

Case File Number PLN20067

January 10, 2024

#1	Location:	5701 International Boulevard
	Assessor’s Parcel Number(s):	041 3880029
	Proposal:	This is a re-notice of a project to establish 40 work/live units in an existing two-story industrial building. The new notice is required because the item has been moved to the January 10, 2024, Planning Commission meeting. All work is proposed for Building B at the site. On the second floor, the project would legalize 18 existing work/live units. The proposal would not change the floor plan of this floor. On the first floor, the project would legalize five existing work/live units and part of an existing storage space would be converted to 17 work/live units. A 1,670 square-foot workspace would be preserved on this floor.
	Applicant:	Debo Sodipo/(510)681-8411
	Owner:	Coliseum Enterprise, LLC
	Case File Number:	PLN20067
	Planning Permits Required:	Conditional Use Permit and Regular Design Review for the conversion of an existing building originally designed for Commercial or Industrial Activities where there are existing artist and/or artisan residents. The permits are major because they involve more than 25,000 square feet of floor area.
	General Plan:	General Industrial
	Zoning:	IG General Industrial
	Proposed Environmental Determination:	Exempt per CEQA Sections 15301: Existing Facilities; and 15183 – Projects Consistent with a Community Plan, General Plan or Zoning
	Historic Status:	Local Register; Area of Primary Importance (57th Avenue Industrial); OCHS Rating: C1+
	City Council District:	5
	Staff Recommendation:	Approve the project subject to Conditions of Approval
	Finality of Decision:	Appealable to the City Council
	For Further Information:	Neil Gray at (510) 238-3878 or by email at ngray@oaklandca.gov

SUMMARY

Pursuant to Planning Code Chapter 17.73, an existing building in specified industrial zones can receive a Conditional Use Permit to convert the building to work/live units so long as the building: 1) was originally designed for Commercial or Industrial Activities; and 2) contains existing artist residents. Utilizing this provision, the applicant proposes to legalize 23 work/live units and create 22 new work/live units in one building on a 5.5-acre site. The project would also repair and replace industrial sash windows. The repaired and replaced windows would match those that were rehabilitated in the historic Safeway Store Office Warehouse Building facing International Boulevard, which was extensively reviewed in 2017 by the City’s Landmarks Board and the Office of Cultural and Historic Survey.

As conditioned, staff recommends approval of the project because the development meets required findings; the design supports working activities and employees; existing tenants will be protected from any permanent displacement from their existing units; and existing laws protect tenants during the legalization of unpermitted units. The proposal will also be an appropriate buffer and transition from adjacent industrial properties to International Boulevard and a low-density residential neighborhood on 58th Street.

CITY OF OAKLAND PLANNING COMMISSION

**INSERT MAP
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BACKGROUND

On August 3, 2022, a proposal was brought to the Planning Commission to consolidate 53 work/live units in Building B at 5701 International Boulevard. The proposal would have reconfigured the existing work/live units in that building. At that meeting, commissioners expressed concerns that the proposal to reconfigure the units would have impacts on existing tenants. The Planning Commission voted unanimously to continue the item to a date uncertain to evaluate a tenant protection plan. The Planning Commission stated that the tenant protection plan should not include any displacement of current residents.

PROPERTY DESCRIPTION

5701 International Boulevard consists of four parcels totaling approximately 5.8 acres, is flat and has historically been used for food warehousing and distribution. The subject parcel is behind a parcel containing Building A, which was built in 1927, is a designated landmark and the historic headquarters of Safeway. It is a two-story brick building on a lot that spans the International Boulevard frontage, has a distinctive tower feature, and contains 59 work/live units that were approved by the Bureau of Planning in 2017.

The subject parcel is behind the lot fronting International Boulevard and faces 57th Street. It contains three buildings. The building proposed for rehabilitation (Building B) is toward the rear of the parcel, two stories, 63,904 square feet, and currently contains five ground-floor work/live units and 18 second-story work/live units that were established without the benefit of city permits. Eleven of these units are occupied. The ground floor also contains storage and workshop space. There is a parking area between this building and the rear yard of single-family homes that face 58th Street. A 12,756 square-foot warehouse (Building K) with an outdoor courtyard is to the north of Building B and Building D is a two-story, 23,020 square-foot building containing two work/live units totaling 13,770 square feet that were created without the benefit of permits.

