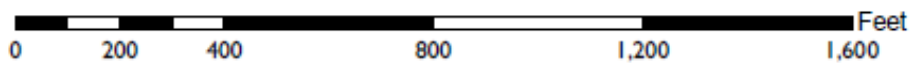
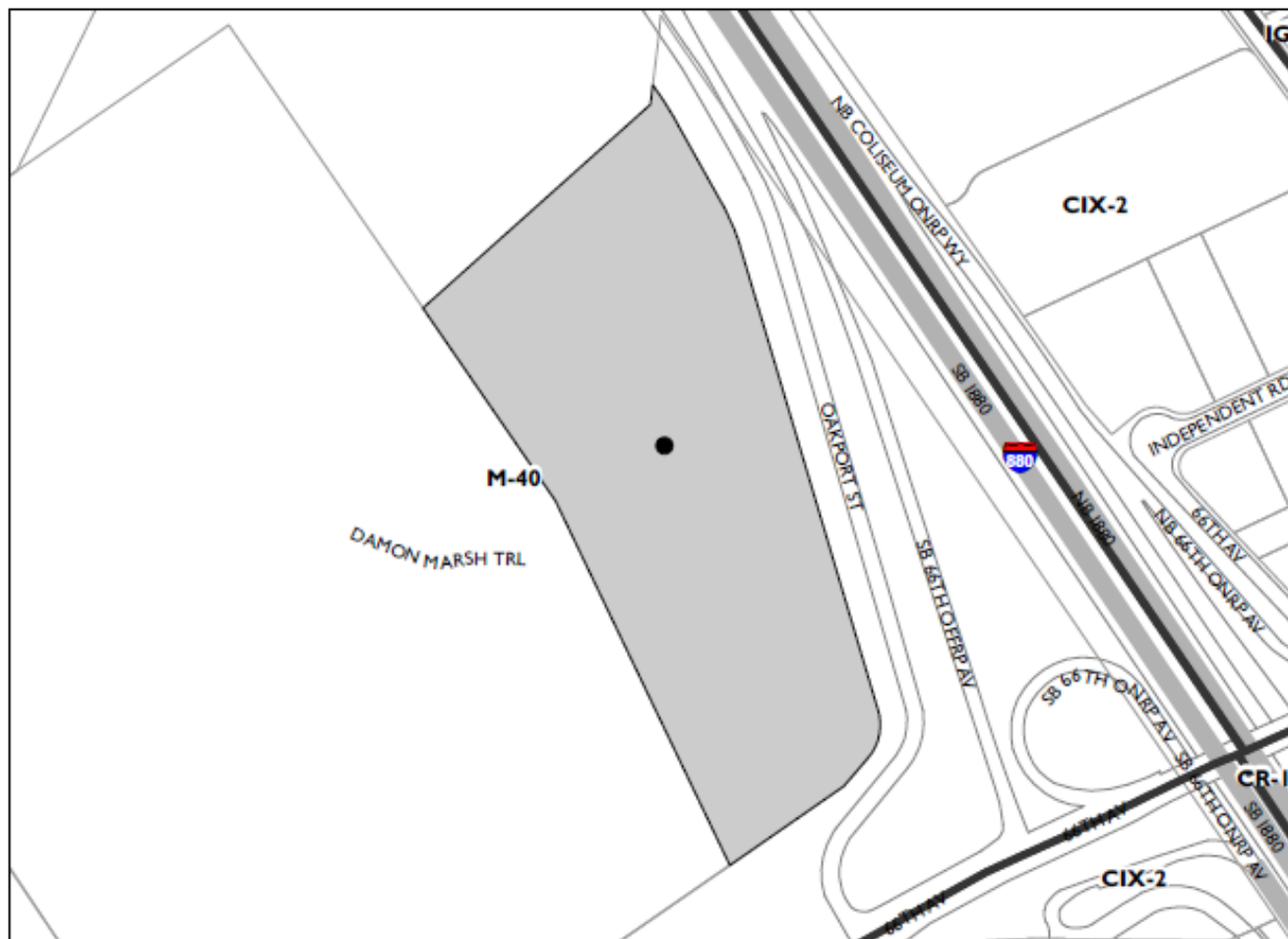


Case File Number {PLN19070}

{July 12, 2023}

|                                     |  |
|-------------------------------------|--|
| <b>Location:</b>                    | 5601 Oakport Street, Oakland, CA 94621   |
| <b>Assessor's Parcel Number(s):</b> | 41-3904-1-5, 41-3903-2-7 and 41-3903-2-8   |
| <b>Proposal:</b>                    | <p>The applicant proposes to construct the following:</p> <ol style="list-style-type: none"> <li>1) A new 160,000 square-foot, 85-foot high, 5-story office building to be used as the SupplyBank.org headquarters,</li> <li>2) A new 123,000 square foot, 55-foot-high warehouse to be used as the SupplyBank.org materials storage and distribution,</li> <li>3) A new 10,000 square foot, 34-foot-tall workshop to be used as a replacement for the existing EBMUD weld shop,</li> <li>4) A new 26,000 square-foot, 28-foot-tall pipe and materials storage rack structure,</li> <li>5) A new 12,000 square-foot storage bin used to store and source a variety of building materials, such as sorted sands and gravels.</li> </ol> <p>The project sites is 38.3-acres (1,668,348 SF) in area, and the applicant has requested these city approvals: i) Conditional Use Permit (CUP); ii) Design Review (DR); iii) Tree Removal Permit; iv) Creek Permit; v) Parcel Map Waiver; and vi) an Addendum to the CASP EIR for CEQA compliance purposes.</p> |
| <b>Applicant:</b>                   | Benito Delgado-Olson, K to College, dba SupplyBank.org.  |
| <b>Phone Number:</b>                | (510) 569-5862   |
| <b>Owner:</b>                       | East Bay Municipal Utility District (EBMUD).   |
| <b>Case File Number:</b>            | PLN19070   |
| <b>Planning Permits Required:</b>   | Conditional Use Permit (CUP), Design Review (DR).  |
| <b>General Plan:</b>                | Business Mix.  |
| <b>Zoning:</b>                      | Coliseum District 6 (D-CO-6).  |
| <b>Environmental Determination:</b> | The applicant has completed an Addendum to the CASP EIR in compliance with CEQA Guidelines Sections 15183 and 15164.   |
| <b>Historic Status:</b>             | Not a designated historic property or resource.  |
| <b>City Council district:</b>       | 7.   |
| <b>Status:</b>                      | Planning Commission consideration of decision.   |
| <b>Staff Recommendation</b>         | Staff recommends approval of the Conditional Use Permit (CUP), Design Review (DR), and CEQA compliance.  |
| <b>Finality of Decision:</b>        | Appealable to City Council.  |
| <b>For further information:</b>     | Contact Case Planner Richard Walker at (424) 404-7504 or by email at <a href="mailto:rwalker@interwestgrp.com">rwalker@interwestgrp.com</a> .  |

CITY OF OAKLAND PLANNING COMMISSION



Case File: PLN19070  
Applicant: Supply Bank  
Address: 301 Oakport St  
Zone: M-40

## **SUMMARY**

SupplyBank.org (the Project applicant) has secured a tentative long-term lease agreement with East Bay Municipal Utility District (EBMUD) to lease a portion of EBMUD property at 5601 Oakport Street that comprises the proposed Development Area. SupplyBank.org intends to improve the Development Area to include a new office and warehouse to consolidate their headquarters for its non-profit operations, with additional office space capacity available for rent to other non-profit organizations for similar office use. EBMUD and/or SupplyBank.org also intend to construct additional warehouse space, a workshop and pipe storage and materials storage bins to enable EBMUD to relocate these uses from their current substandard operational conditions at the Northerly Area.

The following is the list of discretionary, administrative, and outside agency approvals required for the project.

