

**EXHIBIT C
VTPM RESOLUTION NO. 79249**

CONDITIONS OF APPROVAL

**APPROVED BY THE CITY COUNCIL
MAY 17, 2005**

**PROJECT SPONSORS: BUILD WEST OAKLAND, LLC; PCL ASSOCIATES LLC;
HFH CENTRAL STATION VILLAGE, LLC; CENTRAL STATION LAND, LLC**

PROJECT: WOOD STREET ZONING DISTRICT

VESTING TENTATIVE PARCEL MAP NUMBERS 8551, 8552, 8553, 8554, and 8555

General Notes and Definitions:

- Many conditions reference operation and construction details that are not required to be completed before a final map is approved, but are to be completed in accordance with the schedule set forth in the Mitigation Monitoring and Reporting Program (MMRP) for the Wood Street Project.
- This document collects all Conditions of Approval applicable to all Vesting Tentative Parcel Maps (VTPMs) within the Wood Street Zoning District. Each condition applies to each VTPM unless only certain map(s), or parcel(s) within map(s), are referenced within a condition, in which case that condition applies only to the referenced parcel(s) and map(s). Staff is directed to break out the conditions applicable to each VTPM, and attach only the conditions relevant to the VTPM at issue as Exhibit C to the document approving that VTPM. Condition numbers should be kept static. This means that some condition numbers will not be used for some VTPMs, and staff should indicate when a condition number is intentionally left blank.
- “Project Sponsor” is defined as the owner(s) of the parcels represented on the particular final parcel map for the Wood Street Project.
- Unless noted otherwise, the phrase “prior to the issuance of a [or any] building [or demolition or grading] permit” refers to the first permit issued for work on a particular parcel represented on one of the five vesting parcel maps. The requirement that a condition occur prior to the issuance of any permit means that such condition must be satisfied as with regard to all parcels within the applicable final parcel map, not all parcels that constitute the Wood Street Project.

- “Train Station Entity” is defined as any entity, including but not limited to a 501(c)(3) nonprofit organization, established to oversee the rehabilitation or reuse of the 16th Street Train Station.
- Exhibit C to the VTPM Resolutions contains definitions relating to Train Station facilities that are used in all findings as well. Specifically, references to the 16th Street Train Station and its various components are as follows. “16th Street Train Station” refers to all facilities associated with the station, which are as follows:
 - the “Main Hall” (including its north and south wings, and the canopy at the Wood Street entrance to the Main Hall)
 - the “Elevated Platform” (which housed the Elevated Tracks before they were removed in the 1940s)
 - the “Baggage Wing”
 - the “Signal Tower”
 - the “Elevated Platform Feasibility Study Area,” which is the area of the Elevated Platform which is immediately adjacent to the Main Hall and the Baggage Wing

Each of these capitalized, quoted terms refers to facilities that comprise the 16th Street Train Station, as depicted in Figure 1 attached to the VTPM Conditions of Approval (Exhibit C to the VTPM Resolution). References to portions of the 16th Street Train Station to be preserved or rehabilitated, and references to portions of the 16th Street Train Station to be demolished, refer to the portions to be preserved, rehabilitated and demolished after implementation of Conditions 56A and 57A.

1. Applicable Zoning District Regulations.

Development shall comply with each of the provisions of the Wood Street Zoning District Standards, Guidelines and Regulations dated May 17, 2005, and subject to first reading by the City Council on May 17, 2005.

BICYCLE PARKING

2. Bicycle Parking.

Prior to the issuance of the first building permit.

The Project Sponsor shall submit final design plans for review and approval of the Planning and Zoning Division that show bicycle storage and parking facilities to accommodate long-term bicycle parking spaces consistent with the City of Oakland Bicycle Master Plan (July 1999). The plans for each parcel shall show the design and location of bicycle racks within secure bicycle storage areas. The Project Sponsor shall pay for the cost and installation of any bicycle racks in the public right of way and shall be in compliance with City standards. [WS MM TR-5.1]

BIOLOGICAL RESOURCES

3. Preconstruction Surveys and Protection Measures for Nesting Birds.

Prior to issuance of first demolition permit; survey prior to construction no more than one week prior to vegetation removal; if present, repeat surveys until birds have fledged and repeat every 21 days from the date of the first survey; resurvey if construction schedule changes.

Construction activities shall be timed to avoid vegetation removal or demolition during the nesting season (typically February 1 to August 31), where possible. If this cannot be accomplished, then a qualified biologist shall conduct preconstruction nesting surveys no more than one week prior to vegetation or building removal to determine if nesting birds are present. If nesting birds are present, an appropriate buffer zone shall be developed by the biologist and construction activities shall be suspended in this zone until future surveys indicate that the chicks have fully fledged (left the nest). Completion of preconstruction surveys and avoidance of bird nests would result in no impacts to nesting birds. Survey results shall be valid for a period of 21 days from the date of the survey. Should vegetation or building removal fail to be conducted within this time frame, a second survey shall be undertaken. [WS MM BR-2.1]

BUILDING ADDRESS SIGNS

4. Building Address Signs.

Prior to issuance of first certificate of occupancy.

The Project Sponsor shall submit for review and approval of the Planning and Zoning Division, plans showing the design and location of the building address signs of each residential or commercial unit. All address signs shall be clearly posted, lighted and permanently maintained.

BUILDING REQUIREMENTS

5. Sustainable Development Policies.

Prior to issuance of any building permit and ongoing.

The Project Sponsor shall include energy-conserving fixtures and designs, as required by Title 24 of the Uniform Building Code (UBC). [OARB MM 4.4-6]

6. Solar Systems.

Prior to issuance of any building permit.

New active or passive solar systems within or adjacent to the Project Area shall be set back from the property line a minimum of 25 feet. Proposed solar systems shall be located in a manner that will not unduly restrict design of future development. Such conflicts, if any, shall be resolved in design review. If the proposed solar system cannot be designed to accommodate adjacent activities on future development, it shall be disallowed.

New building or landscaping shall not shade existing or proposed parks or open spaces in a manner that would make these public spaces substantially less useful or enjoyable to the public. The City may require specific building placement, tiered roofs, or other means of reducing shadow effects on public opens spaces to reduce shade to the maximum extent feasible. [OARB MM 4.11-3]

7. Construction Adjacent to Parks/Open Space.

Prior to issuance of any building permit.

The Project Sponsor shall demonstrate through design review, to the satisfaction of the City, that the Project will not interfere with, or have a detrimental effect on the public using Raimondi Park. [OARB MM 4.11-6]

7A. Construction Labor Partner.

Prior to issuance of first demolition grading or building permit and during all construction activity.

The Project Sponsor shall engage an experienced construction personnel training and evaluation individual or entity ("Construction Labor Partner") to solicit, interview and test, select, train and prepare for work, residents of West Oakland. If it appears there will not be enough West Oakland Residents to fill likely construction employment positions at all of the construction employment positions at all of the construction projects planned within the Wood Street Zoning District, the Construction Labor Partner will extend the same services to other residents of the City of Oakland. The Construction Labor Partner shall contact groups including but not limited to the Youth Employment Partnership, BACSIC, Men of Valor, and Cypress Mandela Training Center to assure a ready workforce. The engagement of the Construction Labor Partner will commence no less than three months before the commencement of any construction activity on any parcel and will continue until the date of a Notice of Substantial Completion is filed for such construction activity.

The Project Sponsor shall require that its general contractor and all subcontractors (collectively, "Contractor") engaged to perform construction work on the site provide written notice (by facsimile, electronic mail or hand delivery) to the Construction Labor Partner and the Project Sponsor of Contractor's intent to hire employees at least six weeks prior to commencement of construction. The Project Sponsor shall require that in the event the Construction Labor Partner refers individuals ("Resident Construction Applicants") to Contractor for work within five business days of receipt of the written notice, Contractor shall interview and diligently consider for hire such Resident Construction Applicants prior to interviewing or hiring any other persons. If the work on the project is covered by a Project Labor Agreement or other agreement with a labor union, the Construction Labor partner shall refer the Resident Construction Applicant to the appropriate union for consideration for employment and/or apprenticeship.

The Project Sponsor shall require each Contractor to submit to the Project Sponsor, along with any request for payment, a monthly report of the Resident Construction Applicants interviewed and/or employed during the prior month, including the hours worked, and the name, address and California driver's license number (or other satisfactory identification) of such Residential Construction Applicants interviewed or employed.

Compliance with this condition shall be monitored by the Workforce Investment Manager through review of reports which shall be contained in the regular Job Performance Training Standards. Copies of all reports shall also be provided to the Development Director or his/her designee.

Each Project Sponsor (which, for purposes of this Condition of Approval includes any agent, heir, successor and/or assign of a Project Sponsor) voluntarily agrees to be bound by this Condition and waives any right that it may have to challenge this Condition on any grounds. This Condition shall not limit the right of City/Agency, in its discretion, to impose any term or condition on a decision to subsidize or otherwise participate in any portion of the project, including, without limitation, the right to apply City/Agency programs requiring local hiring, payment of prevailing wage, and equal benefits.

7B. Project Labor Agreement for City-Subsidized Work.

Prior to issuance of first demolition grading or building permit and during all construction activity.

In the event any portion of the development of Parcel 2 of VTPM 8554 or Parcel 3 of VTPM 8551 is financially subsidized by the City of Oakland or the Redevelopment Agency, the Project Sponsor of such parcel shall enter into a Project Labor Agreement for such construction. The City encourages the Project Sponsors of all other parcels within the Wood Street Zoning District to meet with the Building Trades Council.

Each Project Sponsor (which, for purposes of these Conditions of Approval includes any agent, heir, successor and/or assign of a Project Sponsor) voluntarily agrees to be bound by this Condition and waives any right that it may have to challenge this Condition on any grounds. This Condition shall not limit the right of City/Agency, in its discretion, to impose any term or condition on a decision to subsidize or otherwise participate in any portion of the project, including, without limitation, the right to apply City/Agency programs requiring local hiring, payment of prevailing wage, and equal benefits.

CONSTRUCTION HOURS & ACTIVITIES

8. Grading Construction Hours.

During all grading and construction activities.

Grading and construction hours shall be limited to between 7:00 AM to 7:00 PM, Monday through Friday. Grading and construction activities shall be allowed on Saturdays or outside the hours of 7:00 a.m. to 7:00 p.m. only upon the written approval of the Planning Director. No grading or construction activity shall take place on Sundays or Federal or State holidays.