PROJECT DESCRIPTION

All work is proposed for Building B. On the second floor, the project would legalize the 18 existing work/live units without a change in their dimension. Seven of these units are vacant and will be upgraded to be meet Americans with Disabilities Act (ADA) accessibility requirements for employees. This proposal is substantially different than the project that came before the Planning Commission in August 2022, which essentially had proposed a complete reconfiguration of the unpermitted units on the second floor.

On the first floor, the project would legalize five existing vacant work/live units. The floor plans for these units would be altered to construct a corridor to meet Building Code egress requirements. Seventeen additional work/live spaces would be constructed within an existing storage space area of the building. The additional work/live units would meet ADA requirements for employees. An existing 1,670 square-foot workspace would remain.

The legalization of the existing unpermitted units requires a seismic upgrade, fire sprinklers, and possible improvements to the plumbing, mechanical, and electrical systems to conform to Building Codes. Other work includes a repair and replacement of industrial sash windows. These windows would match those that were rehabilitated in the Safeway Building, which was extensively reviewed by the City’s Landmarks Board and the Office of Historic Survey.

A minimum of two-thirds of each work/live unit would be designated as working space, which consists of nonpartitioned areas that can be flexibly used for a variety of activities. Project plans are contained in **Attachment A**.

GENERAL PLAN ANALYSIS

The project is in the “General Industry and Transportation” classification in the Land Use and Transportation Element of the General Plan (LUTE). The intent of this classification is: “to recognize, preserve, and enhance areas of the City for a wide variety of businesses and related establishments that may have the potential to create off-site impacts such as noise, light/ glare, truck traffic, and odor. These areas are characterized by sites with good freeway, rail, seaport, and/ or airport access.”

The proposal meets this intent. As conditioned, the work/live units will be brought into conformance with applicable Building Codes that will allow a wide variety of industrial activities. Further, all residents will be required to sign a statement of disclosure acknowledging the industrial character of the site.

The project is consistent with the following policies contained in the LUTE:

- Policy N5.3 Supporting Live-Work Development.
The city should support and encourage residents desiring to live and work at the same location where neither the residential use nor the work occupation adversely affects nearby properties or the character of the surrounding area.
- Policy N5.2 Buffering Residential Areas
Residential areas should be buffered and reinforced from conflicting uses through the establishment of performance-based regulations, the removal of non-conforming uses, and other tools.
- Policy N3.11 Enforcing Codes.
The City should aggressively enforce the requirements of the City's Housing Code and other applicable regulations on housing of all types.
- Policy I/C1.4 Investing in Economically Distressed Areas of Oakland
Economic investment, consistent with the City's overall economic strategy, should be encouraged, and, where feasible, should promote viable investment in economically distressed areas of the City.

ZONING ANALYSIS

The project is in the IG General Industrial Zone. According to Section 17.73.010 of the Planning Code, the IG Zone “is intended to create, preserve and enhance areas of the City that are appropriate for a wide variety of businesses and related commercial and industrial establishments that may have the potential to generate off-site impacts such as noise, light/glare, odor, and traffic. This zone accommodates heavy industrial and manufacturing uses, transportation facilities, warehousing and distribution, and related supporting uses. This district is applied to areas with good freeway, rail, seaport, and/or airport access.”

Pursuant to Sections 17.73.040(C)(1)(b) and 17.73.040(D) of the Planning Code, a building in the CIX, IG, or IO Zone that both: 1) was originally designed for Commercial or Industrial Activities; and 2) contains existing artist residents can be converted to work/live units upon the granting of a Conditional Use Permit and Regular Design Review approval. The applicant has provided documentation indicating that artists currently reside in Building B.

