities used for collecting and loading solid waste.]**

**83.84. Recycling Collection and Storage Space**

Requirement: The project applicant shall comply with the City of Oakland Recycling Space Allocation Ordinance (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall contain recycling collection and storage areas in compliance with the Ordinance. For residential projects, at least two (2) cubic feet of storage and collection space per residential unit is required, with a minimum of ten (10) cubic feet. For nonresidential projects, at least two (2) cubic feet of storage and collection space per 1,000 square feet of building floor area is required, with a minimum of ten (10) cubic feet.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

[The following condition applies to all projects involving any the following:

**Residential**

- a. New Construction of a One or Two Family Dwelling
- b. New Construction of a Multi-Family Dwelling (3+ units);
- c. Additions or Alterations to a One or Two Family Dwelling over 1,000 sq. ft. of total floor area; or
- d. Construction of or Alteration to Residential Units (any amount) that Receive City Funding (NOFA projects)

**Non-Residential**

- a. New Construction of Non-Residential Building over 25,000 sq. ft. of total floor area; or
- b. Major Alterations (see Green Building Definitions) over 25,000 sq. ft. of total floor area to a Non-Residential Building.]

**84.85. Green Building Requirements**

*a. Compliance with Green Building Requirements During Plan-Check*

Requirement: The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code).

- i. The following information shall be submitted to the City for review and approval with the application for a building permit:
  - Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
  - Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit.

- Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit.
  - Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below.
  - Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance.
  - Signed statement by the Green Building Certifier that the project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit.
  - Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.
- ii. The set of plans in subsection (i) shall demonstrate compliance with the following:
- CALGreen mandatory measures.
  - **[INSERT: Green building point level/certification requirement: (See Green Building Summary Table; for New Construction of Residential or Non-residential projects that remove a Historic Resource (as defined by the Green Building Ordinance) the point level certification requirement is 53 points for residential and LEED Gold for non-residential)]** per the appropriate checklist approved during the Planning entitlement process.
  - All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Bureau of Planning that shows the previously approved points that will be eliminated or substituted.
  - The required green building point minimums in the appropriate credit categories.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

***b. Compliance with Green Building Requirements During Construction***

Requirement: The project applicant shall comply with the applicable requirements of CALGreen and the Oakland Green Building Ordinance during construction of the project.

The following information shall be submitted to the City for review and approval:

- i. Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit.
- ii. Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance.
- iii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**c. *Compliance with Green Building Requirements After Construction***

Requirement: Prior to the finaling the Building Permit, the Green Building Certifier shall submit the appropriate documentation to City staff and attain the minimum required point level.

When Required: Prior to Final Approval

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving any of the following and are rated using the Small Commercial or Bay Friendly Basic Landscape Checklists:**

- a. New Construction of Non-Residential Buildings between 5,000 and 25,000 sq. ft. of total floor area;**
- b. Additions/Alterations 5,000 and 25,000 sq. ft. of total floor area to a Non-Residential Building;**
- c. Additions/Alterations (not meeting the Major Alteration Definition) over 25,000 sq. ft. of total floor area to a Non-Residential Building;**
- d. Alterations/Alterations 5,000 and 25,000 sq. ft. of total floor area to a Historic Non-Residential Building;**
- e. Additions/Alterations (not meeting the Major Alteration Definition) over 25,000 sq. ft. of total floor area to a Historic Non-Residential Building; or**
- f. Construction projects with over 25,000 sq. ft. of total floor area of new construction requiring a landscape plan.]**

**85.86. Green Building Requirements – Small Projects**

**a. *Compliance with Green Building Requirements During Plan-Check***

The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code) for projects using the **[INSERT: StopWaste.Org Small Commercial Checklist or Bay Friendly Basic Landscape Checklist]**.

- i. The following information shall be submitted to the City for review and approval with application for a building permit:
  - Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
  - Completed copy of the green building checklist approved during the review of a Planning and Zoning permit.

- Permit plans that show in general notes, detailed design drawings and specifications as necessary compliance with the items listed in subsection (b) below.
  - Other documentation to prove compliance.
- ii. The set of plans in subsection (a) shall demonstrate compliance with the following:
- CALGreen mandatory measures.
  - All applicable green building measures identified on the checklist approved during the review of a Planning and Zoning permit, or submittal of a Request for Revision Plan-check application that shows the previously approved points that will be eliminated or substituted.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

***b. Compliance with Green Building Requirements During Construction***

Requirement: The project applicant shall comply with the applicable requirements of CALGreen and the Green Building Ordinance during construction.