9. Construction Phasing and Traffic Management Plan.

Prior to issuance of the first building permit (items a and b), and during construction (items c-p).

The Project Sponsor and construction contractor shall meet with the Traffic Engineering and Parking Division of the Oakland Public Works Agency (PWA) and other appropriate City of Oakland agencies to determine traffic management strategies to reduce traffic congestion and the effects of parking demand, to the maximum feasible extent, by construction workers during construction of this project and other nearby projects that could be simultaneously under construction.

The Project Sponsor shall prepare and implement a construction phasing plan and traffic management plan that defines how traffic operations will be managed and maintained during each phase of construction. The plan shall be developed with the direct participation of the City

of Oakland. AC Transit shall be given the opportunity to review and comment on the plan. In addition, the property owners of all businesses adjacent to the construction areas shall be consulted. To the maximum practical extent, the plan shall include at least the following: [WS MM TR-1.1]

- a. Provide a set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.
- b. Provide detail regarding how access will be maintained to individual businesses where construction activities may interfere with ingress and egress. Any driveway closures shall take place during non-business hours. [WS MM TR-1.1]
- c. Specify predetermined haul routes from staging areas to construction sites and to disposal areas by agreement with the City prior to construction. The routes shall follow streets and highways that provide the safest route and have the least impact on traffic and residents. [WS MM TR-1.1]
- d. Provide for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.
- e. Provide notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.
- f. Provide for accommodation of pedestrian flow.
- g. Locate construction staging areas.
- h. Provide for monitoring of surface streets used for haul routes so that any damage and debris attributable to haul trucks can be identified and corrected.
- i. Locate a temporary construction fence to contain debris and material and to secure the site.
- j. Provide for removal of trash generated by project construction activity.
- k. Provide dust control measures set forth in [Condition No. 15] [See WS MM AQ-1.1].
- l. Noise control measures as set forth in [Condition No. 17] [See WS MM NO-1.1].
- m. Require the contractor to provide information to the public during construction, using signs, press releases, and other media tools of traffic closures, detours or temporary displacement of left-turn lanes. [WS MM TR-1.1]
- n. Provide a process for responding to, and tracking, complaints pertaining to construction activity, including the identification of an on-site Project Manager.

- o. Provide a single phone number for the Project Manager that property owners and businesses can call for construction scheduling, phasing, and duration information, as well as for complaints. [WS MM TR-1.1]
- p. Identify construction activities that must take place during off-peak traffic hours or result in temporary road closures due to concerns regarding traffic safety or traffic congestion. Any road closures will be done at night under ordinary circumstances. If unforeseen circumstances require road closing during the day, the City of Oakland shall be consulted. [WS MM TR-1.1]

10. Construction Site Project Manager.

Prior to issuance of first demolition, grading or building permit and during all construction activity.

The Project Sponsor shall designate a Project Manager who shall be responsible for responding to any complaints from the neighborhood residents and businesses about excessive noise or construction issues during construction periods. The Project Manager's office and mobile telephone number and identification photograph shall be conspicuously posted at the construction site. The Project Manager shall determine the cause of any complaints and shall take prompt action to correct the problem consistent with these conditions. The Project Sponsor shall provide the Planning and Zoning Division with the name and telephone number of the Project Manager prior to the issuance of a grading permit.

11. Neighbor Noticing of Access Obstructions.

During all construction activities.

To the maximum extent feasible, construction vehicles, materials, and other equipment shall not block roads so that neighbors would be adversely affected from getting to and from their properties. The Project Sponsor shall ensure that immediately adjacent property owners are notified in writing no less than 48 hours before the occurrence of any major delivery or hauling which might cause detours or lane closures related to the project's construction activities.

12. Encroachment Permit.

Prior to issuance of any grading or building permit in public right of way.

The Project Sponsor shall obtain any encroachment permits, waiver of damages or other approvals required by the Building Services Division, prior to grading permit and building permit issuance, for any privately constructed public improvements, or any permanent or temporary elements located in the public right of way, including fences, stairs, driveways, and/or retaining walls.

13. Site Maintenance.

During all construction activities.

The Project Sponsor shall ensure that debris and garbage is collected and removed from the site daily.

14. Approved Plans on Site.

During all construction activities.

At least one (1) copy of the above referenced approved construction phasing and traffic management plans and the Conditions of Approval for this project shall be available for review at the job site at all times.

15. Dust Control Measures.

Prior to issuance of the first demolition, grading or building permit.

Dust control measures shall be instituted and maintained during construction to minimize air quality impacts. The measures shall be included in the contractor construction documents and include the following:

- a. Water all active construction areas as necessary (at least twice daily) to control dust.
- b. Cover stockpiles of debris, soils or other material if blown by the wind.
- c. Sweep adjacent public rights of way and streets daily (with water sweepers) if visible soil material or debris is carried onto these areas.
- d. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard. Trucks hauling materials qualified as hazardous waste must be covered.
- e. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- f. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- g. Install sandbags or other erosion control measures to prevent silt runoff onto public roadways.
- h. Replant vegetation in disturbed areas as quickly as possible.
- i. Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas, and staging areas at the construction sites.
- j. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at the construction sites.
- k. Install wheel washers for all exiting trucks or wash off the tires or tracks of all trucks and equipment leaving the construction site.
- l. Install wind breaks at the windward sides of the construction areas.
- m. Suspend excavation and grading activities when wind (as instantaneous gusts) exceeds 25 miles per hour.
- n. Limit traffic speeds on unpaved roads to 15 miles per hour.

16. Construction-Related Water and Fire Service.

Prior to issuance of grading or building permit.

The Project Sponsor shall secure from the East Bay Municipal Utilities District verification of water service and fire hydrant flow prior to delivery or storage of combustible materials (e.g., lumber, plywood, etc.) on site and as required by the Fire Department.

17. Construction-Related Noise Control.

Prior to issuance of the first building permit; inspections during construction phase of Project.

To reduce daytime noise impacts due to construction to the maximum feasible extent, the Project Sponsor shall develop a site-specific noise reduction program, subject to City review and approval. The following practices shall be incorporated into the construction documents to be implemented by the Project Sponsor's contractor, and these practices shall be provided to the Department of Building Inspection for approval prior to the issuance of building permits:

- i) Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City and Project Manager in the event of complaints. Pile driving 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. Monday through Friday, with no extreme noise generating activity permitted between 12:30 and 1:30 p.m. or on weekends and holidays.
- ii) Schedule construction activity that produces higher noise levels during less noise-sensitive hours (normally 8:00 a.m. to 4:00 p.m. on weekdays). Minimize noise-intrusive impacts during the most noise-sensitive hours by planning noisier operations during times of highest ambient noise levels (normally 8:00 a.m. to 4:00 p.m. on weekdays).
- iii) The Project Manager or his/her appointed on-site complaint and enforcement manager/noise disturbance coordinator (if different from the Project Manager) shall be designated and posted to respond to and track complaints about noise during construction. The office and mobile telephone number of the noise disturbance coordinator shall be conspicuously posted at the construction site and shall be provided to the Department of Building Inspection. Copies of the construction schedule shall also be posted at nearby noise-sensitive areas.
- iv) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and-practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc.).
- v) Equipment and trucks used for project construction shall utilize the best available noise control techniques wherever feasible (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds) in order to minimize construction noise impacts.

- vi) Impact tools and equipment (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered whenever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler or compressed air silencers shall be used on the compressed-air exhaust; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures, such as drilling rather than use of impact equipment, shall be used whenever feasible.

Compressed air exhaust silencers shall be used on other equipment.

- vii) Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, or insulation barriers or other measures shall be incorporated to the extent feasible. Such noise reduction measures include, but are not limited to, the following:
- Use shields, impervious fences, or other physical sound barriers to inhibit transmission of noise to sensitive receptors;
 - Locate stationary equipment to minimize noise impacts on the community; and
 - Minimize backing movements of equipment.
- viii) Prohibit unnecessary idling of internal combustion engines.
- ix) Select routes for movement of construction-related vehicles and equipment so that noise-sensitive areas, including residences, hotels, and outdoor recreation areas, are avoided as much as possible. Include these routes in materials submitted to the Department of Building Inspection for approval prior to the issuance of building permits. [WS MM NO-1.1]

18. Pile Driving - Noise Attenuation.

Prior to any pile driving or other extreme noise generating activities on the site.

As part of a noise reduction plan, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. This noise reduction plan shall be submitted for review and approval by the City Building Services Department to ensure that maximum feasible noise attenuation is achieved to satisfy the City's standards contained in Section 17.120.050 of the Planning Code. A third-party peer review, paid for by the Project Sponsor, shall be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the Project Sponsor. A special inspection deposit to pay for the City's reasonable costs of determining compliance with the noise reduction plan shall be paid by the Project Sponsor concurrent with submittal of the noise reduction plan. These attenuation measures shall include as many of the following control strategies as feasible and shall be implemented prior to any required pile-driving activities:

- i) Implement “quiet” pile-driving technology, where feasible, in consideration of geotechnical and structural requirements and conditions;
- ii) Erect temporary plywood noise barriers around the entire construction site;
- iii) Adjust the scheduling and duration of pile driving;
- iv) Utilize noise control blankets on the building structure as it is erected to reduce noise emission from the site;
- v) Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and
- vi) Monitor the effectiveness of noise attenuation measures by taking noise measurements during pile driving activities. [WS MM NO-1.2]

19. Pile Driving - Complaint Response.

Prior to the issuance of the first building permit.

Prior to the issuance of each building permit, along with the submission of construction documents, the Project Sponsor shall submit to the City Building Department a list of measures to respond to and track complaints pertaining to pile driving construction noise. These measures shall include:

- i) A procedure for notifying the City Building Division staff and Oakland Police Department;
- ii) A plan for posting signs on site pertaining to permitted construction days and hours, complaint procedures, and who to notify in the event of a problem;
- iii) A listing of telephone numbers (during regular construction hours and off hours);
- iv) Designation of an on-site construction complaint manager for the Project in accordance with Condition No. 10;
- v) Notification of neighbors within 300 feet of the Project construction area at least 30 days in advance of pile-driving activities about the estimated duration of the activity; and
- vi) A preconstruction meeting to be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, neighborhood notification, and posted signs) are completed. [WS MM NO-1.3]

20. Construction-related Waste Recycling.

During all construction activities.