### City of Oakland

The Project requires the following discretionary actions and approvals from the City of Oakland prior to implementation:

- Conditional Use Permit for a Civic Extensive Impact activity/facility (EBMUD corporation yard) and/or General Outdoor Storage, and for outdoor storage activities located within three hundred (300) feet of the Oakport Street right-of-way, the Estuary or Bay shoreline, Damon Slough, or any Open Space Zone.
- Regular Design Review
- Creek Permit

The Project will require subsequent permits for the following:

- Tree Protection/Removal Permit
- work within and close to the public right-of-way
- grading, stormwater control and building permits

### Other Agency Approvals

The Project will also require subsequent approvals from the following additional agencies:

- Long-term lease agreement between EBMUD and SupplyBank.org
- Development Permit from Bay Conservation and Development Commission (BCDC) for construction within the 100-foot shoreline band
- Approvals from the San Francisco Bay Regional Water Quality Control Board (RWQCB) pursuant to the Clean Water Act for fill of 'Waters of the State'
- Other administrative approvals from other agencies and utility providers such as EBMUD and PG&E

## **BACKGROUND**

The City of Oakland has determined that the SupplyBank.org development project at 5601 Oakport Street (the Project) requires consideration of discretionary actions or approvals. These discretionary actions include but are not limited to City approvals for a Conditional Use Permit (CUP) for a project over 100,000 square feet in the DCO-6 Zone, and for Civic Extensive Impact use, and Design Review. As such, the Project is subject environmental review under the California Environmental Quality Act (CEQA).

The application was submitted to the City on April 3, 2019. The applicant put the case file on hold and recently reinitiated City review and consideration of the case file on April 19, 2021. Prior to the hold, the City brought the project to the Planning Commission Design Review Committee (DRC) on April 24, 2019.

## **PROJECT DESCRIPTION**

The project development plan includes construction of four new buildings and associated improvements on the site, as more fully described below.

### Office Building

A new 85-foot high, 5-story office building would be constructed at the southern-most portion of the Development Area. The top floor of this approximately 160,000 square-foot building would be used as the SupplyBank.org headquarters, and remaining capacity in this building (floors 2-4) would be rented to other nonprofit organizations for similar office use.

This new office building would be constructed with metal stud framing, and with pre-finished aluminum composite metal panels over concrete walls. The building facades would be comprised of exterior porcelain tile (including a decorative pattern of multi-hued blue colored tile), glass windows and aluminum wall joints, a window system with aluminum storefront windows on the ground floor, and a continuous metal cap across the top of the building. This building would also include space for painted murals to be completed by others.

### Warehouse

A new 123,000 square foot warehouse would be constructed in the middle portion of the Development Area. This 55-foot-high warehouse would be divided into two spaces. One space would serve as SupplyBank.org materials storage and distribution, and the other space would be reserved for EBMUD storage and materials.

### Workshop

A relatively small (approximately 10,000 square foot) workshop would be constructed on the north-central portion of the Development Area. This 34-foot-tall workshop would serve as a replacement for the existing EBMUD weld shop currently located within the Northerly Area. Work conducted within the workshop would include pipe welding and EBMUD training operations.

### Pipe Storage Structure

An additional structure to be added would be an approximately 26,000 square-foot pipe and materials storage rack structure. This storage shed would be located on the northerly portion of the Development Area. This would be a 28-foot tall, peaked roofed structure (36 feet high at the peak) with open sides for easy access for forklift operations to store and supply large pipes and other materials used by EBMUD.

### Materials Storage Bins

The Development Plan would also include an approximately 12,000 square-foot storage bin used to store and source a variety of building materials, such as sorted sands and gravels. This storage bin facility would be placed along the northwestern portion of the Development Area. It would replace the similar storage bins currently located on the north end of the Project site outside of the Development Area.

### Landscape

The Project would include new trees and various landscaping throughout the Development Area. This landscaping would include the following:

- An approximately 25-foot wide landscaped area with street trees, groundcover and a stormwater planter, plus a 5-foot sidewalk that would run along the Oakport Street frontage
- A 20-foot wide Emergency Vehicle Access Easement (EVA), comprised of turf-block and lawn, would wrap the southerly and westerly sides of the Office Building
- An approximately 8-foot wide landscape area with ornamental trees would be planted along the westerly edge of the Development Area, with a new fence and 4-foot tall retaining wall at the edge of the existing berm
- Each of the parking lots within the Development Area would have stormwater planters at the end of each parking row, and new trees would be planted in parking lot medians on approximately 25-foot centers, corresponding to 1 tree per each 6 parking spaces (3 parking spaces on each side of the median)
- Each of the new buildings would include a surrounding landscape area, including an entry landscape area at the front of the Office building
- The Project's office building would also include a rooftop terrace

The final landscaping and open space plans would be subject to City approval.

## **Circulation, Parking and Frontage Improvements**

### On-Site Circulation

There is only one current curb cut on Oakport Street that provides access to the Development Area. It is located at the northwestern corner of the Development Area and provides limited vehicle access to a small parking/turnaround area. Pursuant to the Project, three additional new curb cuts into the Development Area would be added along Oakport Street to improve vehicle access. Two of the new curb cuts and the existing curb cut would be extended into the Development Area to create a circulation loop.

This loop would connect between the office and the warehouse (at 30 feet wide), between the warehouse and the weld shop (at 45 feet wide, to accommodate large trucks and delivery vehicles), and between the weld shop and the pipe storage structure (30 feet wide). The interior portion of the circulation loop would widen to between 60 and 70 feet in width to accommodate large vehicle turning movement, including access to 13 loading docks at the rear and side of the warehouse. The fourth curb cut would provide a separate entrance to the office building's surface parking lot.

### Parking

Parking would be provided at a number of surface parking lots throughout the site, with 323 total vehicle parking spaces. The primary parking lot for the office building would be at the front (easterly side) of the building, and would include 208 parking spaces, including seven ADA-accessible spaces adjacent to the office building entry. Additional surface parking lots near the warehouse and the workshop would provide an additional 115 parking spaces. There would also be 12 larger truck parking spaces provided in front of the materials storage bins. The warehouse would provide 13 truck loading bays along the westerly and northerly sides of the warehouse building.

### Frontage Improvements

Currently, Oakport Street has very limited frontage improvements. For the nearly 6,000-foot length of Oakport Street from 66th Avenue to the I-880 on-ramp near High Street, Oakport Street has no sidewalk on either side of the street, and curb and gutter improvements are limited to a short 450-foot segment on the easterly side the street near the 66th Avenue interchange. The Project proposes installation of new curb, gutter and sidewalk for a distance of approximately 1,800 feet along the Development Area's frontage on the westerly side of Oakport Street. However, based on City of Oakland street frontage improvement requirements, the City will likely require frontage improvement along the entire Oakport Street frontage.

## **PROPERTY DESCRIPTION**

The following includes a description of the Project site and surroundings, and existing site conditions.

### **Project Site**

#### Property Ownership

The Project site involves one legal lot of approximately 66.5 acres (i.e., the Project site), owned by the East Bay Municipal Utility District (EBMUD). Per EBMUD records and a 2023 Title Report, EBMUD originally owned a larger, 127-acre property. In 1968, an approximately 4.7-acre portion of this property was conveyed to the City of Oakland for the 66th Avenue overpass, and in 1983, an approximately 55.6-acre portion of this property was conveyed to the City for City ownership of portions of Damon Marsh and the adjacent City recreational open space/sport field. The remaining approximately 66.5-acre property represents the Project site.

EBMUD also owns an adjacent small 0.8-acre triangular parcel north of East Creek Slough, but this a separate property and not a part of the Project site.

#### Assessor's Parcels

The Project site is identified under three separate Alameda County Assessor's parcels.<sup>1</sup> For purposes of this document, the three Assessor's parcels are utilized to identify separate portions of the Project site. Assessor's Parcel Number (APN) 41-3903-2-8 is the primary location of the Project (i.e., the Development Area), and APNs 41-3904-1-5 and 41-3903-2-7 are the remaining portions of the property.