Section 17.73.040(D) contains the following special Regular Design Review Findings required to approve work/live units in the CIX, IG, or IO zones:

1. That the exterior of a new building containing primarily work/live units in the industrial zones has a commercial or industrial appearance. This includes, but is not necessarily limited to, the use of nonresidential building styles or other techniques;
2. That units on the ground floor or level of a building have a business presence on the street. This includes, but is not necessarily limited to, providing roll up doors at the street or storefront style windows that allow interior space to be visible from the street, a business door that is oriented towards the street, a sign or other means that identifies the business on the door and elsewhere, a prominent ground floor height, or other techniques;
3. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;
4. That the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily limited to, the following:
 - a. Service elevators designed to carry and move oversized items;
 - b. Stairwells wide and/or straight enough to deliver large items;
 - c. Loading areas located near stairs and/or elevators; and
 - d. Wide corridors for the movement of oversized items.
5. That the floor and site plan for the project provide units that are easily identified as businesses and conveniently accessible by clients, employees and other business visitors.

As described in the Findings Section of this report, the project meets each of these criteria.

ENVIRONMENTAL DETERMINATION

The project is exempt from further California Environmental Quality Act (CEQA) analysis per CEQA Guidelines Section 15301. This section exempts, among other activities, the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The project meets this exemption because, other than replacement of steel sash windows, the entirety of the construction will occur within the existing building footprint.

The project is also utilizing Section 15183 of the CEQA Guidelines, which allows a streamlined environmental review process for projects that are consistent with existing zoning, community plan or general plan policies. As described in the Zoning and General Plan Analysis Sections of this report, the project is consistent with these policies and regulations.

KEY ISSUES AND IMPACTS

Staff has identified two key issues regarding the proposal: 1) whether the proposed work/live units are an appropriate use in the City's heaviest industrial zone (IG); and 2) the tenant protections for existing residents.

Appropriateness of Work/Live Units in the IG General Industrial Zone

Allowing people to live in a heavy industrial zone such as IG has the potential to reduce the viability of the intent of industrial land by using floor area that could be used for purely industrial activities and to generate complaints from residents regarding impacts from surrounding business operations. Staff believes that the following proposed conditions relating to disclosure requirements and assuring working activities in each unit alleviate these concerns:

- Each new unit must be constructed according to the Building Code to allow manufacturing activities and employees (see Condition of Approval #46);

- The residents of the work/live units will be made aware of the potential impacts of living in an industrial area prior to moving in (see Condition of Approval #44); and
- Each unit will be required to have at least one resident with a business license (see Condition of Approval #44).

Further, the building is designed with open working spaces, and wide stairwells and hallways conducive to the delivery of materials and a variety of businesses activities.

Staff also believes that allowing work/live units will provide an appropriate buffer and transition from adjacent industrial properties to the low-density residential zone (Detached Unit Residential – 2) on 58th Street and the corridor zone that allows residential activities (Community Commercial – 2) on International Boulevard.

Tenant Protection

The updated proposal is distinguished from the previous proposal presented to the Planning Commission on August 3, 2022, in that the floor plans of the existing occupied units will not be changed. The only work to be completed in those units will be that required to bring them into Building Code compliance through seismic upgrades, fire sprinklers, and possible plumbing, mechanical, and electrical improvements.

The applicant has communicated to Planning staff that they have engaged in good faith with the current tenants regarding the impacts of the proposed work. The applicant has expressed that the exact plans cannot be finalized until the Building Bureau approves of the work proposed, which cannot occur until after an entitlement is issued. The goal of the applicant’s plans is to first bring unoccupied units into compliance, then complete the work on the occupied units in phases so that the unoccupied, newly renovated units can be provided as temporary replacement units. Once the work is completed on the tenants’ original units, they would have the right to return to those units, which is required by both OMC 15.60 and Condition of Approval #48.

However, the applicant has not provided Planning staff documentation of the status of those negotiations. As such, Planning staff have included conditions that require, at a minimum, that the provision of Oakland Municipal Code (OMC) Chapter 15.60 (Code Compliance Relocation Program) be met in any circumstances where relocation is required to complete the work. OMC Chapter 15.60 provides that, where temporary tenant relocation to upgrade units to conform to the Building Code occurs, the property owner must provide relocation payments, a move-back option for tenants, and appropriate noticing (see **Attachment B** for the text of this Chapter). A tenant household is eligible for relocation payments from a property owner under OMC Chapter 15.60 if the tenant household is displaced from its rental unit due to code compliance activities. In addition, the owner will be required to comply to the City’s Rent Adjustment Ordinance (OMC Chap. 8.22, Article I), Just Cause Eviction Ordinance (OMC Chap. 8.22, Articles II & III), and Tenant Protection Ordinance (OMC Chap. 8.22, Article V).