Concrete and asphalt removed during demolition/construction shall be crushed on-site or at a near-site location, and reused in redevelopment or recycled to the construction market in order to avoid disposal to landfill of this material. [OARB MM 4.9-8]

EMERGENCY PREPAREDNESS

21. Emergency Preparedness and Evacuation Plan.

Prior to issuance of any building permits.

The Project Sponsor shall submit for review and approval by the Planning and Zoning Division and any other relevant City departments, an Emergency Preparedness and Evacuation Plan for the proposed project.

22. Emergency Response Area Construction Activities.

During all construction activities.

The Project Sponsor shall notify the Office of Emergency Services (OES) of its plans in advance of construction or remediation activities so that OES may plan emergency access and egress taking into consideration possible conflicts or interference during the construction phase. The Project Sponsor shall also notify OES once construction is complete. [OARB MM 4.9-3]

ENVIRONMENTAL REVIEW

23. CEQA Compliance with Mitigation Monitoring and Reporting Program.

Ongoing.

The Project Sponsor shall implement all the mitigation measures contained in the attached MMRP to the extent such measures are its responsibility as set forth in the MMRP. The MMRP contains mitigation measures from the EIR approved pursuant to the California Environmental Quality Act (CEQA) for the project. The MMRP identifies the time frame and specific responsible party for implementation and monitoring for each mitigation measure. Overall monitoring and compliance with the mitigation measures will be the responsibility of the Planning and Zoning Division.

24. Recordation of Mitigation Monitoring and Reporting Program and Conditions of Approval.

Prior to issuance of first demolition, grading or building permit.

The Project Sponsor shall execute and record with the Alameda County Recorder's Office a copy of the MMRP and Conditions of Approval for the project, on a form approved by the Planning and Zoning Division. Proof of recordation shall be provided to the Planning and Zoning Division.

FAIR SHARE IMPROVEMENTS

25. West Grand Avenue/Frontage Road Intersection.

Prior to issuance of the first building permit.

The Project Sponsor shall fund, on a fair share basis, the following improvements at the intersection of West Grand Avenue/frontage road:

- Revise the northbound frontage road lanes to provide:
 - one left-turn lane
 - one combination left-through lane
 - one through lane
 - one right-turn lane with overlap signal phasing (green arrow)
- Revise the southbound I-80 East Ramp lanes to provide:
 - one left-turn lane
 - one combination left-through lane
 - one through lane
 - one right-turn lane with overlap signal phasing (green arrow)
- Revise the eastbound West Grand Avenue lanes to provide:
 - one left-turn lane
 - one through lane
 - one combination through-right lane
- Revise the westbound West Grand Avenue lanes to provide:
 - one left-turn lane
 - two through lanes
 - one right-turn lane

The estimated amount of the Project Sponsor’s contribution is \$1.596 million. Final determination of the Project Sponsor’s contribution shall be based on a reasonable formula of the expected growth in traffic at the intersection. This formula shall be devised at the sole and complete discretion of the City of Oakland, and final cost estimates shall include right-of-way costs and all project support costs including design and engineering, construction oversight, preparation of plans and specifications, and detailed project cost estimates. The measured growth in traffic is based on the traffic analysis in the EIR and the City has no obligation to fund any required improvements in the future. [WS MM TR-9.1]

26. West Grand Avenue/Mandela Parkway Intersection

Prior to issuance of the first certificate of building occupancy.

The Project Sponsor shall contribute its fair share of modifications at the West Grand Avenue/Mandela Parkway intersection estimated at \$180,000 (in combination with condition of approval #27, including design and engineering, construction oversight, preparation of plans and specifications and detailed project costs estimates.) The modifications at the intersection shall include providing protected left-turn signal phasing (left-turn green arrows) for the West Grand Avenue approaches to the intersection. [WS MM TR-9.2]

27. 7th Street/Mandela Parkway Intersection.

Prior to issuance of the first certificate of building occupancy.

The Project Sponsor shall contribute its fair share of modifications at the 7th Street/Mandela Parkway intersection estimated at \$180,000 (in combination with condition of approval #26,

including design and engineering, construction oversight, preparation of plans and specifications and detailed project costs estimates). The modifications at the intersection shall include adding a northbound lane on the 3rd Street extension to provide one left-turn lane, one combination through-right turn lane, and protected left-turn signal phasing (left-turn green arrows) for all four approaches to the intersection. [WS MM TR-9.3]

28. West Grand Avenue/Maritime Street and 3rd Street/Market Street Intersections.

Prior to issuance of the first certificate of building occupancy.

As part of the cumulative growth of the OARB Area Redevelopment Plan, the Project Sponsor shall pay an amount equal to its fair share, estimated at \$180,000, as determined by the OARB Area Redevelopment Plan EIR, 2002, of future improvements at West Grand Avenue/Maritime Street and 3rd Street/Market Street intersections. [WS MM TR-9.4]

29. BART Train Capacity.

Prior to issuance of the first certificate of building occupancy.

The Project Sponsor shall participate in efforts to ensure that adequate BART train capacity will be available for riders to and from the Project Area, and fund BART train capacity improvements on a fair share basis. [WS MM TR-12.1]

30. West Oakland BART Station.

Prior to issuance of the first certificate of building occupancy.

The Project Sponsor shall participate in efforts to provide adequate fare gate capacity at the West Oakland BART Station to accommodate the Project. The City and the Project Sponsor shall provide detailed information regarding development to BART to enable BART to conduct a comprehensive fare gate capacity assessment at the West Oakland BART Station. Based on the results of that assessment, the Project Sponsor shall fund its fair share for adding one or more new fare gates at the West Oakland BART Station. *[This condition will be attached to the subdivision maps for Parcels 1, 2, 3, and 4 of VTPM 8551, Parcels 1 and 2 for VTPM 8552, Parcels 1, 2, and 3 for VTPM 8553, Parcel 3 of VTPM 8554, and Parcels 1 and 2 of VTPM 8555 only.]* [WS MM TR-8.1].

31. Cul-de-Sac or other Turn-Arounds.

Prior to approval of Final Development Plan and specifications.

The Project Sponsors shall incorporate the design of a cul-de-sac or other appropriate turn-around at the end of 11th Street and at the end of the 18th and 20th Street extensions and construct these extensions in compliance with City of Oakland Design Standards. Appropriate turn-around designs would allow vehicles to return along 11th Street and enter Wood Street in a front-end-first manner. *[This condition will be attached to the subdivision maps for Parcels 1 and 2 of VTPM 8552, Parcel 3 of VTPM 8554, and Parcels 1 and 2 of VTPM 8555 only.]* [WS MM TR-4.1]

32. Underground Utilities.

Prior to issuance of a building permit.

The Project Sponsor shall submit plans for review and approval of the Planning and Zoning Division, Building Services Division and the Public Works Agency, and other relevant agencies as appropriate. The plans shall show all new electric and telephone facilities; fire alarm

conduits; street light wiring; other wiring, conduits, and similar facilities placed underground by the developer from the Project Sponsor's structures to the point of service; and all electric and telephone facilities installed in accordance with standard specifications of the serving utilities.

33. Maintenance of Land Dedicated to Public.

Prior to recordation of the Final Map.

The Project Sponsor shall enter into a Maintenance Agreement in a form acceptable to the City Attorney, which shall be made binding on all successors and assigns and which obligates the owner(s) of each parcel included in the VTPM to pay, on a fair share basis, for the City's reasonable costs of maintaining the public access areas (also referred to as pocket parks), that are located between the terminus of 14th, 16th, 18th and 20th Streets and frontage road to be offered for dedication to the City. As used herein, "fair share" means dividing the number of residential units owned by the number of residential units built within Parcels 1, 2, 3 and 4 of VTPM 8551, Parcels 1 and 2 of VTPM 8552, Parcels 1, 2 and 3 of VTPM 8553, Parcel 3 of VTPM 8554, and Parcels 1 and 2 of VTPM 8555. Concurrently with the execution of the Maintenance Agreement, the Project Sponsor shall submit security in a form acceptable to the City Attorney (e.g., set-aside letter of credit) securing this obligation for a period of five years. Although the obligation is secured for five years only, the Maintenance Agreement will require an annual payment of the fair share amount for the life of the project. This covenant shall expire as to any streets or parks that are modified to meet City standards, as determined by the Planning Director. *[This condition will be attached to the subdivision maps for Parcels 1, 2, 3 and 4 of VTPM 8551, Parcels 1 and 2 of VTPM 8552, Parcels 1, 2 and 3 of VTPM 8553, Parcel 3 of VTPM 8554, and Parcels 1 and 2 of VTPM 8555.]*

GRADING, GEOTECHNICAL, EROSION CONTROL, STORMWATER & DRAINAGE

34. Grading, Erosion and Drainage Plan.

Prior to issuance of grading permit and during all construction activities.

To the extent any grading is necessary, the Project Sponsor shall submit for review and approval by the Building Services Division a Site Grading and Drainage plan in conformance with City standards and "Best Management Practices" (BMP) for use during construction. The plan shall indicate the methods, means, and design to conduct site run-off, attenuate storm drainage flow, and minimize sedimentation and erosion during and after construction activity (utilizing a combination of permeable surfaces, subsurface-drainage, silt debris barriers, drainage retention systems, and/or filtration swale landscaping). All graded slopes or disturbed areas shall be temporarily protected from erosion by implementing seeding, mulching and/or erosion control blankets/mats until permanent erosion control measures are in place. No grading shall occur without a valid grading permit issued by the Building Services Division or within the period of October 15 through April 15 unless specifically authorized in writing by the Building Services Division. Site design, source control and post construction treatment measures shall comply with requirements of the Alameda Countywide Clean Water Program, C.3 Stormwater Handbook, February 2005.

35. Stormwater Pollution Prevention Plan.

Prior to issuance of grading permit and during all construction activities.

Prior to ground-disturbing activities, the Project Sponsor shall develop and implement a site-specific Stormwater Pollution Prevention Plan (SWPPP) acceptable to the Regional Water Quality Control Board (RWQCB), Region 2, and the City that includes erosion and sediment control measures.