The following information shall be submitted to the City for review and approval:

- i. Completed copy of the green building checklists approved during review of the Planning and Zoning permit and during the review of the Building permit.
- ii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all major development projects, specifically those involving any of the following:**

- a. Construction of 50 or more residential dwelling units;**
- b. Construction of 50,000 sq. ft. or more of nonresidential floor area; or**
- c. CEQA review (e.g., negative declaration, mitigated negative declaration, or EIR).]**

**86.87. Sanitary Sewer System**

Requirement: The project applicant shall prepare and submit a Sanitary Sewer Impact Analysis to the City for review and approval in accordance with the City of Oakland Sanitary Sewer Design Guidelines. The Impact Analysis shall include an estimate of pre-project and post-project wastewater flow from the project site. In the event that the Impact Analysis indicates that the net increase in project wastewater flow exceeds City-projected increases in wastewater flow in the sanitary sewer system, the project applicant shall pay the Sanitary Sewer Impact Fee in accordance with the City’s Master Fee Schedule for funding improvements to the sanitary sewer system.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Department of Engineering and Construction

Monitoring/Inspection: N/A

**[The following condition applies to all major development projects, specifically those involving any of the following:**

- a. Construction of 50 or more residential dwelling units;**
- b. Construction of 50,000 sq. ft. or more of nonresidential floor area; or**
- c. CEQA review (e.g., negative declaration, mitigated negative declaration, or EIR).]**

### **87.88. Storm Drain System**

Requirement: The project storm drainage system shall be designed in accordance with the City of Oakland’s Storm Drainage Design Guidelines. To the maximum extent practicable, peak stormwater runoff from the project site shall be reduced by at least 25 percent compared to the pre-project condition.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects per OMC section 16.08.030 involving a tentative map approval (tentative parcel map or tentative tract map) for a land subdivision or condominium subdivision located in the EBMUD Recycled Water Project area (generally portions of West Oakland, Downtown, and Jack London Square; staff can refer to the map on the City server).]**

### **88.89. Recycled Water**

Requirement: Pursuant to section 16.08.030 of the Oakland Municipal Code, the project applicant shall provide for the use of recycled water in the project for feasible recycled water uses unless the City determines that there is a higher and better use for the recycled water, the use of recycled water is not economically justified for the project, or the use of recycled water is not financially or technically feasible for the project. Feasible recycled water uses may include, but are not limited to, landscape irrigation, commercial and industrial process use, and toilet and urinal flushing in non-residential buildings. The project applicant shall contact the New Business Office of the East Bay Municipal Utility District (EBMUD) for a recycled water feasibility assessment by the Office of Water Recycling. If recycled water is to be provided in the project, the project drawings submitted for construction-related permits shall include the proposed recycled water system and the project applicant shall install the recycled water system during construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving:**

- a. New Construction Projects with an aggregate landscape area equal to or greater than 500 sq.ft. (For the purpose of this condition “New Construction” means a new building with a landscape or other new landscape not associated with a building);**

**b. Rehabilitated Landscape Projects with an aggregate landscape area equal to or greater than 2,500 sq. ft. (For the purpose of this Condition “Rehabilitated” means any re-landscaping project);**

**c. Existing Landscapes; and**

**d. Cemeteries**

### **89-90. Water Efficient Landscape Ordinance (WELO)**

Requirement: The project applicant shall comply with California’s Water Efficient Landscape Ordinance (WELO) in order to reduce landscape water usage. For the specific ordinance requirements, see the link below:

<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/docs/Title%202023%20extract%20-%20Official%20CCR%20pages.pdf>

For any landscape project with an aggregate (total noncontiguous) landscape area equal to 2,500 sq. ft. or less, the project applicant may implement either the Prescriptive Measures or the Performance Measures, of, and in accordance with the California’s Model Water Efficient Landscape Ordinance. For any landscape project with an aggregate (total noncontiguous) landscape area over 2,500 sq. ft., the project applicant shall implement the Performance Measures in accordance with the WELO.

*Prescriptive Measures:* Prior to construction, the project applicant shall submit the Project Information (detailed below) and documentation showing compliance with Appendix D of California’s Model Water Efficient Landscape Ordinance (see page 38.14(g) in the link above).