#### Development Area

The Project involves a lease of a 16.56-acre portion of the Project site from EBMUD to SupplyBank.org to accommodate the proposed development. This 16.56-acre portion of the EBMUD property encompasses all of APN 41-3903-2-8 and a small portion of APN 41-3904-1-5. It is referred to throughout this document as the "Development Area". For ease of reference, the remainder of APN 41-3904-1-5 is referred to throughout this document as the "Northerly Area", and APN 41-3903-2-7 is referred to as the "Westerly Area".

#### Other Existing Site Characteristics

None of the three Assessor's parcels that comprise the Project site are identified on a hazardous waste or substances site list as compiled pursuant to Government Code Section 65962.5 (i.e., the properties are not on the Cortese List). There are no known historic resources within or directly adjacent to the Project site.

There are currently no sidewalk or bicycle facilities along the Oakport Street frontage of the Project site. The Bay Trail pedestrian and bike trail follows a generally north-south alignment that abuts the westerly side of the Development Area, passes through the City of Oakland property near the soccer fields along the Bay shoreline, and crosses through portions of the Westerly Area and the Northerly Area within the shoreline marsh and uplands. At the northerly portion of the Project site, the Bay Trail crosses a pedestrian bridge over East Creek Slough as it heads further to the north.

Existing landscape includes sparse vegetation and approximately 23 mature trees, only 6 of which are located within the Development Area.

## GENERAL PLAN ANALYSIS

### General Plan Designation and Zoning

The Project site is located within the Coliseum Area Specific Plan (CASP), and specifically in an area identified in the CASP as Sub-Area E. Prior to approval of the CASP, this area had a mix of land use designations pursuant to the City of Oakland Estuary Policy Plan that include Light Industry- 3, General Commercial-2 and Parks. The CASP brought all of Sub-Area E out of the purview of the Estuary Policy Plan area and into the Land Use and Transportation Element (LUTE) Land Use Diagram. The original Draft version of the CASP identified Sub-Area E as appropriate for, “open space and habitat enhancements, with careful consideration of the amenities and environmental attributes of the San Leandro Bay shoreline and improvements to the existing Martin Luther King Jr. Shoreline Park paths and facilities”. This originally intended use of Sub-Area E was predicated on using a portion of Sub-Area E as a mitigation site to offset the fill and development of a separate seasonal wetland area within the Oakland Airport Business Park. However, plans for fill and development of this seasonal wetland were not accepted or approved.

Instead, the City-approved version of the CASP proposes, “*open space and habitat enhancements for Sub-Area E, with careful consideration of the amenities and environmental attributes of the San Leandro Bay shoreline and improvements to the existing Martin Luther King Jr. Shoreline Park paths and facilities, as well as the presence of EBMUD’s existing wet-weather treatment facility and corporation yard in Sub-Area E.*” Specifically, the final, City-approved CASP envisions that, of the property owned by East Bay Municipal Utility District (EBMUD):

- the existing Oakport Wet Weather Treatment Facility would continue operations;
- the existing vacant lot fronting Oakport Street at 66th Avenue (i.e., the area generally encompassing the Development Area of the Project site) would be “utilized in a manner that creates and maintains an attractive frontage along Oakport Street”; and
- the waterfront parcels facing East Creek Slough and the San Leandro Bay would be improved to include a combination of open space, wetland and habitat restoration, as well as space for potential future expansion of the existing corporation yard.

### General Plan Designation

The CASP resulted in re-designation of the Development Area and the Northerly Area as Business Mix, to more accurately reflect the site’s current and expected long-term uses (see **Figure 3**). According to the LUTE, the Business Mix classification is, “*a flexible economic development zone which strives to accommodate older industries and anticipate new technologies, including both commercial and industrial operations. These areas contain a wide range of business and business serving activities. Different examples of development that fall into this classification include Edgewater Business Park, commercial or other market-supported development on the freeway frontage along I-880, and portions of West Oakland that have historically been very business intensive*”. The Westerly Area remained under its designation as Urban Park and Open Space.



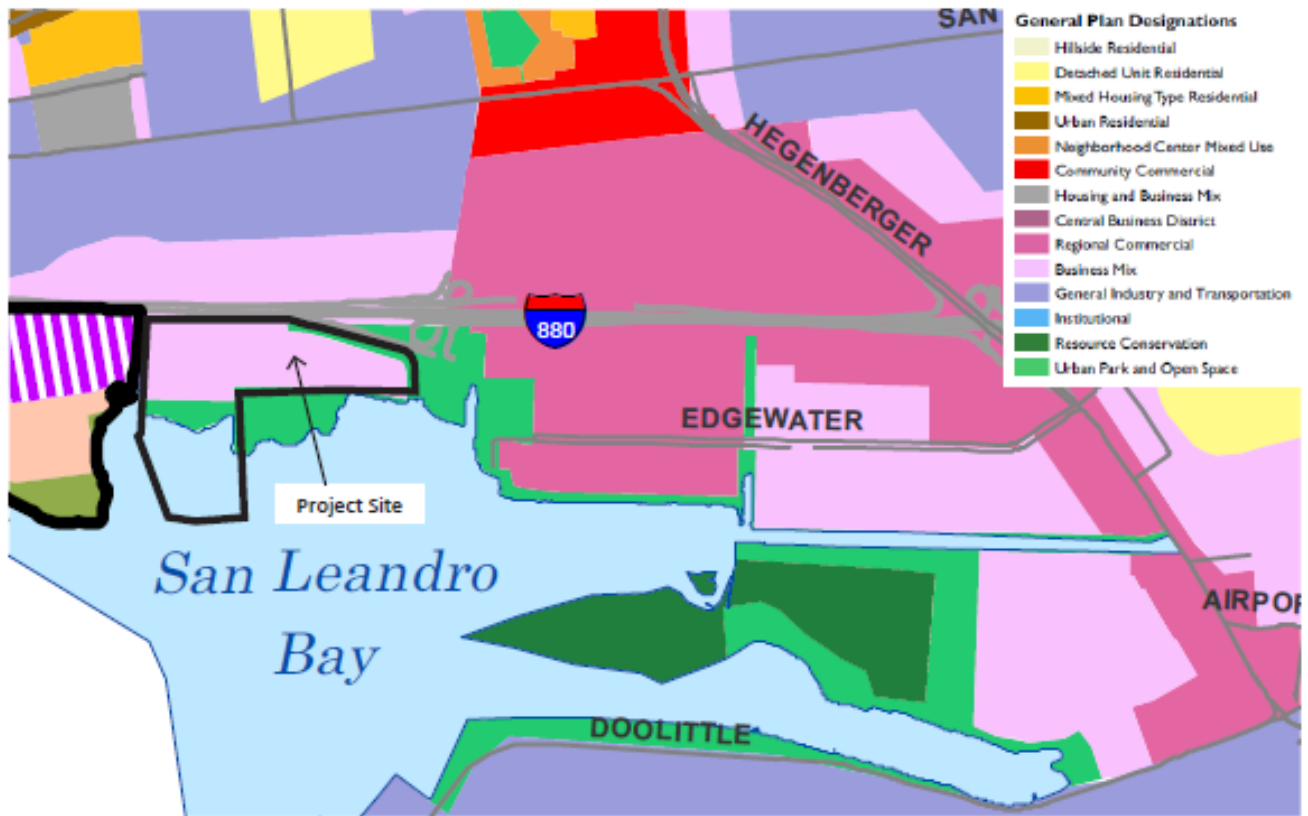
The Business Mix classification is intended to create, preserve and enhance areas of the City that are appropriate for a wide variety of business and related commercial and industrial establishments. High impact or large-scale commercial retail uses should be limited to sites with direct access to the regional transportation system. These areas may accommodate a mix of businesses such as light industrial, manufacturing, food processing, commercial, bioscience and biotechnology, research and development, environmental technology, business and health services, air, truck and rail-related transportation services, warehouse and distribution facilities, office, and other uses of similar business character. The maximum FAR for this classification is 4.0.