To clarify how OMC Chapter 15.60 would apply to this proposal, staff has included Condition of Approval that states the following:

1. The owner shall acknowledge, in writing, that those occupying the eleven units in Building B are “eligible tenants” under OMC Section 15.60.040.A who will be subject to notice under OMC Section 15.60.060, relocation payments under OMC Sections 15.60.070 and 15.60.110, and the move-back option under OMC Section 15.60.100. The only exceptions to this shall be if an occupied unit becomes vacant due primarily to a cause other than the need to make repairs (such as the tenant moving out on their own volition), or the property owner offers in writing to move the tenant household, at the property owner’s expense, into a replacement unit in Building B that is the same size as the former unit, the offered unit complies with all applicable code requirements, and the offered unit’s rent is no greater than the rent charged for the former unit.

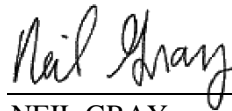
2. The owner shall provide notice to all eligible tenant households that meets all requirements of OMC Section 15.60.060, including setting forth the tenant household’s entitlement to relocation payments, the right to reoccupancy following completion of repairs, and the estimated date for reoccupancy.
3. The owner shall not lease any of the currently unoccupied unpermitted units until all necessary code compliance activities are completed in the building.
4. The owner shall complete work on unoccupied unpermitted units prior to commencing work on occupied units so as to ensure that the unoccupied units are available as replacement units.
5. The owner shall provide relocation payments consistent with OMC Sections 15.60.070 and 15.60.110 to all eligible tenants. The owner shall offer eligible tenants the ability to reside in a replacement unit in Building B. However, unless the unit fully meets the requirements of OMC Section 15.60.040.B.6, such offer does not vitiate the obligation to provide relocation payments in full (relocation payments could be used to pay rent on the replacement unit).
6. The owner shall comply with any eligible tenant’s exercise of their move back option consistent with OMC Section 15.60.100.
7. The applicant and/or owner shall return to Planning Commission to provide an update on compliance with this condition, supported by clear documentation of compliance provided to Planning staff prior to the meeting.

The informational item for the Planning Commission described in item #7 of this condition would be required within one month of the completion of all work on the property, or within one year of the date of Planning Commission approval, whichever is sooner.

RECOMMENDATIONS:

1. Affirm staff’s environmental determination.
2. Approve the Conditional Use Permit and Regular Design Review subject to the attached findings and conditions.

Prepared by:



NEIL GRAY
Planner IV

Reviewed by:



ROBERT MERKAMP
Zoning Manager
Bureau of Planning

Approved for forwarding to the Planning Commission:



Ed Manasse Deputy Director
Bureau of Planning

LEGAL NOTICE: The decision of the City Planning Commission is final and not administratively appealable. Any party seeking to challenge such decision in court must do so within ninety (90) days of the date the decision is announced (Code of Civil Procedure Section 1094.6).

ATTACHMENTS:

- A. Project Plans
- B. Text of OMC 15.60
- C. Live/Work Code Bulletin

FINDINGS FOR APPROVAL

This proposal meets the required findings under Sections 17.136.050 – General Design Review Criteria, 17.73.040(D) – Special Design Review Criteria for work/live units in the CIX, IG, or IO zones, and 17.134.050 – General Use Permit Criteria. Required findings are shown in **bold** type; explanations as to why these findings can be made are in *italic*.

Section 17.136.050 Regular design review criteria for nonresidential facilities.

- 1. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in [Section 17.136.060](#);**

The proposal is the rehabilitation and conversion of an existing industrial building, on a site with a cluster of historic industrial buildings, to work/live units. Minimal change to the outside of the building is proposed. The replaced or repaired windows will match the existing industrial style sash windows.

- 2. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area;**

As conditioned, landscaping will be upgraded on the property, which will increase the value of private investment in the surrounding area. The proposal will also protect the value of adjacent properties on 58th Avenue and International Boulevard by providing a suitable transition from industrial zones to zones that permit residential units.

17. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

See the “General Plan Analysis” section, above.