*Performance Measures:* Prior to construction, the project applicant shall prepare and submit a Landscape Documentation Package for review and approval, which includes the following

**a. Project Information:**

- i. Date,
- ii. Applicant and property owner name,
- iii. Project address,
- iv. Total landscape area,
- v. Project type (new, rehabilitated, cemetery, or home owner installed),
- vi. Water supply type and water purveyor,
- vii. Checklist of documents in the package, and
- viii. Project contacts
- ix. Applicant signature and date with the statement: “I agree to comply with the requirements of the water efficient landscape ordinance and submit a complete Landscape Documentation Package.”

**b. Water Efficient Landscape Worksheet**

- i. Hydrozone Information Table
- ii. Water Budget Calculations with Maximum Applied Water Allowance (MAWA) and Estimated Total Water Use

- c.* Soil Management Report
- d.* Landscape Design Plan
- e.* Irrigation Design Plan, and
- f.* Grading Plan

Upon installation of the landscaping and irrigation systems, and prior to the final of a construction-related permit, the Project applicant shall submit a Certificate of Completion (see page 38.6 in the link above) and landscape and irrigation maintenance schedule for review and approval by the City. The Certificate of Completion shall also be submitted to the local water purveyor and property owner or his or her designee.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

## Part 3: Standard Conditions of Approval – Other Standard Conditions

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**[The following condition applies to all projects involving permanent (i.e., post-construction) employees.]**

### **90.91. Employee Rights**

Requirement: The project applicant and business owners in the project shall comply with all state and federal laws regarding employees’ right to organize and bargain collectively with employers and shall comply with the City of Oakland Minimum Wage Ordinance (chapter 5.92 of the Oakland Municipal Code).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

**[The following condition applies to all projects that affect existing residential units on the site (including unpermitted units and live/work units) resulting in temporary or permanent eviction, displacement or relocation of existing residential tenants, or residential tenants previously evicted or relocated in the past 12 months, due to the project or City action related to the project (e.g., the building was “red-tagged” by the City in response to a code violation).**

### **91.92. Residential Tenants**

Requirement: The property owner shall comply with all applicable laws and requirements concerning residential tenants, including but not limited to, the City’s Rent Adjustment Ordinance (OMC chap. 8.22, Article I), Just Cause Eviction Ordinance (OMC chap. 8.22, Articles II & III), Tenant Protection Ordinance (OMC chap. 8.22, Article V) and Code Compliance Relocation Ordinance (OMC chap. 15.60). Existing and former tenants temporarily or permanently evicted, displaced or relocated due to the project or City action related to the project may be entitled to protections and benefits, including, but not limited to, relocation payments and the right to return to previous units. The property owner may be required to submit evidence of compliance with applicable tenant protection laws upon request of the City. For more information, please contact the Oakland Housing Assistance Center: 250 Frank H. Ogawa Plaza, 6<sup>th</sup> Floor, Oakland, California, 94612; (510) 238-6182.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

**[The following condition shall apply to all projects that include either 2,000 square feet of new nonresidential floor area or 20 new dwelling units.]**

**92.93. Public Art for Private Development**

Requirement: The project is subject to the City’s Public Art Requirements for Private Development, adopted by Ordinance No. 13275 C.M.S. (“Ordinance”). The public art contribution requirements are equivalent to one-half percent (0.5%) for the “residential” building development costs, and one percent (1.0%) for the “non-residential” building development costs.

The contribution requirement can be met through: 1) the installation of freely accessible art at the site; 2) the installation of freely accessible art within one-quarter mile of the site; or 3) satisfaction of alternative compliance methods described in the Ordinance, including, but not limited to, payment of an in-lieu fee contribution. The applicant shall provide proof of full payment of the in-lieu contribution and/or provide plans, for review and approval by the Planning Director, showing the installation or improvements required by the Ordinance prior to issuance of a building permit.

Proof of installation of artwork, or other alternative requirement, is required prior to the City’s issuance of a final certificate of occupancy for each phase of a project unless a separate, legal binding instrument is executed ensuring compliance within a timely manner subject to City approval.

When Required: Payment of in-lieu fees and/or plans showing fulfillment of public art requirement – Prior to Issuance of Building permit

Installation of art/cultural space – Prior to Issuance of a Certificate of Occupancy.