**Project Consistency with the General Plan**

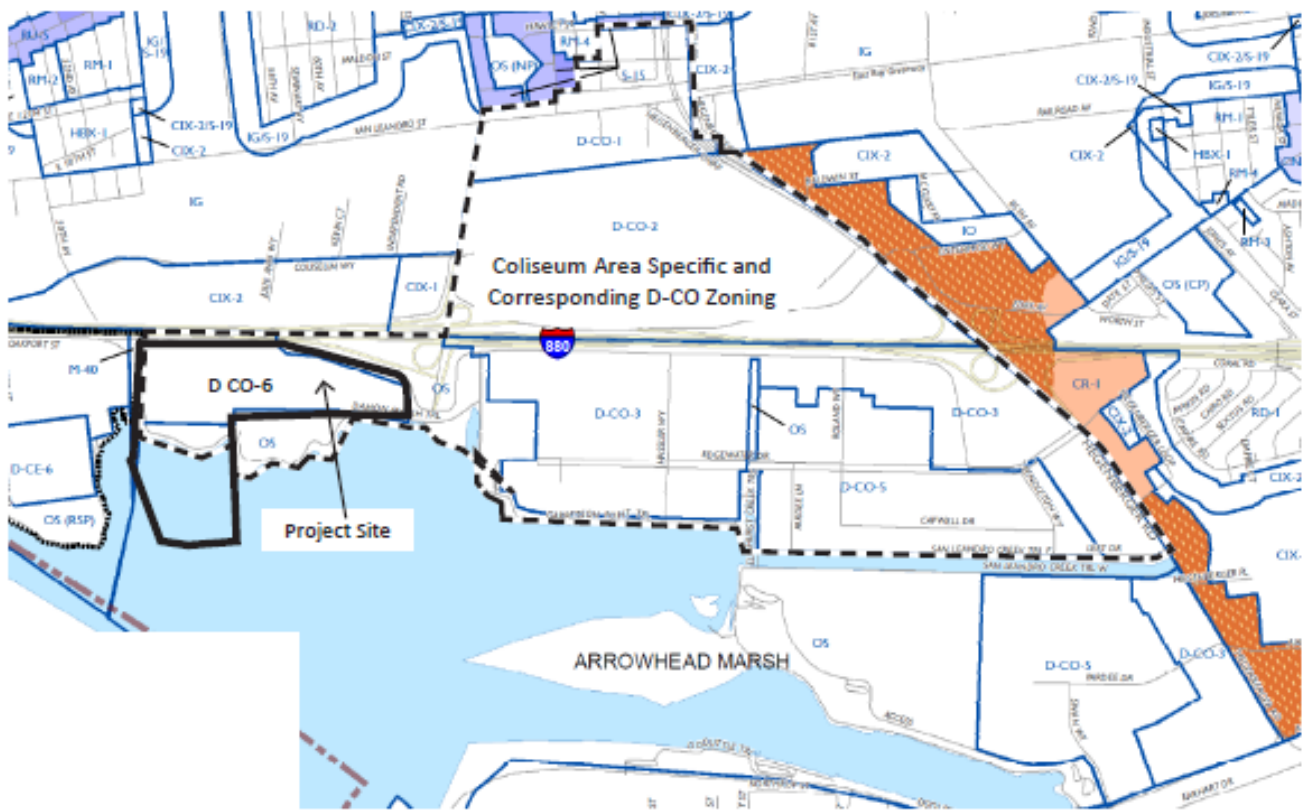
The following analysis has been conducted to determine whether the proposed Project is consistent with the land use and development assumptions and improvement strategies of the Coliseum Area Specific Plan (CASP), the City General Plan Land Use and Transportation Element (LUTE), and development standards of the Oakland Planning Code, Title 17.

**Planning Context, per the Coliseum Area Specific Plan**

The Coliseum Area Specific Plan (CASP) was adopted in April of 2015. The CASP was intended to provide a guiding framework for reinventing the City of Oakland's Coliseum area as a major center for sports, entertainment, residential mixed use, and economic growth. Consisting of approximately 800 acres along Interstate 880 (I-880) and Hegenberger Road, the CASP planning area was found to possess important assets to support the creation of a thriving new urban district. The CASP establishes a basis for land use and regulatory policies and public and private investment that will coordinate phased development. The vision expressed in the CASP was to, "revitalize what is currently one of California's largest underdeveloped inner-urban, transit-served areas and create significant long-term value for Oakland and Alameda County".



Oakland General Plan Land Use Diagram



City of Oakland Zoning Map

Figure 3  
City of Oakland General Plan and Zoning

Source: City of Oakland, accessed at: <https://www.oaklandca.gov/resources/general-plan-map>, and <https://www.oaklandca.gov/resources/zoning-map>

For purposes of establishing land use and regulatory policies, the CASP planning area was divided into five Sub-Areas, each with a distinct land use program and intended character. The “Coliseum District” includes all of Sub-Area A and a portion of Sub-Area B, and the CASP addresses the Coliseum District in more detail than the other Sub-Areas as it was the focus for early phase redevelopment. Five Sub-Areas were designated within the CASP, and redevelopment of each Sub-Areas can be phased independently to allow improvements to occur over time, based on market growth and demand:

- Sub-Area A was envisioned to be a high-density transit and sports-focused mixed-use district with retail, residential, entertainment, and technology/office uses.
- Sub-Area B is a waterfront district that was envisioned to be a core location for future science and technology uses, as well as light industrial businesses.
- Sub-Area C is intended to allow a range of retail, office and flexible technology and industrial uses that want to co-locate with Sub-Area B.
- Sub-Area D is envisioned to be a district that includes hotels, retail and logistic businesses that benefit from proximity to Oakland International Airport.
- Sub-Area E is a waterfront district that will have continued use by East Bay Municipal Utility District (EBMUD), along with open space recreational uses and natural habitat areas that are designed to enhance the environmental quality of the estuary and the bay waterfront.

The Project site is located within Sub-Area E of the CASP, and the CASP policies and implementation strategies for this Sub-Area, are described in further detail below.

#### CASP Land Use Strategy for Sub-Area E

The CASP proposed open space and habitat enhancements for Sub-Area E, with careful consideration of the amenities and environmental attributes of the San Leandro Bay shoreline and improvements to the existing Martin Luther King Jr. Shoreline Park paths and facilities, as well as the presence of EBMUD’s existing wet weather treatment facility and corporation yard. The City-owned open spaces should be improved to include wetland and habitat restoration, and for the recreation areas (such as the existing soccer field), improved with better fields, parking and waterfront trails.

The CASP envisioned that, for those parcels owned by East Bay Municipal Utility District (EBMUD):

- the existing Oakport Wet Weather Treatment Facility would remain and continue operations until such time as its operations may be ceased pursuant to a RWQCB prohibitions on discharge;
- the existing vacant lot fronting Oakport Street at 66th Avenue (i.e., the area generally encompassing the Development Area of the Project site) would be “utilized in a manner that creates and maintains an attractive frontage along Oakport Street”, with a Business Mix land use designation that allows future commercial development; and
- the waterfront parcels facing East Creek Slough and the San Leandro Bay would be improved to include a combination of open space, wetland and habitat restoration, as well as space for potential future expansion of the existing corporation yard.

#### CASP General Plan Amendments for Sub-Area E

Sub-Area E was the only portion of the CASP that was located within the City of Oakland’s Estuary Policy Plan (EPP) planning area, rather than the LUTE. In 2013, the City adopted the

Central Estuary Area Plan, which brought the objectives and policies of the older EPP up to date with planning conditions in the Central Estuary area. However, Sub-Area E was not part of the Central Estuary Area Plan update, and remained one of the few “left-over” portions of the prior EPP not addressed by the newer Central Estuary Area Plan. Pursuant to the CASP, the City took the opportunity to re-designate lands within Sub-Area E to be consistent with the intent of the CASP, and the new General Plan land use designations for Sub-Area E pursuant to the CASP included:

- Amending the General Plan land use designations for those City-owned properties from “General Commercial 2” and “Light Industrial 3” (per the prior EPP), to “Urban Park and Open Space”
- Amending the EBMUD-owned Oakport facility property near East Creek Slough along I-880 (i.e., generally referring to the Northerly Area) from “Light Industrial 3” to “Business Mix”
- Amending the EBMUD-owned vacant lot at Oakport Street/66th Avenue (i.e., generally referring to the proposed Development Area) from “Light Industrial 3” and “General Commercial 2” (per the prior EPP), to “Business Mix”, and
- Adding and adjusting the “Urban Park and Open Space” land use designation along Damon Slough, and encompassing a band of Open Space area along the San Leandro Bay shoreline (i.e., generally referring to the Westerly Area).