Section 17.73.040(D) Special Regular Design Review Findings for work/live units in the CIX, IG, or IO zones.

- 1. That the exterior of a new building containing primarily work/live units in the industrial zones has a commercial or industrial appearance. This includes, but is not necessarily limited to, the use of nonresidential building styles or other techniques;**

The existing building with industrial sash windows has an industrial appearance that will remain or replaced with windows that are visually compatible. The proposed design indicates that the industrial sash windows will be repaired or replaced in kind.

- 2. That units on the ground floor or level of a building have a business presence on the street. This includes, but is not necessarily limited to, providing roll up doors at the street or storefront style windows that allow interior space to be visible from the street, a business door that is oriented towards the street, a sign or other means that identifies the business on the door and elsewhere, a prominent ground floor height, or other techniques;**

The proposal is a rehabilitation of an existing building that does not front a street because it is behind another existing building. Therefore, this finding is not applicable.

3. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;

Each of the units has a minimum of two-thirds open working area within each unit. The following also assures that working activities will occur within the units:

- As conditioned, each new unit will be constructed according to the Building Code to allow industrial activities and employees;
- As conditioned, each unit will be required to have at least one resident with a business license; and
- The building is designed with open working spaces, wide stairwells and hallways conducive to the delivery of materials and a wide variety of businesses activities.

4. That the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily limited to, the following:

- a. Service elevators designed to carry and move oversized items;**
- b. Stairwells wide and/or straight enough to deliver large items;**
- c. Loading areas located near stairs and/or elevators; and**
- d. Wide corridors for the movement of oversized items.**

The floor plans indicate wide corridors and 6-foot wide, straight stairs for new units, which will allow for the delivery of industrial material and equipment. There is also a loading area just outside the building near the entrance.

17. That the floor and site plan for the project provide units that are easily identified as businesses and conveniently accessible by clients, employees and other business visitors.

As conditioned, Building B will have a directory at the entrance of the building with a map showing the location of the businesses. Further, as conditioned, new units will be designed under the building code to allow for employees and visitors.

17.134.050 General Use Permit Criteria.

A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development;

The building proposed for conversion is on an industrially zoned parcel with a mix of work/live units and industrial activities. As conditioned, the residents of the work/live units will be made aware of the potential impacts of living in an industrial area and the new units will be designed under the building code to allow for industrial activities and employees. Legalization of units plus the additional 22 units will have a minimal impact on the capacity of surrounding streets.

B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant;

Each unit will have a substantial open area available and, as conditioned, be built according to the building codes that will allow for a wide variety of commercial and industrial activities. Further, the hallways and stairs for new units will be wide and straight to accommodate the delivery of

commercial and industrial material and equipment. There is ample loading and parking areas at the site.

C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region;

The project includes the following conditions to assure that working activities are performed in the industrial zone in which it is located:

- Each new unit must be constructed according to the Building Code to allow industrial activities and employees (see Condition of Approval xx);
- The residents of the work/live units will be made aware of the potential impacts of living in an industrial area prior to moving in (see Condition of Approval xx); and
- Each unit will be required to have at least one resident with a business license (see Condition of Approval xx).

Further, the building is designed with open working spaces, and wide stairwells and hallways conducive to the delivery of materials and a variety of businesses activities.

D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050

See Design Review findings, above.

E. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan or development control map which has been adopted by the Planning Commission or City Council.

See the "General Plan Analysis" section, above.

17.73.040(C) Conditional Use Permit Criteria for Work/Live units in the CIX, IG, and IO Industrial Zones.

- a. The project is in the CIX Zones, and involves conversion of an existing building originally designed for Commercial or Industrial Activities located within three hundred (300) feet of a Residential Zone; or**
- b. The project is in the CIX, IG, or IO Zones, and involves conversion of an existing building originally designed for Commercial or Industrial Activities and there are existing artist and/or artisan residents who meet the requirements of Zoning Code Bulletin regarding "Live/Work" (issued August 29, 2001 and amended August 23, 2004).**

The project meets Finding (b). The project is in the IG Zone and involves the conversion of an existing building originally designed for industrial activities. There are existing artists and artisan residents at the site (see **Attachment A**). The referenced Zoning Code Bulletin has been superseded and no longer is in effect. An updated May 2020 Bulletin (see **Attachment C**) contains the following definition of an artist as performing:

The activity of creating objects and expressions of form (inert, organic, or synthetic) primarily for purposes of visual or auditory contemplation. Art-making activities include all creative endeavors in the visual arts, dramatic arts, music, and dance. Art-

making is an activity undertaken by an artist or a person studying to become an artist;
it is not a hobby activity.