The contractor shall submit the SWPPP to the City for review, and shall keep a copy of the SWPPP at the construction site. While erosion control measures included in the plan will be site-specific, they must be effective at prevention of accelerated erosion by the following: minimizing the length of time soils are exposed; reducing total area of exposed soil during the rainy season; protecting critical areas (the Bay); and monitoring before and after each rain storm to assess control measure effectiveness. SWPPP erosion control measures may include, and are not limited to, the following:

- Schedule grading, and activities related to grading (excavation, construction, preparation and use of equipment and material storage) to occur during dry season (April through September)
- Avoid run-on (divert run-off from up-slope sites so it does not enter construction zone)
- Discharge grading and construction runoff into small drainages at frequent intervals to avoid the buildup of large, potentially erosive flows
- Stabilize disturbed areas as quickly as possible, either by vegetative or mechanical methods
- Trap sediment before it leaves the site with such techniques as check dams, sediment ponds, or siltation fences
- Control landscaping activities carefully with regard to the application of fertilizers, herbicides, pesticides or other hazardous substances. Provide proper instruction to all landscaping personnel on the construction team.
- Preserve existing vegetation
- Seed and mulch, or hydromulch
- Control dust
- Use blankets, geotextiles, and fiber rolls
- Install tire washers at exits.

All construction activities shall be undertaken in accordance with requirements of the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges

Associated with Construction Activity (General Permit). The General Permit requires that all dischargers develop and implement a SWPPP that specifies BMPs that would prevent construction pollutants from contacting stormwater with the intent of keeping products of erosion from moving off site into receiving waters.

Additional SWPPP sediment control measures may include, and are not limited to, the following:

- Stabilize the construction entrance;
- Silt fencing;
- Temporary straw bale dike;
- Sand/gravel bag;
- Brush/rock filter;
- Inlet protection;
- Catch basin inlet filter; and
- Sediment basin or trap.

SWPPP pollution control measures generally are “good housekeeping” BMPs, and may include, and are not limited to, establishing practices and protocols for the following:

- Solid and demolition waste management;
- Hazardous materials and waste management;
- Spill prevention and control;
- Vehicle and equipment maintenance;
- Covered materials storage;
- Handling and disposal of concrete/cement;
- Pavement construction management;
- Contaminated soil and water management; and
- Sanitary/septic waste management.

An erosion control professional is required to be on site to supervise the implementation of the designs and maintenance of facilities throughout the site clearing, grading and construction period. [OARB MM 4.13-3, OARB MM 4.15-3, with language from Wood Street DEIR page 3.10-10]

36. Outside Agency Permits.

Prior to issuance of any building permits.

The Project Sponsor shall comply with all permit conditions from the RWQCB and -- for Parcel 3 on VTPM No. 8554 and Parcels 1 and 2 on VTPM No. 8555 only -- BCDC. The Project Sponsor shall demonstrate to the satisfaction of the City that Project Sponsor has required and shall enforce compliance through contract specifications on all construction contractors and any other entities whose work is affected by these permit conditions. [OARB MM 4.15-2]

37. Shallow Groundwater.

Prior to issuance of grading permit and during all construction activities.

The SWPPP shall include protocols for determining the quality and disposition of construction water which includes shallow groundwater encountered during construction/remediation; depending on the results of the testing, contaminated water shall be disposed of via standards of the applicable regulatory agency (RWQCB, DTSC, or EBMUD), as appropriate, in addition, the Project Sponsor shall comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) Permit Nos. CAG912002 and CAG912003 if appropriate.

The Project Sponsor's SWPPP shall include a RWQCB-acceptable protocol and BMPs for handling construction water. The SWPPP shall include methods for visual inspection, triggers for laboratory testing, and appropriate use/disposal of the water. If NPDES Permit Nos. CAG912002 and CAG912003 are relevant to the site, a notice of intent (NOI) must be filed, and the related Self-Monitoring Plan must be complied with. [OARB MM 4.15-4]

38. Grading Activity Status Reports and Map.

Prior to issuance of grading permit and during all grading activities.

The project engineer shall file status reports to be followed by a final grading completion report, along with a geologic mapping of all cut-and-fill pads and slopes within the graded area, as a condition of the project grading permit. Locations of subdrains and clean-outs shall be shown on the approved grading map. The Project Sponsor shall ensure periodic monitoring of project grading activities by a geotechnical engineer.

39. Storm Drainage Compliance.

Prior to issuance of a grading permit and during all construction activities.

The Project Sponsor shall ensure that all proposed improvements comply with all provisions of Alameda County's NPDES permit issued on February 19, 2003, and related post-construction BMPs that would apply to the project; all proposed improvements shall also comply with the Clean Water Act (1972) as amended by the Water Quality Act of 1987, and City of Oakland Storm Water Management and Controls Ordinance No. 11590 C.M.S. and Creek Protection Ordinance No. 12024; and shall utilize all BMPs to prevent sediments or pollutants from entering the storm drain system or watercourses. The impact of the proposed improvements on the storm drain system and watercourses shall be mitigated to the extent practicable. Analysis of anticipated runoff volumes and potential effects to receiving water quality from stormwater shall be made for specific redevelopment elements, and site-specific BMPs shall be incorporated into design. BMPs shall be incorporated such that runoff volume from 85 percent of average annual rainfall at a development site is pre-treated prior to its discharge from that site, or a pre-treated volume in compliance with RWQCB policy in effect at the time of design.

Non-structural BMPs may include and are not limited to good housekeeping and other source control measures, such as the following:

- Stencil catch basins and inlets to inform the public they are connected to the Bay;
- Sweep streets on a regular schedule;
- Use and dispose of paints, solvents, pesticides, and other chemicals properly;
- Keep debris bins covered; and
- Clean storm drain catch basins and properly dispose of sediment.

Structural BMPs may include and are not limited to the following:

- Minimize impervious areas directly connected to storm sewers;
- Include drainage system elements in design as appropriate such as:
 - infiltration basins
 - detention/retention basins
 - vegetated swales (biofilters)
 - curb/drop inlet protection.

[OARB MM 4.15-5]

40. Geotechnical Compliance.

Prior to issuance of building permits.

Project elements shall be designed in accordance with criteria established by the UBC, soil investigation and construction requirements established in the Oakland General Plan, and the Bay Conservation and Development Commission Safety of Fill Policy.

The UBC requires structures in the San Francisco Bay Area to be designed to withstand a ground acceleration of 0.4 g. A licensed engineer should monitor construction activities to ensure that the design and construction criteria are followed.

The Health and Safety Element of the Oakland General Plan requires a soils and geologic report be submitted to the Public Works Agency prior to the issuance of any building permit. The Oakland General Plan also requires all structures of three or more stories to be supported on pile foundations that penetrate Bay Mud deposits, and to be anchored in firm, non-compressible materials unless geotechnical findings indicate a more appropriate design. The General Plan also provides for the identification and evaluation of existing structural hazards and abatement of those hazards to acceptable levels of risk. [OARB MM 4.13-1]

41. Geotechnical Evaluation.

Prior to issuance of building permits and during all construction activities.

Project elements shall be designed and constructed in accordance with requirements of a site-specific geotechnical evaluation.

Site-specific geotechnical, soils, and foundation investigation reports shall be prepared by a licensed geotechnical or soil engineer experienced in construction methods on fill materials in an active seismic area. The reports shall provide site-specific construction methods and recommendations regarding grading activities, fill placement, compaction, foundation construction, drainage control (both surface and subsurface), and seismic safety. Designers and contractors shall comply with recommendations in the reports. A licensed geotechnical or soil engineer shall monitor earthwork and construction activities to ensure that recommended site-specific construction methods are followed. [OARB MM 4.13-2]

42. Review of Building and Environmental Records.

Prior to issuance of grading permits and during all construction activities.

The Project Sponsor shall thoroughly review available building and environmental records in order to identify underground utilities and facilities, so that these may be either avoided or incorporated into design as relevant. [OARB MM 4.13-4]

43. Subsurface Investigation.

Prior to issuance of grading permits and during all construction activities.

The Project Sponsor shall perform due diligence, including without limitation, retaining the services of subsurface utility locators and other technical experts prior to any ground-disturbing activities. The Project Sponsor shall utilize Underground Service Alert or other subsurface utility locators to identify and avoid underground utilities and facilities during construction. The Project Sponsor shall keep a record of its contacts regarding underground features, and shall make these records available to the City upon request. This condition shall be enforced through contract specification. [OARB MM 4.13-5]

HAZARDOUS MATERIALS & CONTAMINATION

44. State, Federal, or County Authority Environment Approval.

Prior to issuance of any demolition, grading or building permit.

The Project Sponsor shall provide to the Planning and Zoning Division written verification that the State, Federal or County authorities with jurisdiction over the project have granted all required clearances and confirmed compliance with all applicable conditions imposed by said authorities, for any and all previous contamination at the site.

45. Pre-Construction Hazardous Materials Surveys and Management of Hazardous Materials.

Prior to issuance of the first demolition permit and ongoing during demolition.

The Project Sponsor shall retain a qualified environmental specialist (e.g., a certified consultant or lead inspector/assessor or similarly qualified individual) to inspect existing buildings subject to demolition or renovation for the presence of asbestos, PCBs, mercury, lead, or other hazardous materials. If after inspection and analytical testing, hazardous building materials are found at levels that require special handling (e.g., special packaging prior to transport, separation from

other non-hazardous solid waste, keeping material damp with water, etc.), the Project Sponsor and its contractors shall manage these materials as required by law and according to federal and state regulations and guidelines, including those of DTSC, RWQCB, BAAQMD, Cal/OSHA, and any other agency with jurisdiction over these hazardous materials. The Project Sponsor shall obtain permits for demolition and show proof that the building materials have been tested and/or removed by a certified environmental professional. *[This condition will be attached to the subdivision maps for Parcels 1 and 2 of VTPM 8552, Parcels 1, 2, and 3 of VTPM 8553, and Parcels 2 and 3 of VTPM 8554 only.]* [WS MM HM-1.1]

46. Hazardous Materials Assessment and Reporting Program.

Prior to issuance of any demolition, grading or building permit.

The Project Sponsor shall provide evidence from the City's Fire Department, Office of Emergency Services, indicating compliance with the City of Oakland Hazardous Material Assessment and Reporting Program, pursuant to City Ordinance No. 12323, including the removal or abatement of asbestos and lead.

47. Site Health and Safety Plan.

Prior to issuance of the first grading or building permit and during all construction activities affecting soil and groundwater if petroleum hydrocarbons or VOCs are present.