#### **Consistency with General Plan (Business Mix) Land Use Provisions**

Per the Oakland General Plan’s LUTE, the Business Mix classification is, *“a flexible economic development zone, which strives to accommodate older industries and anticipate new technologies, including both commercial and industrial operations. These areas contain a wide range of business and business serving activities. Different examples of development that would fall into this classification include Edgewater Business Park, commercial or other market-supported development on the freeway frontage along I-880, and portions of West Oakland that have historically been very business intensive.”*

Intent: The Business Mix classification is intended to create, preserve and enhance areas of the City that are appropriate for a wide variety of business and related commercial and industrial establishments. High impact industrial uses including those that have hazardous materials on site may be allowed provided they are adequately buffered from residential areas. High impact or large scale commercial retail uses should be limited to sites with direct access to the regional transportation system. The desired character and uses in the Business Mix classification may, “accommodate a mix of businesses such as light industrial, manufacturing, food processing, commercial, bioscience and biotechnology, research and development, environmental technology, business and health services, air, truck and rail-related transportation services, warehouse and distribution facilities, office, and other uses of similar business character.

**Consistency:** The Project represents a mix of economic development uses that includes both commercial (nonprofit) and industrial-type (EBMUD corporation yard) operations located on the freeway frontage along I-880. Specifically, the Project would include new warehouse and distribution facilities and office use, as well as relocated and improved light industrial-type uses at the Workshop and Pipe Storage facility. These uses are fully consistent with the intent of the Business Mix land use classification.

Intensity/Density: The maximum FAR for this classification is 4.0. In some Business Mix locations, zoning should establish lower intensities to establish or maintain campus-like business settings. In others, uses and development standards should offer maximum flexibility. In areas where higher impact uses are located, buffering strategies will need to be developed.

**Consistency:** The Project's proposed Development Area is approximately 16.56 acres (or 721,182 square feet) in size. With a proposed gross building floor area of 293,000 square feet (inclusive of the Office, the Warehouse and the Workshop), the Project would have an FAR of 0.4. By including the Pipe Storage and Materials Bin area in the FAR calculation, the Project would have an FAR of nearly 0.46. This FAR is below the maximum FAR for this classification of 4.0, and the lower intensity seeks to establish a more campus-like business setting. The proposed intensity of development pursuant to the Project is fully consistent with the intensity established for the Business Mix land use classification. The Project would be buffered by the remaining EBMUD property to the north. Waterfront open space, creeks and a freeway abut the Project site to the west, south and east.

## ENVIRONMENTAL DETERMINATION

Based on the information and analysis contained in the CEQA Checklist, the Project is consistent with the development density and land use characteristics established by existing zoning and General Plan policies for which an EIR was certified (i.e., the 2015 Coliseum Area Specific Plan and its EIR).

The Project would be required to comply with all applicable SCAs, regulatory requirements and/or mitigation measures as cited in the CASP EIR. With implementation of those SCAs, regulatory requirements and/or mitigation measures, the preceding CEQA Checklist concludes that the Project would not result in a substantial increase in the severity of any significant impacts and would not result in any new significant impacts that were not previously identified in that prior EIR.

In accordance with CEQA Guidelines Sections 15183 and as set forth in this CEQA Analysis, the Project qualifies for CEQA streamlining provisions, because the following findings can be made: Consistency with Community Plan or Zoning (CEQA Guidelines Section 15183) CEQA Guidelines Section 15183 provides that, "projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site". These provisions of CEQA are intended to streamline the environmental review of certain types of projects, and to reduce the need to prepare repetitive environmental studies. These provisions of CEQA apply only to those projects that are consistent with a community plan adopted as part of a General Plan, a zoning action which zoned or designated the parcel on which the Project would be located to accommodate a particular density of development, or the General Plan of a local agency. Per CEQA Guidelines section 15183 (i)(2), "consistent means that the density of the proposed project is the same or less than the standard expressed for the involved parcel in the general plan, community plan or zoning action for which an EIR has been certified, and that the project complies with the density-related standards contained in that plan or zoning. Where the zoning ordinance refers to the general plan or community plan for its density standard, the project

shall be consistent with the applicable plan”. An EIR must have been certified by the Lead Agency for the community plan, the zoning action or the General Plan, for these provisions to apply.

Section 15183(a) of the CEQA Guidelines provides that, in approving a project meeting these requirements, a public agency shall, “limit its examination of environmental effects to those impacts that the agency determines, in an Initial Study or other analysis:

- are peculiar to the project or the parcel on which the project would be located;
- are not analyzed as significant effects in a prior EIR on the zoning action, General Plan or community plan;
- are potentially significant off-site impacts and cumulative impacts that were not discussed in the prior EIR prepared for the general plan, community plan or zoning action; or
- are previously identified significant effects which, as a result of substantial new information which was not known at the time the prior EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR”.

When reviewing the environmental effects of the Project pursuant to these provisions, an effect of the Project on the environment shall not be considered peculiar to the Project if uniformly applied development policies or standards (i.e., SCAs) have been previously adopted by the City. A finding must have been made that the applicable development policies or standards will substantially mitigate environmental effects when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect. The finding shall be based on substantial evidence, which need not include an EIR.

This CEQA Checklist includes information that demonstrates the Project is consistent with the development density established by existing zoning, the CASP and the Oakland General Plan’s Land Use and Transportation Element (LUTE). The General Plan and Zoning Consistency Analysis demonstrates that the Project is consistent with the bulk, density and land use standards as established by policies of the Coliseum Area Specific Plan, and as subsequently incorporated into the Land Use and Transportation Element (LUTE) of the City of Oakland General Plan and implementing regulations of the applicable zoning district for the site.

- A Program EIR was prepared and certified by the City of Oakland for the Coliseum Area Specific Plan (the 2015 CASP EIR). The Project is consistent with the development assumptions of that prior CASP EIR.

The CEQA Checklist also examines whether the potential impacts of the Project have already been addressed in the CASP EIR, and concludes that the Project’s effects have been thoroughly addressed in the prior 2015 CASP EIR, and no Project-specific significant effects that are peculiar to the Project or its site will occur.

- The CEQA Checklist prepared for the Project demonstrates that the Project will not result in significant impacts that were not previously identified in the CASP EIR as significant project-level, cumulative or offsite effects.
- The CEQA Checklist also presents substantial evidence that the Project would not result in new or more severe environmental effects than those previously disclosed in the CASP EIR, or which may be peculiar to the Project or its site.
- The Project’s potentially significant effects have already been addressed as such in the CASP EIR and any such potentially significant effects will be substantially mitigated by the implementation of City of Oakland Standard Conditions of Approval (SCAs) and/or the

imposition of regulatory requirements, and Project's plans prepared pursuant to those SCAs and regulations.

Therefore, the Project would meet the criteria of CEQA Guidelines Section 15183 and no further environmental review is required. Overall, based on an examination of the analysis, findings and conclusions of the 2015 CASP EIR, all of which are summarized in the CEQA Checklist of this document, the potential environmental impacts associated with the Project have been adequately analyzed and covered in that prior EIR. No further review or analysis under CEQA is required.