The applicant has provided staff a tenant list indicating that artists reside in the building.

Conditions of Approval

Standard Conditions

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, staff report and the approved plans received 12/15/23, 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 one year 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.
- 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.

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.

12. 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

13. 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

14. 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

15. 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

16. 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 excavation, grading, and/or 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) Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.
- h) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

17. Criteria Air Pollutant Controls - Construction and Operation Related

Requirement: The project applicant shall implement all of the following applicable basic and enhanced 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

18. Toxic Air Contaminant Controls-Construction Related

a. 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) and particulate matter less than 2.5 microns in diameter (PM_{2.5}) in exhaust and fugitive emissions from construction activities. The project applicant shall choose to implement I or both ii and iii:

- 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), the Office of Environmental Health and Hazard Assessment, and the Bay Area Air Quality Management District (BAAQMD) to determine the health risk to sensitive receptors exposed to DPM and PM_{2.5} from exhaust and fugitive emissions from project construction. The HRA shall be based on project-specific construction schedule, equipment, and activity data. Estimated project-level health risks shall be compared to the City's health risk significance thresholds for projects. 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 the City's health risk significance thresholds for projects, then DPM and PM_{2.5} reduction measures are not required. If the HRA concludes that the health risk exceeds the City's health risk significance thresholds for projects, DPM and PM_{2.5} reduction measures shall be identified to reduce the health risk to below the City's health risk significance thresholds as set forth under subsection b below. Identified DPM and PM_{2.5} reduction measures shall be submitted to the City for review and approval prior to the issuance of building permits and the approved DPM and PM_{2.5} reduction measures shall be implemented during construction.

-or-

- ii. The project applicant shall incorporate the following health risk reduction measures into the project to reduce TAC emissions from construction equipment. 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:
 1. 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.
 2. Where access to grid-powered electricity is available, portable diesel engines shall be prohibited and electric engines shall be used for concrete/industrial saws, sweepers/scrubbers, aerial lifts, welders, air compressors, fixed cranes, forklifts, cement and mortar mixers, pressure washers, and pumps.

Any other best available technology that reduces emissions offered at the time that future projects are reviewed may be included in the construction emissions minimization plan (e.g., alternative fuel sources, etc.). -and-

- iii. The project applicant shall implement all enhanced control measures included in SCA 20 (Dust Controls – Construction Related).

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

19. Reduce 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 and in accordance with Bay Area Air Quality Management District (BAAQMD) CEQA guidance for HRAs to determine the health risk of exposure of project residents/occupants/users to air pollutants and the exposure of existing off-site sensitive receptors to project-generated TAC emissions. The HRA shall be based on project-specific activity data. Estimated project-level health risks shall be compared to the City's health risk significance thresholds for projects. The HRA shall be submitted to the City for review and approval. If the HRA concludes that the health risk is at or below the City's health risk significance thresholds for projects, then health risk reduction measures are not required. If the HRA concludes that the health risk exceeds the City's health risk significance thresholds for projects, health risk reduction measures shall be identified to reduce the health risk below the City's health risk significance thresholds. 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 mechanical ventilation systems 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. Mechanical ventilation systems shall be capable of achieving the protection from particulate matter (PM_{2.5}) equivalent to that associated with a MERV-16 filtration (as defined by American Society of Heating, Refrigerating, and Air-

Conditioning Engineers standard 52.2). 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

20. 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

21. 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

22. 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

23. 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

24. 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

25. 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

26. 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

27. 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

28. 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

29. 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

30. 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

31. 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

32. 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

33. 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

34. 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

35. 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

36. 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

37. 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

38. 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 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

39. 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

40. 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.
 - The required number of points per the appropriate checklist.
 - 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

41. 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

42. 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, 6th Floor, Oakland, California, 94612; (510) 238-6182.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

Project Specific Conditions of Approval

43. Permitted Work Activities

Requirement: One resident of each unit shall perform work activities and maintain a valid City of Oakland Business Tax certificate. Work activities must be consistent with the underlying zoning regulations.