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**[The following condition applies to all projects involving 10,000 square feet or more of newly constructed or converted neighborhood-serving commercial space for which tenants have not yet been selected.]**

**93.94. Neighborhood Retail Survey**

Requirement: The project applicant shall conduct a survey of community members located within one-half mile of the project site to identify neighborhood needs and preferences for the proposed commercial space. The City strongly encourages the project applicant to seek tenants for the proposed commercial space that meet the needs and preferences of local community members. Please refer to the City’s Survey Guidelines for more information (contained in a separate document and available from the Oakland Planning Bureau).

When Required: Prior to commercial operations

Initial Approval: N/A

Monitoring/Inspection: N/A

**[The following condition applies to all projects involving a mini-lot development.]**

**94.95. Mini-lot Development – Future Expansions of Buildings**

***Ongoing***

Any future changes to the subject buildings on the property that impact the exterior envelope of any of the structures shall require a revision of the approved mini-lot development.

**[The following condition applies to all projects involving an affordable housing project which contains affordable ownership units.]**

**95.96. Affordable Residential Ownership Units - Agreement and Monitoring**

***a. Requirement #1:*** Pursuant to Section 17.107 of the Oakland Planning Code and the State Density Bonus Law California Government Code Section 65915 et seq. (“State Density Bonus Law”), the proposed project shall provide a minimum of **[Enter number of units]** target dwelling units available at very low/ low/ moderate income (as **[Enter % of very low/ low and moderate income, i.e. 5%/10%/10%]** of the units) for receiving a density bonus, concession and/or waiver of development standards.

***b. Requirement #2:*** Prior to submittal of a construction-related permit, the applicant shall contact the Housing and Community Development Department (Housing Development Services Division) to enter into an Affordability Agreement based on the City’s model documents, as may be amended from time to time, governing the target dwelling units. The Affordability Agreement shall provide that target dwelling units are offered at an affordable housing cost and that only households that (i) meet the eligibility standards for the target dwelling units, and (ii) agree to execute an equity share agreement with the City are eligible to occupy the target dwelling units.

The Affordability Agreement shall be recorded with the Alameda County Recorder’s Office as an encumbrance against the property, and a copy of the recorded agreement shall be provided to and retained by the City. The Affordability Agreement may not be subordinated in priority to any other lien interest in the property.

***c. Requirement #3*** The restricted target dwelling units must comply with the City of Oakland Affordable Homeownership Development Program Guidelines. The applicant shall ensure that the initial occupant of all for-sale target dwelling units are Very Low-, Low, or Moderate-Income Households, as required, and that the units are offered at an Affordable Housing Cost in accordance with California Health and Safety Code Section 50052.5 and its implementing regulations.

***d. Requirement #4:*** For-sale target living units require a one-time fee to determine the eligibility of the initial homebuyer. The City’s fee is \$250 per unit currently per the Master Fee Schedule, which is updated annually and available from the Budget Office of the City Oakland’s Finance Department: <https://www.oaklandca.gov/departments/finance-department>.

***e. Requirement #5:*** The owner of a for-sale affordable unit may not rent out the unit. The unit must remain owner occupied.

*f. Requirement #6:* The applicant shall provide for initial homebuyer education to apprise buyers of the long-term affordability restrictions applicable to the targeted dwelling units, and shall submit information regarding the initial homebuyer's income, household size and other funding sources to City staff in the Housing and Community Development Division, for their review and approval. If a potential initial homebuyer does not meet the City's underwriting requirements, then the proposed homebuyer will not be allowed to purchase the home, and the applicant will be required to find qualified substitute buyer.

*g. Requirement #7:* The applicant shall submit for review and approval by the City Attorney, Bureau of Planning and any other relevant City departments as determined by the City, proof that all initial homebuyers of for-sale target dwelling units have entered into a density bonus equity share agreement, consistent with State Density Bonus Law, with the City prior to purchasing the unit or property, and the grant deed conveying title to the unit to the initial homebuyer shall reference the equity share agreement.