#### Reliance on a Prior Program EIR

Pursuant to CEQA Guidelines Section 15168, "a Program EIR is an EIR that has been prepared on a series of actions that can be characterized as one large project and that are related either geographically, as logical parts in a chain of contemplated actions, in connection with general criteria to govern the conduct of a continuing program, or as individual activities carried out under the same authorizing statute or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways". CEQA Guidelines Section 15168(c) provides that, "later activities in the program must be examined in the light of the Program EIR to determine whether an additional environmental document must be prepared (unless that project is determined to be eligible for a categorical exemption):

- If a later activity would have effects that were not examined in the program EIR, a new Initial Study would need to be prepared leading to either an EIR or a negative declaration. That later analysis may tier from the Program EIR as provided in Section 15152.
- If the lead agency finds, pursuant to Section 15162, that no subsequent EIR would be required, the lead agency can approve the activity as being within the scope of the project covered by the Program EIR, and no new environmental document would be required. Whether a later activity is within the scope of a Program EIR is a factual question that the lead agency determines based on substantial evidence in the record. Factors that an agency may consider in making that determination include, but are not limited to consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the program EIR.
- The Lead Agency shall incorporate feasible mitigation measures and alternatives developed in the Program EIR into later activities in the program.
- Where the later activities involve site-specific operations, the Lead Agency should use a written checklist or similar device to document the evaluation of the site and the activity, to determine whether the environmental effects of the operation are within the scope of the program EIR.

Based on information presented in this CEQA checklist, the Project would not have effects that were not examined in the CASP EIR, no subsequent EIR would be required, the City may approve the Project as being within the scope of the project covered by the CASP EIR, and no additional environmental document is required. This CEQA Checklist identifies City of Oakland SCAs and feasible mitigation measures as included in the CASP EIR into the Project Descriptions and as required conditions of approval. This CEQA Checklist documents the evaluation of the Project and its site, and determines that the environmental effects of the Project are within the scope of the prior CASP EIR.

A finding of reliance on a prior program EIR may be made concurrently, and in addition to a finding for CEQA streamlining pursuant to CEQA Guidelines Section 15183.

Addendum to a Prior EIR

Section 15164 of the CEQA Guidelines provides that, “an addendum to an adopted negative declaration or certified EIR may be prepared if only minor technical changes or additions are necessary, and none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred”. CEQA Guidelines section 15162 provides that, for a project covered by a previously certified EIR, preparation of a subsequent EIR or negative declaration (rather than an Addendum) is required only if one or more of the following conditions occur:

- Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; or
- New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time of the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
  - The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - Significant effects previously examined will be substantially more severe than shown in the previous EIR or negative declaration;
  - Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR or negative declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measures or alternative.

An additional purpose of this CEQA document is to update the CASP EIR with the additional technical details and minor changes to the CASP EIR as represented by the Project, and as fully described in the Project Description. Based on the analysis presented in this CEQA Checklist, the City has determined that an Addendum to the CASP EIR, in accordance with CEQA Guidelines section 15164, is the appropriate CEQA document to address the more detailed information specific to the Project. This CEQA Checklist demonstrates that none of the conditions described in CEQA Guidelines section 15162 calling for the preparation of a subsequent EIR or Negative Declaration have occurred. The CEQA Checklist references and relies on the analyses completed in the CASP EIR and incorporates the conclusions of the CASP EIR by reference, as appropriate. Each of the above findings provides a separate and independent basis for CEQA compliance.



## KEY ISSUES AND IMPACTS

### Parcel Map Waiver

SupplyBank.org's original project application materials included a request for a Parcel Map Waiver or Lot Line Adjustment. The project site is identified under three separate Alameda County Assessor's parcels (or APNs). APN #41-3903-2-8 is approximately 15.7 acres in size, and is the primarily location of the proposed project. APN #41-3904-1-5 is the adjacent 28.9-acre APN that includes the EBMUD Oakport Wet Weather Treatment Facility near East Creek Slough. The third APN is approximately 21.8 acres and includes submerged lands and shoreline marsh. The applicant proposed a lot line adjustment to move the boundary between APN #41-3903-2-8 (the proposed development area) and the adjacent APN, to accommodate a slightly larger site for the project's proposed improvements.

At City staff's request, a detailed property map was prepared which demonstrates that, although divided among three separate APNs, all of these APNs are actually part of one large legal lot of approximately 66.5 acres, owned by EBMUD. The County Assessor's records identify three separate parcels for taxation purposes, but the entire EBMUD lot is a recognized subdivision of property with one written legal description. Staff determined that a Lot Line adjustment or Parcel Map waiver was not required or appropriate for purposes of increasing the development area for the project. A private lease agreement between EBMUD and Supplyank.org was all the applicant needed to achieve the desired size of the development area. However, the detailed property map of the large EBMUD lot did indicate that only a portion of the Oakport Street right-of-way had previously been dedicated to the City, and that a Parcel Map Waiver was actually required to grant the City the remaining non-dedicated portion of the lot, providing City ownership of the full Oakport Street right-of-way across the entire lot.

### Design Review:

The proposed project includes a significant new building in East Oakland that will complement the Coliseum Specific Plan Area. While the site plan includes surface parking along the primary street frontage, a less than ideal arrangement of site features, the redevelopment of an underutilized site in a growth area is an attractive enhancement of the area. Landscaping features and public improvements to the Oakport Street frontage will provide significant public improvement to the area, as well.

## RECOMMENDATIONS:

Staff finds the proposed project to be in compliance with applicable City land use regulations, and to be a well-designed development for the Coliseum area of Oakland. As such, staff recommends that the Planning Commission:

1. Affirm staff's environmental determination that, based on the information and analysis contained in the CEQA Checklist, the Project is consistent with the development density and land use characteristics established by existing zoning and General Plan policies for which an EIR was

- certified (i.e., the 2015 Coliseum Area Specific Plan and its EIR);
2. Approve the Conditional Use Permit and Design Review for Case File PLN19070 subject to the attached findings and conditions; and
  3. Recommend approval of a tree permit and creek permit for Case File PLN19070.

Prepared by:

*Richard Walker*

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Richard Walker, Consulting Case Planner  
Interwest Group

Reviewed by:

*Catherine Payne*

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CATHERINE PAYNE  
Development Planning Manager  
Bureau of Planning

Approved for forwarding to the Planning Commission:

*Ed Manasse*

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Ed Manasse Deputy Director  
Bureau of Planning

**ATTACHMENTS:**

- A. Findings Approval
- B. Standard Conditions for Approval
- C. Standard Conditions of Approval Mitigation Monitoring and Reporting Program (SCAMMRP)
- D. Project Plans

**Attachment A - Findings Approval**

**ENVIRONMENTAL FINDINGS (CEQA)**

Based on the information and analysis contained in the CEQA Checklist, the Project is consistent with the development density and land use characteristics established by existing zoning and General Plan policies for which an EIR was certified (i.e., the 2015 Coliseum Area Specific Plan and its EIR).

The Project would be required to comply with all applicable SCAs, regulatory requirements and/or mitigation measures as cited in the CASP EIR. With implementation of those SCAs, regulatory requirements and/or mitigation measures, the preceding CEQA Checklist concludes that the Project would not result in a substantial increase in the severity of any significant impacts and would not result in any new significant impacts that were not previously identified in that prior EIR.

In accordance with CEQA Guidelines Sections 15183 and as set forth in this CEQA Analysis, the Project qualifies for CEQA streamlining provisions, because the following findings can be made: Consistency with Community Plan or Zoning (CEQA Guidelines Section 15183) CEQA Guidelines Section 15183 provides that, “projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site”. These provisions of CEQA are intended to streamline the environmental review of certain types of projects, and to reduce the need to prepare repetitive environmental studies. These provisions of CEQA apply only to those projects that are consistent with a community plan adopted as part of a General Plan, a zoning action which zoned or designated the parcel on which the Project would be located to accommodate a particular density of development, or the General Plan of a local agency. Per CEQA Guidelines section 15183 (i)(2), “consistent means that the density of the proposed project is the same or less than the standard expressed for the involved parcel in the general plan, community plan or zoning action for which an EIR has been certified, and that the project complies with the density-related standards contained in that plan or zoning. Where the zoning ordinance refers to the general plan or community plan for its density standard, the project shall be consistent with the applicable plan”. An EIR must have been certified by the Lead Agency for the community plan, the zoning action or the General Plan, for these provisions to apply.