The Project Sponsor and its contractors shall comply with the *Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities* (National Institute for Occupational Safety and Health (NIOSH), Occupational Safety and Health Administration (OSHA), U.S. Coast Guard (USCG), and Environmental Protection Agency (EPA), October, 1985) regulatory requirements for hazardous materials/waste health and safety plans. The site health and safety plan shall establish policies and procedures to protect workers and the public from potential hazards posed by residual contamination in the development area. The plan shall identify contaminants, potential hazards, material handling procedures, dust suppression measures, personal protection clothing and devices, access controls to the site, health and safety training requirements, monitoring equipment used during construction to verify health and safety of workers and the public, measures to protect public health and safety, and emergency response procedures. If petroleum hydrocarbons or VOCs are present in the soil and/or groundwater proposed for the use of backfill or disposal, the handling and disposal of the contaminated soil and groundwater shall be in accordance with applicable local and federal hazardous materials regulations. [WS MM HM-2.1]

48. Soil Management Plan and Compliance with Soil Remediation Standards.

Prior to issuance of the first building permit.

The Project Sponsor shall submit all applicable documentation and plans required by the Cal-EPA/RWQCB, the Alameda County Public Health Department, and the City's Fire Department, Office of Emergency Services, regarding remediation of the contaminated soil and groundwater identified on the site. These documents and plans shall be submitted to the Planning and Zoning Division, and shall demonstrate to the satisfaction of each agency with jurisdiction that all applicable standards and regulations have been met for the construction and site work to be undertaken pursuant to the permit.

In conformance with the Cal-EPA/RWQCB approved soil remediation standards, the Project Sponsor and its contractors shall be responsible for ensuring that any soils within ten feet of the surface (but not below the groundwater table) containing concentrations exceeding TTLCs and soils above such remediation standards shall be removed or treated on site prior to development. [The soil remediation standards are included in a May 18, 2004, letter from Geomatrix to the RWQCB. Successful completion of remediation activities cannot be confirmed until closure reports have been submitted to and approved by RWQCB and they agree that the development areas have been satisfactorily remediated.] [WS MM HM-2.2]

49. ACM Annual Assessment.

Prior to issuance of any demolition, grading or building permit and during all construction activities.

The condition of identified asbestos containing materials (ACM) shall be assessed annually, and prior to reuse of any building known to contain ACM. [OARB MM 4.7-12]

HISTORIC, CULTURAL & ARCHAEOLOGICAL RESOURCES

50. Archaeological Monitoring.

During all construction activities.

The Project Sponsor shall retain a qualified archaeologist, who is a member of the Register of Professional Archaeologists, upon the discovery of prehistoric remains or buried historic or cultural features. The archaeologist shall prepare a preliminary evaluation to assess the archaeological sensitivity of the specific site(s) under consideration and shall recommend actions to protect archaeological resources. If the archaeologist's evaluation indicates a more detailed site assessment is warranted, a testing program shall be initiated under the supervision of the qualified archaeologist. If, after testing, the archaeologist determines that the discovery is not significant as defined in CEQA, no further investigations or precautions are necessary to safeguard the find. The archaeologist shall prepare a final report to be sent to the responsible agency, the Oakland Landmarks Advisory Board, and the California Historical Resources Information System Northwest Information Center. If, however, after testing, the archaeologist determines that the discovery is significant as defined in CEQA, ground-disturbing activities in the immediate vicinity of the discovery shall remain suspended until an appropriate mitigation plan can be agreed upon by the archaeologist and the City and implemented by the Project Sponsor. [WS MM CR-1.1]

The contractor shall instruct the construction personnel on the project as to the potential for discovery of prehistoric remains or buried historic or cultural features. The contractor shall ensure that all construction personnel understand the need for proper and timely reporting of such finds, and the consequences of any failure to report them. Any recommendations of the qualified archeologist shall be implemented prior to resumption of work in the affected area.

51. Cultural Resources Management/Mitigation Plan.

During all construction activities.

If further investigations or precautions are necessary or appropriate, the City of Oakland and the archaeologist shall jointly determine the additional procedures necessary to protect the resource and/or mitigate any significant impacts. Additional measures to be implemented by the Project

Sponsor might include a redesign of the Project, data recovery excavations, or a program to monitor all site excavation, during which the archaeologist shall record observations in a permanent log. The archaeologist shall prepare a final report to be sent to the responsible agency, the Oakland Landmarks Advisory Board, and the California Historical Resources Information System Northwest Information Center. [WS MM CR-1.2]

52. Discovery of Human Remains.

During all construction activities, immediately upon determination by qualified archaeologist of human remains discovery.

Should any human remains be encountered, work in the vicinity shall halt and the County Coroner notified immediately. If the remains are determined to be Native American, the coroner shall contact the California Native American Heritage Commission (NAHC) pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code. The NAHC in Sacramento would identify a Most Likely Descendant (MLD) pursuant to subdivision (a) of Section 5097.98 of the Public Resources Code. The City of Oakland and the archaeologist shall consult with the MLD. The MLD may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American remains and may recommend to the owner or the person responsible for the excavation work means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The descendants shall complete their inspection and make their recommendations within 24 hours of their notification by the NAHC. The recommendation may include scientific removal and nondestructive analysis of human remains and items associated with Native American burials. Work may not commence until the coroner's approval has been received. [WS MM CR-1.3]

52A. Preservation of the Historic 16th Street Train Station.

Prior to demolition or renovation

The Project Sponsor shall preserve the historic 16th Street Train Station including the Main Hall, Baggage Wing, and as much of the Elevated Platform as possible behind the Main Hall, as included in Development Area 5 of the Wood Street Zoning District, Parcel 2 of VTPM 8554, and as specified in Conditions 56A, 56B and 57A. ***[This condition will be attached to the subdivision map for VTPM 8554 only.]***

53. HABS Recordation of the 16th Street Train Station.

Within 12 months of effective date of Wood Street Zoning District.

The Project Sponsor of Parcel 2 of VTPM 8553, and Parcels 2, 3 and 4 of VTPM 8554 shall, within 12 months of the effective date of the Wood Street Zoning District, record the 16th Street Train Station in accordance with the procedures of the Historical American Building Survey (HABS). In accordance with the HABS recordation process, the Project Sponsor shall consult with the National Park Service (NPS) to determine the appropriate level of documentation, and all documentation shall be subject to review and approval by NPS with approval determined by compliance with HABS procedures. ***[This condition will be attached to the subdivision maps for Parcel 2 of VTPM 8553, and Parcels 2, 3 and 4 of VTPM 8554 only.]*** [WS MM CR-2.1]

54. Salvage of Original Building Materials from Structures Proposed for Demolition.

Within 12 months of effective date of the adoption of the condition of approval.

The Project Sponsor shall, within twelve months of the effective date of the Wood Street Zoning District, submit a study to the City of Oakland detailing what parts of the portions of the 16th Street Train Station to be demolished can be feasibly salvaged. The study shall include an assessment of the feasibility of salvaging terra-cotta cladding, windows, doors and hardware. The study must be approved by the City’s Planning Director, who shall find the study acceptable if it demonstrates which parts can be feasibly salvaged. Following City approval of the study, the Project Sponsor shall salvage parts as indicated in the approved study and shall make the salvaged materials available for reuse in rehabilitating the portions of the 16th Street Train Station that are to be rehabilitated. ***[This condition will be attached to the subdivision maps for Parcel 2 of VTPM 8553, and Parcels 2, 3 and 4 of VTPM 8554 only.]*** [WS MM CR-2.2]

55. Stabilization of Main Hall and Signal Tower.

Within three months of the effective date of the adoption of the condition of approval.

The Project Sponsor of Parcels 2 and 3 of VTPM 8554 shall, within three months of the effective date of the Wood Street Zoning District, take measures designed to preclude further deterioration of the Main Hall and the Signal Tower (both as defined in the notes and definitions on page 1) from rain and to exclude trespassers. Within 45 days of the effective date of the adoption of this condition of approval, the Project Sponsor shall submit to the Planning Director a description of the proposed measures. The Planning Director shall review, and may approve, disapprove, or modify the measures intended to eliminate deterioration or vandalism. These measures shall remain in place until the decision regarding reuse of the Main Hall is made. The facilities preserved and protected by this measure include the canopy at the Wood Street entrance to the Main Hall. ***[This condition will be attached to the subdivision maps for Parcels 2 and 3 of VTPM 8554 only.]*** [WS MM CR-2.3]

56. Interim Stabilization of Baggage Wing.

Within three months of the effective date of the adoption of the condition of approval.

The Project Sponsor of Parcel 2 of VTPM 8554 shall, within three months of the effective date of the Wood Street Zoning District, take measures designed to preclude further deterioration of the Baggage Wing from rain and to exclude trespassers, pending a decision from the Redevelopment Agency on whether to fund retention of the Baggage Wing. Within 45 days of the effective date of the adoption of the condition of approval, the Project Sponsor shall submit to the Planning Director a description of the proposed measures. The Planning Director shall review, and may approve, disapprove, or modify the measures intended to eliminate deterioration or vandalism. These measures shall remain in place until a decision from the Redevelopment Agency on whether to fund retention of the Baggage Wing is made. ***[This condition will be attached to the subdivision map for Parcel 2 of VTPM 8554 only.]***

56A. Possible Agency Funding for Preservation and Restoration of Baggage Wing.

Prior to demolition or renovation of the Baggage Wing.

(a) To assist the Redevelopment Agency in its efforts to preserve and restore the Train Station, the Project Sponsor of Parcel 3 of VTPM 8554 (“BUILD”) shall set aside the additional approximate .33 acre of land depicted on VTPM 8554 upon which the Baggage Wing is located (the “Baggage Wing Parcel”) for a period of no less than eight months following the effective

date of the Wood Street Zoning District, and shall include such parcel in the final map of Parcel 2 of VTPM 8554. During this period (1) BUILD and the Train Station Entity, defined in the General Notes and Definitions and described in Condition 59, shall negotiate in good faith to enter into an agreement for the Train Station Entity to purchase the Baggage Wing Parcel from BUILD within said eight-month period for the Purchase Price (defined below), (the “Baggage Wing Purchase Agreement”) and (2) upon the receipt and acceptance by the Redevelopment Agency Board of a Business Plan, Financing Plan and Management Plan from the Train Station Entity, the Redevelopment Agency shall determine whether to make available the financial assistance necessary for the Train Station Entity to acquire the Baggage Wing Parcel and preserve the Baggage Wing, and the Train Station Entity and the Redevelopment Agency shall then negotiate in good faith to enter into an agreement for such financial assistance (the “Baggage Wing Funding Agreement”). The Baggage Wing Funding Agreement shall (3) provide for Agency funding for the acquisition and preservation of the Baggage Wing and the Baggage Wing Parcel from available tax increment funds as such funds are received, under customary redevelopment agency terms and conditions; and (4) provide that the Train Station Entity shall seek funding from non-Agency and non-City sources (including state and federal programs, historic preservation tax credits, and private lenders) as appropriate for the acquisition, preservation, and restoration of the Baggage Wing and the Baggage Wing Parcel. For purposes of this condition, the term “available tax increment funds” shall mean the net tax increment revenues generated by the property in the Wood Street Project that are actually received by the Agency, excluding any pass-through payments to other entities, payments to the Low and Moderate Income Housing Fund, the Educational Revenue Augmentation Fund, or other set aside funds, or funds otherwise diverted from the Agency.