The equity share agreement shall specify that the title to the subject property or unit may not be transferred without prior approval of the City. Following City approval, the applicant shall record the equity share agreement against the parcel containing the target dwelling unit, as well as a Deed of Trust and Request for Notice in the event of default, sale, or refinancing, with the Alameda County Recorder's Office, and shall provide a copy of the recorded equity share agreement to the City. The equity share agreement shall further provide that upon future resale of a target dwelling unit, the initial homebuyer must notify the Housing and Community Development Division of its intent to sell the unit. Upon resale, the initial homebuyer may recoup the value of its own down payment, any improvements to the target dwelling unit, and the initial homebuyer's proportionate share of appreciation. The initial homebuyer shall repay to the City the City's initial subsidy and the City's proportionate share of appreciation. The City's initial subsidy is to be equal to the difference between the fair market value of the target dwelling unit at the time of initial sale and the initial sale price to the initial homebuyer, plus the amount of down payment assistance or mortgage assistance, if any. If upon resale the fair market value of the target dwelling unit is lower than the initial fair market value, then the value at the time of the resale shall be used as the initial fair market value. The City's proportionate share of appreciation is equal to the ratio of the local government's initial subsidy to the fair market value of the target dwelling unit at the time of the initial sale. The City will apply these repayment proceeds to the promotion of low to moderate income homeownership opportunities within five years of its receipt.

*h. Requirement #8:* The floor area, number of bedrooms, and amenities (such as fixtures, appliances, location and utilities) of the affordable units shall be substantially equal in size and quality to those of the market rate units. Further, the proportion of unit types (i.e. three-bedroom and four-bedroom, etc.) of the affordable units shall be roughly the same as the project's market rate units.

*i. Requirement #9:* Households in affordable units must have equal access to the project's services and facilities as households in all other units within the project.

*j. Requirement #10:* Affordable units must be evenly distributed throughout the project.

*k. Requirement #11:* The applicant shall comply with the requirements of Section 65915(c)(3)(A) of the State Density Bonus Law requiring, without limitation, replacement units in those circumstances where the parcel subject to the density bonus contains or contained affordable units within the last five years.

*l. Requirement #12:* The applicant shall comply with all applicable provisions of State Density Bonus Law and all provisions of the City's density bonus law that are not preempted by state law.

*m. Requirement #13:* Affordable units shall be constructed prior to or concurrent with the construction of the market rate units in each phase of the project.

*n. Requirement #14:* The City will not issue final certificates of occupancy for more than fifty percent (50%) of the market rate units in any phase of development until final certificates of occupancy are issued for all of the affordable units in that phase.

When Required: First Construction Related Permit Application and Ongoing

Initial Approval: Housing and Community Development Department and Ongoing

Ongoing Monitoring and Inspections: Housing and Community Development, Housing Development Services Division

**[The following condition applies to all projects involving an affordable housing project which contains affordable rental units.]**

### **96.97. Affordable Residential Rental Units - Agreement and Monitoring**

*a. Requirement #1:* Pursuant to Section 17.107 of the Oakland Planning Code and the State Density Bonus Law California Government Code Section 65915 et seq. ("State Density Bonus Law"), the proposed project shall provide a minimum of **[Enter number of units]** target dwelling units available at very low/ low/ moderate income (as **[Enter % of very low/ low and moderate income, i.e. 5%/10%/10%]** of the units) for receiving a density bonus, concession and/or waiver of development standards.

*b. Requirement #2:* The approved residential affordable units that are part of this approval shall remain and continue to be affordable at the specified level in accordance with California Health and Safety Code Section 50053 and its implementing regulations for a term of not less than 55 years or a longer period of time if required by the construction or mortgage finance assistance program, mortgage insurance program, or rental subsidy program. This Condition of Approval must also be in compliance with Section 65915(c)(1) of the State Density Bonus Law specifically, as well as all other applicable provisions of the State Density Bonus Law.

*c. Requirement #3:* Prior to submittal of a construction-related permit, the applicant shall contact the Housing and Community Development Department (Housing Development Services Division) to enter into a Regulatory Agreement based on the City's model documents, as may be amended from time to time, governing the target dwelling units. The Agreement shall contain restrictive covenants to ensure the continued affordability of the target dwelling units at the

specified rent levels for a period of not less than fifty-five (55) years pursuant Section 65915 (c)(1) of the State Density Bonus Law, and restrict the occupancy of those units only to residents who satisfy the affordability requirement as approved for this project. Only households meeting the eligibility standards for the target dwelling units shall be eligible to occupy the target dwelling units.

If the property has an approved condominium map and the developer chooses to rent the affordable units at initial occupancy, the units cannot convert to ownership during the term of the Agreement, even if the market rate units in the development convert to ownership.