Section 15183(a) of the CEQA Guidelines provides that, in approving a project meeting these requirements, a public agency shall, “limit its examination of environmental effects to those impacts that the agency determines, in an Initial Study or other analysis:

- are peculiar to the project or the parcel on which the project would be located
- are not analyzed as significant effects in a prior EIR on the zoning action, General Plan or community plan
- are potentially significant off-site impacts and cumulative impacts that were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or

- are previously identified significant effects which, as a result of substantial new information which was not known at the time the prior EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR”

When reviewing the environmental effects of the Project pursuant to these provisions, an effect of the Project on the environment shall not be considered peculiar to the Project if uniformly applied development policies or standards (i.e., SCAs) have been previously adopted by the City. A finding must have been made that the applicable development policies or standards will substantially mitigate environmental effects when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect. The finding shall be based on substantial evidence, which need not include an EIR.

This CEQA Checklist includes information that demonstrates the Project is consistent with the development density established by existing zoning, the CASP and the Oakland General Plan’s Land Use and Transportation Element (LUTE). The General Plan and Zoning Consistency Analysis demonstrates that the Project is consistent with the bulk, density and land use standards as established by policies of the Coliseum Area Specific Plan, and as subsequently incorporated into the Land Use and Transportation Element (LUTE) of the City of Oakland General Plan and implementing regulations of the applicable zoning district for the site.

- A Program EIR was prepared and certified by the City of Oakland for the Coliseum Area Specific Plan (the 2015 CASP EIR). The Project is consistent with the development assumptions of that prior CASP EIR.

The CEQA Checklist also examines whether the potential impacts of the Project have already been addressed in the CASP EIR, and concludes that the Project’s effects have been thoroughly addressed in the prior 2015 CASP EIR, and no Project-specific significant effects that are peculiar to the Project or its site will occur.

- The CEQA Checklist prepared for the Project demonstrates that the Project will not result in significant impacts that were not previously identified in the CASP EIR as significant project-level, cumulative or offsite effects.
- The CEQA Checklist also presents substantial evidence that the Project would not result in new or more severe environmental effects than those previously disclosed in the CASP EIR, or which may be peculiar to the Project or its site.
- The Project’s potentially significant effects have already been addressed as such in the CASP EIR and any such potentially significant effects will be substantially mitigated by the implementation of City of Oakland Standard Conditions of Approval (SCAs) and/or the imposition of regulatory requirements, and Project’s plans prepared pursuant to those SCAs and regulations.

Therefore, the Project would meet the criteria of CEQA Guidelines Section 15183 and no further environmental review is required. Overall, based on an examination of the analysis, findings and conclusions of the 2015 CASP EIR, all of which are summarized in the CEQA Checklist of this document, the potential environmental impacts associated with the Project have been adequately analyzed and covered in that prior EIR. No further review or analysis under CEQA is required.

#### Reliance on a Prior Program EIR

Pursuant to CEQA Guidelines Section 15168, “a Program EIR is an EIR that has been prepared on a series of actions that can be characterized as one large project and that are related either geographically, as logical parts in a chain of contemplated actions, in connection with general criteria to govern the conduct of a continuing program, or as individual activities carried out under the same authorizing statute or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways”. CEQA Guidelines Section 15168(c) provides that, “later activities in the program must be examined in the light of the Program EIR to determine whether an additional environmental document must be prepared (unless that project is determined to be eligible for a categorical exemption):

- If a later activity would have effects that were not examined in the program EIR, a new Initial Study would need to be prepared leading to either an EIR or a negative declaration. That later analysis may tier from the Program EIR as provided in Section 15152.
- If the lead agency finds, pursuant to Section 15162, that no subsequent EIR would be required, the lead agency can approve the activity as being within the scope of the project covered by the Program EIR, and no new environmental document would be required. Whether a later activity is within the scope of a Program EIR is a factual question that the lead agency determines based on substantial evidence in the record. Factors that an agency may consider in making that determination include, but are not limited to consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the program EIR.
- The Lead Agency shall incorporate feasible mitigation measures and alternatives developed in the Program EIR into later activities in the program.
- Where the later activities involve site-specific operations, the Lead Agency should use a written checklist or similar device to document the evaluation of the site and the activity, to determine whether the environmental effects of the operation are within the scope of the program EIR.

Based on information presented in this CEQA checklist, the Project would not have effects that were not examined in the CASP EIR, no subsequent EIR would be required, the City may approve the Project as being within the scope of the project covered by the CASP EIR, and no additional environmental document is required. This CEQA Checklist identifies City of Oakland SCAs and feasible mitigation measures as included in the CASP EIR into the Project Descriptions and as required conditions of approval. This CEQA Checklist documents the evaluation of the Project and its site, and determines that the environmental effects of the Project are within the scope of the prior CASP EIR.

A finding of reliance on a prior program EIR may be made concurrently, and in addition to a finding for CEQA streamlining pursuant to CEQA Guidelines Section 15183.

#### Addendum to a Prior EIR

Section 15164 of the CEQA Guidelines provides that, “an addendum to an adopted negative declaration or certified EIR may be prepared if only minor technical changes or additions are necessary, and none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred”. CEQA Guidelines section 15162 provides that, for a project covered by a previously certified EIR, preparation of a subsequent EIR or negative declaration (rather than an Addendum) is required only if one or more of the following conditions occur:

- Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects
- Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects, or
- New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time of the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
  - The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - Significant effects previously examined will be substantially more severe than shown in the previous EIR or negative declaration;
  - Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR or negative declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measures or alternative.

An additional purpose of this CEQA document is to update the CASP EIR with the additional technical details and minor changes to the CASP EIR as represented by the Project, and as fully described in the Project Description. Based on the analysis presented in this CEQA Checklist, the City has determined that an Addendum to the CASP EIR, in accordance with CEQA Guidelines section 15164, is the appropriate CEQA document to address the more detailed information specific to the Project. This CEQA Checklist demonstrates that none of the conditions described in CEQA Guidelines section 15162 calling for the preparation of a subsequent EIR or Negative Declaration have occurred. The CEQA Checklist references and relies on the analyses completed in the CASP EIR and incorporates the conclusions of the CASP EIR by reference, as appropriate. Each of the above findings provides a separate and independent basis for CEQA compliance.

**REQUIRED C.U.P. FINDINGS PURSUANT TO SECTION 17.134.050**

Conditional Use Permits are granted only when all of the following findings can be made:

**A. Compatible with the Neighborhood:** 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:

- 1) harmony in scale, bulk, coverage, and density; to harmful effect, if any, upon desirable neighborhood character;
- 2) the generation of traffic and the capacity of surrounding streets; and
- 3) any other relevant impact of the development.

The proposed development of buildings on Oakport Street near 66th Avenue are designed to relate to the existing EBMUD and PG&E buildings along Oakport Street. A proposed elevated curb or sidewalk with a promenade of trees will enhance the west side of Oakport Street as well as partially screening the buildings.

The warehouse building is softened with the use of a darker base, lighter color above and blue accents as well as varying parapet heights. In the future, there will be a subsequent application to add murals to warehouse walls. The 5-story office building is sheathed in a warm gray glass curtain wall with variegated blue accents to complement the adjacent bay.

The scale and location of the proposed development will serve to bridge the section of Oakport Street between High St and 66th Ave/Zhone Way with existing developments further south on Oakport street and across from Oracle Arena. It will likewise serve as a transition and welcoming approach to any future welcomed Coliseum Area Specific Plan redevelopment project(s).