(b) In the event the Baggage Wing Purchase Agreement and the Baggage Wing Funding Agreement are executed within the eight month period, then:

- (1) BUILD will include the Baggage Wing in the materials, plans and information to be prepared in accordance with Conditions of Approval 58 and 59, BUILD will not make any alteration to the Baggage Wing that is not consistent with the preservation, rehabilitation, or reuse recommendations contained in the *OARB Area Redevelopment Plan* (as amended); the *City of Oakland General Plan* (as amended); the Wood Street Zoning District; and Secretary of the Interior’s Standards for the Treatment of Historic Buildings, and alterations shall be further restricted in accordance with any additional design standards, guidelines, or recommendations when the development plan, adopted pursuant to Mitigation Measure CR-2.5, becomes effective;
- (2) in accordance with Condition 59, BUILD will transfer title to the Baggage Wing Parcel to the Train Station Entity upon approval by the City Council, which approval shall be based upon the Council’s satisfaction of the progress in implementing Conditions 58, 59 and 60; and
- (3) the City will cooperate to develop and approve preliminary and final development plans for the remaining areas of Parcel 3 of VTPM 8554 such that the Project Sponsor will be able to build the residential units approved for development on

such parcel, which cooperation may include, subject to appropriate environmental review, future approval of residential use of certain areas of the future adjacent right of way located in 18th street, provided that an equivalent area of public space is provided elsewhere within the Baggage Wing Parcel or the remaining areas of Parcel 3.

(c) For purposes of the above, the “Purchase Price” for the Baggage Wing Parcel shall be the lesser of (1) Fair Market Value, or (2) the Acquisition/Holding/Entitlement Costs. “Fair Market Value” shall mean the purchase price that an unrelated party negotiating at arm’s length would pay to purchase such property, taking into account all then current market factors, including without limitation the quality, design, condition and location of the property including the extent and condition of the construction completed to date, if any, the amount of any and all liens, mortgages, and encumbrances against the property, required environmental remediation, and the value of the existing improvements to such party, and assuming the property was included with Parcel 3 of VTPM 8554. “Acquisition/Holding/Entitlement Costs” shall mean (1) the actual price initially paid for the Baggage Wing Parcel by BUILD, calculated on the basis of the overall purchase price paid by BUILD for developable acres within the Wood Street Zoning District and prorated on a square footage basis to the Baggage Wing Parcel, plus (2) actual costs incurred by BUILD in holding, maintaining and entitling the Baggage Wing Parcel (calculated on a developable square footage basis prorated to the Baggage Wing Parcel), including taxes, carrying costs (which shall be defined as the investment return BUILD’s investor, CalPERS, has received on investments in similar projects in the CalPERS CURE program (California Urban Real Estate) since its inception in 1997, but not to exceed 10%), insurance, maintenance, and other out-of-pocket payments by BUILD to third parties for holding, maintaining and entitling the property, but not including BUILD’s administrative or staff costs. The Acquisition/Holding/Entitlement Costs shall be determined by an independent cost certification obtained by BUILD.

(d) BUILD shall submit its determination of Acquisition/Holding/Entitlement Costs, along with the independent cost certification, and its determination of Fair Market Value to the Redevelopment Agency within three months of the City Council’s approval of the District. If the Agency disputes BUILD’s determination either of Fair Market Value or Acquisition/Holding/Entitlement Costs, or both, as contained in BUILD’s notice, the Agency shall notify BUILD in writing within 30 calendar days of its receipt of BUILD’s determination, which notice shall set forth the Agency’s determination of the Fair Market Value and/or Acquisition/Holding/Entitlement Costs. The Agency and BUILD shall thereupon attempt to resolve their differences within 10 days following BUILD’s receipt of the Agency’s notice. If the Agency and BUILD cannot agree on Fair Market Value during such 10-day period, the Agency and BUILD shall each appoint an appraiser who shall be an M.A.I. and a California licensed appraiser experienced in appraising commercial and residential real estate in Alameda County, and give notice of such appointment to the other within 10 calendar days after the foregoing 10-day period. Such appraisers shall, within 30 calendar days after the appointment of the last of them to be appointed, complete their written determinations of Fair Market Value and furnish the same to the Agency and BUILD. Each party shall pay the fees and costs of the appraiser appointed by it. If the valuations vary by ten percent (10%) or less of the higher value, the Fair Market Value shall be the average of the two valuations. If the valuations vary by more than ten

percent (10%) of the higher value, the two appraisers shall, within ten (10) calendar days after submission of the last appraisal report, appoint a third disinterested appraiser who shall be an M.A.I. and a California licensed appraiser with the experience described above. If the two appraisers are unable to agree in a timely manner on the selection of the third appraiser, then either appraiser, on behalf of both, may request appointment of such third disinterested M.A.I. appraiser by the presiding judge of the Superior Court of Alameda County. Such third appraiser shall, within 15 calendar days after appointment, make a determination of Fair Market Value by selecting one of the prior appraisals. The third appraiser shall have no right to select a Fair Market Value other than as determined by one of the prior appraisals. If the Agency and BUILD cannot agree on Acquisition/Holding/Entitlement Costs during such 10-day period, the Agency and BUILD shall submit the issue to binding arbitration.

(e) If, after good faith negotiations, BUILD and the Train Station Entity have not entered into the Baggage Wing Purchase Agreement within the eight-month period, or the Agency and the Train Station Entity have not entered into the Baggage Wing Funding Agreement within the eight-month period, then the Agency or the Agency's designee shall have the option of purchasing the Baggage Wing Parcel for the Purchase Price. The Agency or its designee shall give written notice of its exercise of said option to BUILD (or the then-current owner of the Baggage Wing Parcel) within 60 calendar days of the end of the eight-month period.

(f) Should the Agency exercise the above option, BUILD shall deliver title to the Baggage Wing Parcel to the Agency free and clear of any junior liens, leases, mortgages, or encumbrances, except those liens, mortgages, or encumbrances that have been specifically approved by the Agency in writing. Escrow for the sale of the Baggage Wing Parcel shall close and BUILD shall execute and deliver to the Agency or its designee a grant deed or deeds to the Baggage Wing concurrent with the transfer of the Main Hall, in accordance with Condition 59, at which time the Purchase Price shall be paid by the Agency or its designee to BUILD. The Purchase Price shall be paid in the form of a promissory note executed by the Agency to BUILD in which the Agency pledges to pay the Purchase Price from available tax increment funds as such funds are received, along with interest at a rate equal to the prevailing Local Agency Investment Fund rate. The Agency shall be allowed to prepay the note without penalty. Prior to the close of escrow, BUILD shall take all necessary steps to ensure that a title company will be able to issue to the Agency or its designee, upon close of escrow, a standard CLTA owner's policy of title insurance, in an amount equal to the Purchase Price, showing title to the Baggage Wing Parcel vested in the Agency or its designee, with only the following exceptions:

- (1) Liens for property taxes not yet due and payable;
- (2) Any other lien or encumbrance approved in writing by the Agency in its sole discretion.

(g) Prior to the time for the Agency to provide notice of its election to exercise the option, the Agency or its designee and its agents may, upon reasonable notice to BUILD, enter the Baggage Wing Parcel for purposes of inspection, survey, tests, or other actions reasonably

related to acquisition of the property by the Agency or its designee. The Agency or its designee shall indemnify and defend BUILD for any liability, claims or damages arising from such entry.

(h) The Agency may assign the option to purchase the Baggage Wing Parcel to any other entity in its sole discretion.

(i) If BUILD and the Train Station Entity have not entered into the Baggage Wing Purchase Agreement, or if BUILD and the Agency have not entered into the Baggage Wing Funding Agreement, within the eight month period and any of them assert that one or the other of them has not negotiated the agreement in good faith, BUILD, the Agency or the Train Station Entity shall submit the issue to binding arbitration.

(j) If BUILD and the Agency have not entered into the Baggage Wing Funding Agreement within the eight month period because the Agency has declined to provide the funding from available tax increment funds necessary for the Train Station Entity to purchase and preserve the Baggage Wing Parcel as set forth above, and if the Agency or its designee has declined to exercise its option to purchase the Baggage Wing Parcel as set forth above, then BUILD shall have no further obligations under this condition. ***[This condition will be attached to the subdivision map for Parcel 2 of VTPM 8554 only.]***

56B. Feasibility Determination If Funding Not Provided For Baggage Wing.
Prior to demolition or renovation of Baggage Wing.

In the event that the Baggage Wing Purchase Agreement and the Baggage Wing Funding Agreement described in Condition 56A are not executed within the eight month period, the Project Sponsor shall submit for City Council review application to demolish the Baggage Wing or its application to alter the Baggage Wing. Any alteration of the Baggage Wing shall be consistent with the preservation, rehabilitation, and reuse recommendations contained in the OARB Area Redevelopment Plan (as amended by action concurrent with approval of the Wood Street Zoning District), the City of Oakland General Plan (as amended by action concurrent with approval of the Wood Street Zoning District), the Wood Street Zoning District, and Secretary of the Interior's Standards for the Treatment of Historic Buildings. Upon review of detailed pro forma information (amount invested, return on equity, financing options) and any other information requested by the City Council, including CEQA compliance determination, financing requirements and other pertinent information, the City Council shall approve, deny, or conditionally approve the application.

57. Restriction on Alteration of the Main Hall and the Signal Tower.
Prior to demolition or renovation of any structures.

The Project Sponsor of Parcels 2 and 3 of VTPM 8554 shall not make any alteration to the Main Hall that is not consistent with the preservation, rehabilitation, or reuse recommendations contained in the *OARB Area Redevelopment Plan* (as amended); the *City of Oakland General Plan* (as amended); the Wood Street Zoning District; and Secretary of the Interior's Standards for the Treatment of Historic Buildings. Alterations shall be further restricted in accordance with any additional design standards, guidelines, or recommendations when the development plan, adopted pursuant to Mitigation Measure CR-2.5, becomes effective. ***[This condition will be attached to the subdivision maps for Parcels 2 and 3 of VTPM 8554 only.]*** [WS MM CR-2.4]

57A. Restriction on Alteration of the Elevated Platform Feasibility Study Area.