The Regulatory Agreement shall be recorded with the Alameda County Recorder's Office as an encumbrance against the property, and a copy of the recorded agreement shall be provided to and retained by the City. The Regulatory Agreement may not be subordinated in priority to any other lien interest in the property.

***d. Requirement #4:*** Rental target dwelling units shall be managed / operated by the developer or developer's agent or the developer's successor. The developer of rental target dwelling units shall submit for review and approval by the Housing and Community Development Department and any other relevant City departments, an annual report identifying which units are target dwelling units, the monthly rent, vacancy information, monthly income for tenants of each target rental dwelling unit throughout the prior year, and other information required by the City. Said agreement shall maintain the tenants' privacy. The applicant shall pay to the Housing and Community Development Department an annual monitoring fee pursuant to the Master Fee Schedule (updated annually and available from the Budget Office of the City Oakland's Finance Department: <https://www.oaklandca.gov/departments/finance-department>) for City monitoring of target dwelling units.

***e. Requirement #5:*** The floor area, number of bedrooms, and amenities (such as fixtures, appliances, location and utilities) of the affordable units shall be substantially equal in size and quality to those of the market rate units. Further, the proportion of unit types (i.e. three-bedroom and four-bedroom, etc.) of the affordable units shall be roughly the same as the project's market rate units.

***f. Requirement #6:*** Tenant households in affordable units must have equal access to the project's services and facilities as tenant households in all other units within the project.

***g. Requirement #7:*** Affordable units must be evenly distributed throughout the project.

***h. Requirement #8:*** Applicant shall comply with the requirements of Section 65915(c)(3)(A) of the State Density Bonus Law requiring, without limitation, replacement units in those circumstances where the parcel subject to the density bonus requests contains or contained affordable units within the last five years.

***i. Requirement #9:*** Applicants shall comply with all applicable provisions of State Density Bonus Law and all provisions of the City's density bonus law that are not preempted by state law.

*j. Requirement #10:* Affordable units shall be constructed concurrent with the construction of the market rate units in each phase of the project.

*k. Requirement #11:* The City will not issue final certificates of occupancy for more than fifty percent (50%) of the market rate units in any phase of development until final certificates of occupancy are issued for all of the affordable units in that phase.

When Required: First Construction-Related Permit Application and Ongoing

Initial Approval: Housing and Community Development Department – Housing Development Services Division

Ongoing Monitoring/Inspections: Housing Development Services Division

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**[Insert the following with the Approval letter (pertinent to Condition #6).]**

**Applicant Statement**

I have read and accept responsibility for the Conditions of Approval. I agree to abide by and conform to the Conditions of Approval, as well as to all provisions of the Oakland Planning Code and Oakland Municipal Code pertaining to the project.

\_\_\_\_\_  
Name of Project Applicant

\_\_\_\_\_  
Signature of Project Applicant

\_\_\_\_\_  
Date

# Oakland Tribune

600 Grand Ave., #308  
Oakland, CA 94610  
510-723-2850

2050975

OAKLAND, CITY OF  
CHERYL DUNAWAY/BUREAU OF PLANNING  
250 FRANK H. OGAWA PLZ., #2114  
OAKLAND, CA 94612

## PROOF OF PUBLICATION

### FILE NO. Heather Klein Greenhouse Gas

In the matter of

**Oakland Tribune**

The Oakland Tribune

I am a citizen of the United States; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the Legal Advertising Clerk of the printer and publisher of The Oakland Tribune, a newspaper published in the English language in the City of Oakland, County of Alameda, State of California.

I declare that The Oakland Tribune is a newspaper of general circulation as defined by the laws of the State of California as determined by this court's order, dated December 6, 1951, in the action entitled In the Matter of the Ascertainment and Establishment of the Standing of The Oakland Tribune as a Newspaper of General Circulation, Case Number 237798. Said order states that "The Oakland Tribune is a newspaper of general circulation within the City of Oakland, and the County of Alameda, and the State of California, within the meaning and intent of Chapter 1, Division 7, Title 1 [§§ 6000 et seq.], of the Government Code of the State of California." Said order has not been revoked, vacated, or set aside.

I declare that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

**12/04/2020**

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated: December 4, 2020



Public Notice Advertising Clerk

Legal No.