When Required: Ongoing

Initial Approval: NA

Monitoring/Inspection: Bureau of Building

44. Statement of Disclosure to Tenants

Requirement: The owner of the property shall develop a Statement of Disclosure on the lease to all new tenants or owners of the work/live units acknowledging the industrial character of the development and acceptance of the potential for uses that result in higher levels than would be expected in a residential facility. The statement of disclosure shall also state that the tenants may only engage in the activities allowed by the relevant Zoning Designation. The statement of disclosure shall also state that at least one tenant of each unit shall apply for and maintain a City of Oakland Business Tax Certificate for a business at the project address. The statement described in this condition of approval shall also be provided to any new owners of the property or any of the new units before a unit or the property is sold.

When Required: Development of Statement of Disclosure – Prior to Issuance of Building Permit; Issuance of Statement of Disclosure – Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

45. Sign in Common Area

Requirement: Plans shall be submitted for review and approval of the Bureau of Planning that show a sign in a common area such as a mail room or lobby stating that at least one resident of each unit shall work within the unit and maintain a City of Oakland Business Tax Certificate. The sign shall be permanently displayed at this location.

When Required: Location and Design of Sign – Prior to Issuance of Building Permit; Display of Sign – Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

46. Building Codes for Work/Live Units

Requirement: Plans shall show that the work/live units shall meet buildings codes that allow for manufacturing activities. The plans shall also show that newly created units and currently unpermitted units without tenants be constructed to accommodate employees and customers. These requirements shall be indicated on the Building Plans for review and approval by the Bureaus of Planning and Building.

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

47. Business Directory and Map

Requirement: Plans shall be submitted for review and approval of the Bureau of Planning that show signs containing a directory of businesses within the building and a map of where the units are located. This sign shall be located outside the main entrance of the building.

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

48. Tenant Protections

Requirements:

1. The owner shall acknowledge, in writing, that those occupying the eleven units in Building B are “eligible tenants” under OMC Section 15.60.040.A who will be subject to notice under OMC Section 15.60.060, relocation payments under OMC Sections 15.60.070 and 15.60.110, and the move-back option under OMC Section 15.60.100. The only exceptions to this shall be if an occupied unit becomes vacant due primarily to a cause other than the need to make repairs (such as the tenant moving out on their own volition), or the property owner offers in writing to move the tenant household, at the property owner’s expense, into a replacement unit in Building B that is the same size as the former unit, the offered unit complies with all applicable code requirements, and the offered unit’s rent is no greater than the rent charged for the former unit.
2. The owner shall provide notice to all eligible tenant households that meets all requirements of OMC Section 15.60.060, including setting forth the tenant household’s entitlement to relocation payments, the right to reoccupancy following completion of repairs, and the estimated date for reoccupancy.
3. The owner shall not lease any of the currently unoccupied unpermitted units until all necessary code compliance activities are completed in the building.
4. The owner shall complete work on unoccupied unpermitted units prior to commencing work on occupied units so as to ensure that the unoccupied units are available as replacement units.
5. The owner shall provide relocation payments consistent with OMC Sections 15.60.070 and 15.60.110 to all eligible tenants. The owner shall offer eligible tenants the ability to reside in a replacement unit in Building B. However, unless the unit fully meets the requirements of OMC Section 15.60.040.B.6, such offer does not vitiate the obligation to provide relocation payments in full (relocation payments could be used to pay rent on the replacement unit).
6. The owner shall comply with any eligible tenant’s exercise of their move back option consistent with OMC Section 15.60.100.
7. The applicant and/or owner shall return to Planning Commission to provide an update on compliance with this condition, supported by clear documentation of compliance provided to Planning staff prior to the meeting.

When Required: For items (1) and (2): Prior to Issuance of Building Permit. For items (3) through (5): During Construction Activities. For item (6): after issuance of occupancy permit. For (7): Within one month of the completion of all work on the property, or within one year of the date of Planning Commission approval, whichever is sooner.

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

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