Prior to demolition of the elevated track platform adjacent to the Main Hall.

The Project Sponsor shall not make any alteration to the Elevated Platform Feasibility Study Area until the Project Sponsor has further pursued, with due diligence, the feasibility of retaining and preserving more width of the Elevated Platform Feasibility Study Area, than is shown in FEIR Figure CR-4 and, in any event, no alteration shall be made prior to the approval of a preliminary development plan for Parcel 3 of VTPM 8554. The Project Sponsor shall include in its preliminary development plan application for Parcel 3 of VTPM 8554 additional evidence of the feasibility or infeasibility of retaining a greater width of the Elevated Platform Feasibility Study Area. The determination of the width to be retained and preserved shall be made by the City in connection with its consideration and approval of such preliminary development plan. The preliminary development plan shall include retention and preservation of as much width of the Elevated Platform Feasibility Study Area as the City determines is feasible. The precise location of the parcel line between Parcel 2 and Parcel 3 on the final map for Parcel 3 shall accommodate such determination. *[This condition will be attached to the subdivision map for Parcel 3 of VTPM 8554 only.]*

58. Application for Redevelopment Agency Funding Approval for Train Station Preservation, Rehabilitation, and Stabilization.

Within 12 months of the effective date of the adoption of this condition of approval.

Consistent with the *OARB Area Redevelopment Plan* goals as set out in Section 100 of that Plan, the Project Sponsor of Parcel 2 of VTPM 8554 or the Train Station Entity shall submit an application to the Redevelopment Agency of the City of Oakland (the “Agency”) requesting that the Agency make available tax increment funds provided for in Section 502 of the *OARB Area Redevelopment Plan* for the preservation, rehabilitation, and stabilization of the Main Hall. In connection with such application, the property owner shall submit the following materials and information to the Agency:

- a. a finance plan demonstrating the prudent use of tax increment funds in restoring, preserving, and reusing the Main Hall, including a commitment by the property owner to maximize the leverage of the tax increment funds by seeking additional public funding, tax credits, private financing, and/or private philanthropic grants;
- b. a management plan demonstrating exemplary and continued stewardship of the Main Hall, with recognition of its cultural and historical importance to the City of Oakland and which is accountable to the goals and policies of the *OARB Area Redevelopment Plan* and the *City of Oakland General Plan*;
- c. a community participation plan providing for input by Oakland community members in decisions concerning the Main Hall’s preservation and reuse;
- d. a development plan demonstrating that the proposed renovation and reuse of the Main Hall is consistent with the design standards, policies, and goals of the *OARB Area Redevelopment Plan* (as amended); the *City of Oakland General Plan* (as amended); and the

Wood Street Zoning District; as well as with any other design criteria that the Agency determines is appropriate to meet said goals and policies; and

e. a business plan that establishes a framework for the funding of rehabilitation efforts and identifies the grant source(s), the funding mechanisms and the budget for the work, as provided in Condition 59.

Not in limitation of the Project Sponsor's obligations in Conditions No. 95, 96 and 97, any Agency decision to fund all or any portion of the 16th Street Train Station, including either the Main Hall, Baggage Wing and/or Signal Tower shall be conditioned upon Project Sponsor's indemnification of the Agency and the City for any claims related to the construction, operation or maintenance of any and all projects using Agency funds.

[This condition will be attached to the subdivision map for Parcel 2 of VTPM 8554 only.]
[WS MM CR-2.5]

59. Rehabilitation and Reuse of Main Hall, Platform and Signal Tower.

Within six months of the effective date of the adoption of this condition of approval for establishment of a Train Station Entity to oversee the rehabilitation and reuse of the historic 16th Street Train Station; within twelve months of the effective date of the adoption of this condition of approval to prepare a business plan for the retention of historic resources and the reuse of the 16th Street Train Station.

Within six months of adoption of this condition of approval, the Project Sponsor will establish a Train Station Entity to oversee the rehabilitation and reuse of the historic 16th Street Train Station (as defined in the General Notes and Definitions), which will assure public access and include elements commemorating its historical significance, and within twelve months of the effective date of this condition of approval the Project Sponsor shall obtain City Council approval of such Train Station Entity. Within twelve months of adoption of this condition of approval, the Project Sponsor and/or the new Train Station Entity for the historic 16th Street Train Station shall prepare a business plan for the retention of historic resources and the reuse of the 16th Street Train Station. The business plan will establish a framework for the funding of rehabilitation efforts and identify the grant source(s) and the funding mechanisms for the work. The business plan will also establish the information needed for requesting tax increment financing and the timing and sequencing of such funding in relation to the phasing of the historic restoration efforts. Within two years of approval of the Wood Street Zoning District, the Project Sponsor will complete a schematic set of plans and specifications for the restoration of the 16th Street Train Station. The plans shall include an analysis of the feasibility of restoration and reuse of the structure and establish a budget for the project to demonstrate the viability of proposals related to possible use of historic resources and identify important details about how modifications to historic resources will be integrated into the final project. Upon receipt of Agency tax increment funds and other public and/or private funds in accordance with Condition of Approval #58, the Project Sponsor of Parcel 2 of VTPM 8554 will, within one year, diligently commence and pursue the completion, within seven years, in accordance with the plans and specifications for the restoration of the 16th Street Train Station, and rehabilitation of the facilities depicted for retention in Figure 2-4 of the Draft EIR of the proposed project, in

accordance with the Secretary of the Interior's Standards for the Treatment of Historic Buildings, and in conformance with the following General Standards.

(1) Any renovation, modification or addition to the 16th Street Train Station shall conform with the standards set forth in the Planning Code "Special regulations of designated landmarks."

(2) Any reuse of the 16th Street Train Station shall include stabilization and repair of exterior materials to improve the exterior appearance and to ensure a watertight building envelope. This rehabilitation shall include using salvaged materials to the extent feasible, and seismically strengthening and rehabilitating the exterior of the Main Hall, including the portions of the platform that are to be preserved. No additions to the structures would be permitted except as specified in the following standards:

(a) No addition to the existing 16th Street Train Station shall exceed a total building footprint greater than 20 percent of the existing structure to be retained.

(b) No addition to the existing 16th Street Train Station shall exceed the height of the north or south wings that flank the Main Hall (approximately 25 feet in height).

(c) No addition shall be made to either the primary façade facing the 16th Street Plaza or the southern façade, facing the 16th Street right of way or pocket park.

(d) No additions are permitted to the Signal Tower. Plaques shall be installed on the exterior façade of the station and the Signal Tower that identify their historic uses and include additional historical information. A display shall be created on the interior of the station using historic photos and documents to give a more complete history of the station and the Signal Tower.

The Project Sponsor of VTPM 8554 shall not transfer title of the retained portion of the 16th Street Train Station to the Train Station Entity unless and until the transfer is approved by the City Council, which shall be based upon Council's satisfaction of the progress in implementing Conditions 58, 59 and 60. Not in limitation of the Project Sponsor's obligations in Conditions No. 95, 96 and 97, in the agreement between the Project Sponsor and Agency to fund all or any portion of the 16th Street Train Station (as defined in the General Notes and Definitions), the Project Sponsor shall indemnify, in a form acceptable to the City Attorney, the Agency and the City for any claims related to the construction, operation or maintenance of any and all projects constructed by or at the direction of a Project Sponsor, using Agency funds.

Not in limitation of the Project Sponsor's obligations in Conditions No. 95, 96 and 97, any Agency decision to fund all or any portion of the 16th Street Train Station, including either the Main Hall, Baggage Wing and/or Signal Tower shall be conditioned upon Project Sponsor's or the Train Station Entity's indemnification of the Agency and the City for any claims related to the construction, operation or maintenance of any and all projects using Agency funds. ***[This condition will be attached to the subdivision maps for Parcels 2 and 3 of VTPM 8554 only.]***
[WS MM CR-2.6]

60. Reuse of the Main Hall

Prior to issuance of the first certificate of occupancy; upon approval of funding by the Redevelopment Agency as specified in WS MM CR-2.5.

Following the satisfaction of the prior Condition No. 59, the Project Sponsor of Parcel 2 of VTPM 8554 in the reuse of the Main Hall shall incorporate exhibit space commemorating the site's cultural history and its function as the end of the trans-continental railroad and the gateway arrival point in the West. The exhibit space could also serve as a venue for private and public events, facilitating greater exposure of persons to the historical significance of the station. Oral histories shall be recorded and made available to the extent feasible. The building would not be subjected to extensive night lighting. Reuse shall proceed according to the finance, management, community participation, and development plans submitted pursuant to Condition No. 58, as approved by the Redevelopment Agency, as well as any other design criteria that the City Planning Director determines is appropriate to meet the City's goals and policies. *[This condition will be attached to the subdivision map for Parcel 2 of VTPM 8554 only.]* [WS MM CR-2.7]

61. Enhancement of the Train Station Setting

Prior to issuance of certificate of building occupancy of the restored Main Hall or issuance of a certificate of occupancy for the 600th residential dwelling with the Project Area, whichever occurs first.

The Project Sponsor of Parcel 1 of VTPM 8554 shall construct and landscape the plaza area to provide an enhanced visual setting for the Main Hall, to provide a visual focus and view corridor, to increase public accessibility to the 16th Street Train Station, and to create a feature that recalls the historic use of the station. All these improvements shall be completed with private financing by the Project Sponsor; no public funds would be requested with respect to the Plaza. *[This condition will be attached to the subdivision map for Parcel 1 of VTPM 8554 only.]* [WS MM CR-2.8]

LANDSCAPING & TREE PERMIT

62. Installation of Landscaping and Bonding.

Prior to issuance of certificate of occupancy, unless bonded.

The Project Sponsor shall install all proposed landscaping indicated on the approved landscape plan prior to the issuance of a certificate of occupancy, unless bonded pursuant to the provisions of Section 17.124.50 of the Oakland Planning Code. The amount of such bond or cash deposit shall equal the greater of \$2,500 or the estimated cost of the required landscaping, based on a licensed contractor's bid.

63. Tree Removal Permit.

Prior to the removal of subject trees.

The Project Sponsor shall obtain a Tree Removal Permit prior to removing trees subject to Chapter 12.36 of the Oakland Municipal Code. [OARB MM 4.12-7]

64. Securing Future Residents' Acknowledgment of Potential Future Land Uses.

Prior to lease or sale of any unit and ongoing.