**0006536842**

#### NOTICE OF PUBLIC HEARING REGARDING PROPOSED AMENDMENTS TO CITY OF OAKLAND CALIFORNIA ENVIRONMENTAL QUALITY ACT THRESHOLDS OF SIGNIFICANCE GUIDELINES FOR GREENHOUSE GAS IMPACTS, REVISE THE CITY'S UNIFORMLY APPLICABLE STANDARD CONDITIONS OF APPROVAL, AND ADOPT A SUPPORTING CONSISTENCY CHECKLIST

Notice is hereby given that the City of Oakland will hold a public hearing before the Planning Commission to discuss Amendments to the City of Oakland California Environmental Quality Act Thresholds of Significance Guidelines and supporting implementation materials.

Specifically:

City of Oakland Bureau of Planning staff is proposing to 1) update the City of Oakland's California Environmental Quality Act (CEQA) Thresholds of Significance Guidelines related to greenhouse gas (GHG) emissions impacts, 2) to revise the City's Uniformly Applicable Standard Conditions of Approval pertaining to GHG emissions, and 3) to adopt and commence use of the 2030 Equitable Climate Action Plan (ECAP) Consistency Checklist containing project-level action items identified in the ECAP for the purpose of determining GHG emissions impacts from individual projects. These modifications are proposed in order to implement the City's recently adopted 2030 Equitable Climate Action Plan.

Staff is requesting that the Planning Commission:

(a) affirm staff's CEQA exemption determination and findings for the adoption of the CEQA Threshold of Significance for GHG emissions, and for the use of the GHG Conditions and ECAP Consistency Checklist and any future amendments thereto that staff determines are consistent with the ECAP; and

(b) adopt, as regulation, supported by substantial evidence in the ECAP and in the staff report, the City of Oakland CEQA Thresholds of Significance Guidelines, the GHG Conditions, and the ECAP Consistency Checklist, as such may be administratively amended from time to time consistent with the adopted ECAP.

#### THE FOLLOWING PUBLIC HEARING WILL BE HELD BY THE CITY OF OAKLAND ON THE PROPOSED AMENDMENTS:

**On December 16, 2020, at 3:00 p.m., the Oakland Planning Commission will conduct a virtual public hearing on Zoom.**

Members of the public are welcome to attend the hearing, and to provide either written or oral comments.

#### To attend or observe the meeting by video conference

Please click the link below to join the webinar:  
<https://zoom.us/j/94574424183>

Or iPhone one-tap:  
US: +16699006833, 94574424183# or +14086380968, 94574424183#  
Or Telephone:  
Dial (for higher quality, dial a number based on your current location):  
US: +1 669 900 6833 or +1 408 638 0968 or +1 346 248 7799 or +1 253 215 8782 or +1 301 715 8592 or +1 312 626 6799 or +1 646 876 9923  
Webinar ID: 945 7442 4183  
International numbers available: <https://zoom.us/j/ab803LBGbX>

#### To comment on an item at the meeting

Public comments will be taken at the time of each eligible Agenda item.

To comment by Zoom video conference, click the "Raise Your Hand" button to request to speak when Public Comment is being taken on an eligible agenda item. You will then be unmuted during your turn and allowed to make public comments. After the allotted time, you will then be re-muted. Instructions on how to "Raise Your Hand" are available at: <https://support.zoom.us/hc/en-us/articles/205566129-Raise-Hand-In-Webinar>.

To comment by phone, please call on one of the above listed phone numbers. You will be prompted to "Raise Your Hand" by pressing "9" to request to speak when Public Comment is being taken on an eligible agenda item. You will then be unmuted during your turn and allowed to make public comments. After the allotted time, you will then be re-muted. Instructions on how to raise your hand by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663-Joining-a-meeting-by-phone>.

If you have any questions, please email Desmona R. Armstrong at [Darmstrong@oaklandca.gov](mailto:Darmstrong@oaklandca.gov)

Written comments

# Attachment H

Please submit all written comments via email to [hklein@oaklandca.gov](mailto:hklein@oaklandca.gov). Comments must be received no later than **4:00 p.m. on December 14, 2020**.

If you have any questions, please contact Heather Klein at (510) 238-3659 or [hklein@oaklandca.gov](mailto:hklein@oaklandca.gov).

Date: December 4, 2020  
**OT 6536842; Dec. 4, 2020**