**B. An Asset for the Neighborhood:** 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.

Along with providing a link between BART and the new office building through a direct shuttle funded by the developer, the proposed development will aid in enhancing the quality and character of the area by providing trees, shrubs and groundcover where very little currently exists. Access from the office building to the waterfront trail will provide a third connection to the Martin Luther King Jr. Regional Shoreline within a less than half mile stretch of the trail. Trees are proposed along the west property line providing an aesthetic environment along the adjacent waterfront trail.

Employees of the organizations with offices on the site can expect access to the aforementioned regional amenities, large share common spaces, a rooftop garden and meeting space and several wellness activities in planning. There are also long-term plans for childcare on site, a wellness center for employees and other amenities. These will be in future applications.

**C. Enhances the Area:** 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.

Improvements made along Oakport Street in tandem with the development of this project will enhance and revitalize the Coliseum Area Specific Plan and surrounding region of our great City. Additionally, the activities outlined in the project description outline the benefits to the local nonprofit community, both through the availability of below market office space and the various programs of SupplyBank.Org.

Additionally, this project will provide an updated and upgraded facility for EBMUD's infrastructure programs, which will enable the overall aesthetics of their two properties to improve greatly. The current yard is largely exposed to the elements and the new facility will move these activities inside. With the northern end of the second parcel moving south, this will enable it to serve as a superior (already paved) space for community activities such as the only African American Circus in the United States, Christmas Tree lots and other seasonal community functions currently housed on the southern end of the property, which is not paved. These will be in future applications.

These new facilities for EBMUD and the SupplyBank.Org will also provide job training opportunities through multiple organizations and increased disaster response capacities for the region.

**D. Meets Design Review Standards:** That the proposal conforms to all applicable Regular Design Review criteria set forth in the design review procedure in Section 17.136.050.

The proposed development conforms to all applicable Regular Design Review criteria set forth in Section 17.136.050 of the Oakland Planning Code, as summarized below.

**E. Complies with the General Plan and other adopted City Plans:** That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable plan or development control map which has been adopted by the City Council.

The proposed development conforms in all significant respects with the Oakland General Plan adopted by the City Council.



**SECTION 17.136.050.A - REGULAR DESIGN REVIEW CRITERIA**

1. 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:

The Architectural elements (massing, landscape planting pallet, fencing, site appurtenances, etc.) have visually related accents and paint schemes that are designed to tie the various buildings and site features together. Colors and textures are specifically chosen to relate back to the main theme of the project.

2. 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:

One of the key project goals is to provide high quality work spaces to non-profit, community-based organizations that equal the benefits they provide to the most under-served in our community. The SupplyBank.Org project will serve as a model for future similar projects. The goals of the project are to achieve or exceed the mandates of this criteria.

3. The proposed design conforms in all significant respects with the Oakland General Plan and with any applicable district plan or development control map which has been adopted by the City Council:

The SupplyBank.Org project's design features at minimum began with the City's General Plan guidelines and went above and beyond their stated development controls. The project has incorporated beneficial design elements such as a transit hub, rooftop gardens, photovoltaic parking canopies, Public mural art, underground stormwater management systems, re-establishment of historic wildlife habitat, and much more. This project is part of the Coliseum Area Specific Plan.

4. That the retaining wall is consistent with the overall building and site design and respects the natural landscape and topography of the site and surrounding areas;

The retaining wall design concepts are required to provide grade separations of up to 3-4 feet for nearly the entire length of the project adjacent to the Bay Trail frontage (~ 1550 LF). To blend this long retaining wall feature with the bay trail topography, the proposed project will create a rolling, undulating interface with the trail, matching the adjacent topography.

5. That the retaining wall is responsive to human scale, avoiding large, blank, uninterrupted or undesigned vertical surfaces;

The retaining walls will be offset at key locations and weave in and out of the natural rolling nature of the adjacent trail topography to vary the visual height and appearance of the walls. The

wall colors will also be muted with natural colors and patterns to blend in with the native, natural plants and tall grasses.

6. That the retaining wall respects the natural topography, avoiding obvious scars on the land.

See descriptions above.

## **Attachment B – Standard Conditions of Approval**

### General Administrative Conditions

#### **1. Approved Use**

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, **as summarized in this 7/12/23 Planning Commission staff report** and the approved plans **dated 12/14/22**, 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 **two years** 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, for example the review and approval of the Parcel Map Waiver.

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

### **12. Compliance Matrix**

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

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

Prior to the issuance of the first construction-related permit, the project applicant and his/her general contractor shall submit a Construction Management Plan (CMP) for review and approval by the Bureau of Planning, Bureau of Building, and other relevant City departments such as the Fire Department, Department of Transportation, and the Public Works Department as directed.

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

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

a. All mitigation measures identified in the SupplyBank.org Project at Oakport CEQA Analysis/Addendum are included in the Standard Condition of Approval / Mitigation Monitoring and Reporting Program (SCAMMRP) which is included in these Conditions of Approval and are incorporated herein by reference, as Attachment , as Conditions of Approval of the project. The Standard Conditions of Approval identified in the SupplyBank.org Project at Oakport CEQA Analysis/Addendum are also included in the SCAMMRP, and are, therefore, incorporated into these Conditions by reference but are not repeated in these Conditions. To the extent that there is any inconsistency between the SCAMMRP and these Conditions, the more restrictive Conditions shall govern. In the event a Standard Condition of Approval or mitigation measure recommended in the SupplyBank.org Project at Oakport CEQA Analysis/Addendum has been inadvertently omitted from the SCAMMRP, that Standard Condition of Approval or mitigation measure is adopted and incorporated from the SupplyBank.org Project at Oakport CEQA Analysis/Addendum into the SCAMMRP by reference, and adopted as a Condition of Approval. The project applicant and property owner shall be responsible for compliance with the requirements of any submitted and approved technical reports, all applicable mitigation measures adopted, and with all Conditions of Approval set forth herein at his/her sole cost and expense, unless otherwise expressly provided in a specific mitigation measure or Condition of Approval, and subject to the review and approval by the City of Oakland. The SCAMMRP identifies the timeframe and responsible party for implementation and monitoring for each Standard Condition of Approval and mitigation measure. Unless otherwise specified, monitoring of compliance with the Standard Conditions of Approval and mitigation measures will be the responsibility of the Bureau of Planning, with overall authority concerning compliance residing with the Environmental Review Officer. Adoption of the SCAMMRP will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in section 21081.6 of CEQA.

b. Prior to the issuance of the first construction-related permit, the project applicant shall pay the applicable mitigation and monitoring fee to the City in accordance with the City's Master Fee Schedule.

#### Environmental Protection Measures

Please refer to Attachment C for these Standard Conditions of Approval as summarized in the SCAMMRP for the SupplyBank.org Project at Oakport CEQA Analysis/Addendum.

#### Other Standard Conditions

**91. Employee Rights**

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

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

**93. Public Art for Private Development**

Requirement: The project is subject to the City's Public Art Requirements for Private Development, adopted by Ordinance No. 13275 C.M.S. ("Ordinance"). The public art contribution requirements are equivalent to one-half percent (0.5%) for the "residential" building development costs, and one percent (1.0%) for the "non-residential" building development costs. The contribution requirement can be met through: 1) the installation of freely accessible art at the site; 2) the installation of freely accessible art within one-quarter mile of the site; or 3) satisfaction of alternative compliance methods described in the Ordinance, including, but not limited to, payment of an in-lieu fee contribution. The applicant shall provide proof of full payment of the in-lieu contribution and/or provide plans, for review and approval by the Planning Director, showing the installation or improvements required by the Ordinance prior to issuance of a building permit.

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

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

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

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

**94. Frontage improvements:** Applicant shall provide street frontage improvements on Oakport Street for the entire length of the property along Oakport. Improvements shall include, and not be limited to, sidewalk, curb and gutter. Improvements shall comply with City design and dimensional standards at the time of improvement plan submittal (prior to issuance of first construction-related permit).

**95.** Work with City Surveyor to ensure Oakport Street is fully dedicated to the City of Oakland (prior to issuance of first construction-related permit).

**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.

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Name of Project Applicant

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

\_\_\_\_\_  
Date