The Project Sponsor shall ensure that future residents sign a notice acknowledging that they are aware of and accept the possible noise levels related to Frontage Road located near the project site.

65. Reduced Water Usage.

Prior to issuance of the building permits for the mechanical system.

The Project Sponsor shall confer with East Bay Municipal Utility District (EBMUD) to examine incorporating water saving techniques such as dual piping for recycled water into the final design of the mixed-use project.

66. Internal Landscaping.

Prior to issuance of the certificate of occupancy.

The Project Sponsor shall ensure that internal landscaping conforms with City design standards as contained in the City Planning Code.

NOISE (OPERATIONAL) & OTHER NUISANCES

67. Operational Noise.

Ongoing.

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 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 Planning and Zoning Division and Building Services.

68. Compliance with Title 24.

Prior to issuance of certificate of occupancy.

The Project Sponsor shall implement acoustical techniques in compliance with Title 24 to ensure that noise levels in interior habitable spaces remain at or below 45 CNEL with all doors and windows closed.

68.A. Buffer Area Adjacent to California Waste Solutions Facility.

Ongoing.

The Project Sponsor of Parcel 1 of Vesting Tentative Parcel Map No. 8551 shall not develop residential units within said parcel, and the Project Sponsor of Parcel 1 of Vesting Tentative Parcel Map No. 8552 shall not convert the structure (known as the “Ice House”) currently located on that parcel into residential units or otherwise develop residential units so long as California Waste Solutions is actively operating its plant in substantially the same manner as at the time of approval of this condition, including using the same recycling technologies and hours of operation and generating substantially the same truck traffic, odor, and noise, on the parcel identified as APN 006-0029-003-02 (located between 10th and 11th Streets, north of Pine Street). Notwithstanding the foregoing, residential units may be developed sooner if buffering measures are incorporated into the design of the residential development (such as increasing the distance between the CWS operations and future residential units, adding more landscaping, modifying building orientation or access, and applying Title 24 noise abatement measures), which the Planning Director determines, after notice and a hearing, sufficiently reduce land use conflicts

between the current CWS operations and future residential units. *[This condition will only apply to Parcel 1 of VTPM 8551 and Parcel 1 of VTPM 8552.]*

PARKING AND DRIVEWAYS

69. Closure of Parking Lot After Hours.

Ongoing.

The project is approved with more than ten on-site parking spaces, and the project site is located within the area designated; therefore, all openings to the parking lot used for the ingress or egress of motor vehicles shall be secured by an approved barrier chain and locking device within one (1) hour after the close of business and shall remain secured until one (1) hour prior to the opening of business, pursuant to the standards included in City Ordinance No. 12390, with access only granted to tenants and police.

70. Off-site Parking Agreement.

Prior to approval of any final development plan for which off-site parking is requested..

In the event that the project sponsor of any proposed development subject to these conditions shall request to satisfy required parking obligations off-site, and pursuant to Chapter 17.116 of the Oakland Planning Code, the Project Sponsor and the property owner(s) of off-site property located within 300 feet of the project boundary shall prepare, using forms provided by the Planning and Zoning Division, execute to the satisfaction of the City Attorney, and file with the Alameda County Recorder, a “Joint Parking Agreement” specifying that the required number of donor parking spaces shall be provided at the off-site property location to satisfy on-site parking requirements for the required number of parking stalls approved by the applicable permit. Said donor parking spaces shall be designated for said activity for the duration of operation of the activity approved by the permit.

71. Parking and Circulation Plan.

Prior to issuance of building permit and prior to final inspection.

The Project Sponsor shall submit a Parking and Traffic Circulation Plan for review and approval by the Planning and Zoning Division. This plan shall include wheel stops for all parking spaces, and pavement marking and striping that delineate the driveways and traffic paths to be used by the general public and deliveries. All wheel stops, pavement markings and striping, as approved by the Planning and Zoning Division shall be installed prior to final inspection.

72. Parking Lot Lighting.

Ongoing.

The exterior lighting fixtures which serve the parking area shall be equipped with daylight sensors or computerized time clocks that will automatically turn the lights on at dusk and off at sunrise, and that shall be adequately shielded to a point below the bulb and reflector, and that shall prevent unnecessary glare onto adjacent properties.

73. Parking Spaces

Ongoing.

The Project Sponsor shall include parking spaces in the Project Area as required by the Wood Street Zoning District.

74. Designated Parking.

Ongoing.

The Project Sponsor shall designate all on-site parking spaces consistent with the Oakland Municipal Code by marking, either with a small sign at the head of the parking stalls or stenciled lettering painted with the parking stalls, that read “resident-only,” or “employee-only” parking as appropriate.

PARKING & TRANSPORTATION MANAGEMENT

75. Transportation Demand Management.

Prior to issuance of the certificate of building occupancy; upon City adoption of a traffic demand management program in West Oakland.

The Project Sponsor shall distribute materials concerning the availability of public transit to initial Project residents, and prior to certificate of occupancy shall pay the fee adopted by the City on residential units to assist the City in implementing traffic demand management programs. [WS MM TR-10.1]

76. Shuttle Service.

Prior to approval of Final Development Plans and specifications; within three months following the issuance of a certificate of occupancy of the 300th residential dwelling with the Project Area; every two years thereafter until the Planning Director determines the shuttle service is no longer necessary.

The Project Sponsor shall provide or cause to be provided a public or private shuttle service between the Project Area and the West Oakland BART Station and incorporate shuttle stops into the final design. The Project Sponsor shall provide full funding for the shuttle service whether it is public or private. In the event the Project Sponsor elects to not use a private shuttle service, the Project Sponsor shall work with AC Transit and BART to design a public shuttle service and incorporate public transit stops into the final development plans in consultation with AC Transit. The shuttle or transit stops shall be located within the Project Area and would be dispersed such that Project residents would be no more than one-quarter mile from a shuttle or transit stop. Shuttle or transit stops at the existing AC transit bus stop on Wood Street by Parcel 3 of VTPM 8553, in front of the 16th Street Plaza (Parcel 1 of VTPM 8554), and on Wood Street at 20th Street by Parcel 1 of VTPM 8555 should be considered. The shuttle service would operate at 15-minute peak-hour headways during commute hours. The shuttle service shall be designed to meet City of Oakland standards, link with pedestrian access, and be reviewed for approval by the City.

The shuttle service shall be implemented within three months following the issuance of a Certificate of Occupancy of the 300th residential dwelling within the Project Area. At that time, the Project Sponsor, or its successor in interest, will fund operation and maintenance of the shuttle. Thereafter, and every two years until such time as the Planning Director determines that

the shuttle service is no longer necessary, the Project Sponsor or its successor shall report to the Planning Director on the amount of shuttle use by Project residents and occupants, and the availability of other means to reduce the use of private vehicles by Project residents and occupants. The Planning Director shall permit discontinuation of the shuttle service upon finding either that (a) the shuttle is not being used sufficiently to result in a substantial reduction in private vehicle use by Project residents and occupants, or (b) another means of reducing the use of private vehicles by Project residents and occupants would be feasible and cost the same or less than the shuttle, would create a greater reduction in private vehicle use than would the shuttle, and would result in a substantial reduction in private vehicle use by Project residents and occupants. If the Planning Director determines item (b), above, is the basis for discontinuing the shuttle service, then the Project Sponsor or its successor or their successors shall implement other means of reducing private automobile use by Project residents and occupants. [WS MM TR-10.2]

PUBLIC IMPROVEMENTS

77. Conformance with Vesting Tentative Parcel Maps.

Ongoing.

All public improvements shall be constructed in substantial conformance with the individual vesting tentative parcel maps submitted by the Project Sponsors and as specified in Condition of Approval Numbers 78 through 82.

78. Public Improvements – Vesting Parcel Map 8551.

Prior to the issuance of certificate of occupancy for development on each parcel.

Project Sponsor of Parcel 1 of VTPM No. 8551 shall construct or cause the construction of improvements to the extension of 10th Street, including the pocket park. Project Sponsor of Parcel 2 shall construct or cause the construction of improvements to the portion of 14th Street accessed from the frontage road. Project Sponsor of Parcel 3 shall construct or cause the construction of improvements to the existing 14th Street right of way, as well as the portion accessed from the frontage road, should its development precede parcel 2 of this map or Parcel 1 of Map 8553. Project Sponsor of Parcel 4 shall construct or cause the construction of improvements to 12th Street, Wood Street from 12th Street to 14th Street, and 14th Street should development on this parcel precede development of Parcel 2 or 3 of this map and Parcel 1 of Map 8553.

Except as otherwise provided in this condition, the street improvements referred to in this condition include complete street width, curb, gutter, sidewalk, and installation of utilities in accordance with the standards of the City of Oakland to the limits shown on VTPM 8551. Sidewalks on the opposite side of Wood Street Zoning District perimeter streets (i.e. outside the District) will get minor repairs only.

79. Public Improvements – Vesting Parcel Map 8552.

Prior to the issuance of certificate of occupancy for development on each parcel.

Project Sponsor of Parcel 1 of VTPM No. 8552 shall construct or cause the construction of improvements to 11th Street when the “Ice House” parcel is redeveloped. Project Sponsor of

Parcel 2 shall construct or cause the construction of improvements to Pine Street between 11th Street and 12th Street.

Except as otherwise provided in this condition, the street improvements referred to in this condition include complete street width, curb, gutter, sidewalk, and installation of utilities in accordance with the standards of the City of Oakland to the limits shown on VTPM 8552. Sidewalks on the opposite side of Wood Street Zoning District perimeter streets (i.e. outside the District) will get minor repairs only.

80. Public Improvements – Vesting Parcel Map 8553.

Prior to the issuance of certificate of occupancy for development on each parcel.

The Project Sponsor of the first development project within VTPM 8553 shall construct all public improvements to 14th Street, 16th Street, and Wood Street between 14th Street and 16th Street, unless development has occurred on an adjacent parcel and the public improvements are already installed.

Except as otherwise provided in this condition, the street improvements referred to in this condition include complete street width, curb, gutter, sidewalk, and installation of utilities in accordance with the standards of the City of Oakland to the limits shown on VTPM 8553. Sidewalks on the opposite side of Wood Street Zoning District perimeter streets (i.e. outside the District) will get minor repairs only.

81. Public Improvements – Vesting Parcel Map 8554.

Prior to the issuance of certificate of occupancy for development on each parcel.

The Project Sponsor of the first to be developed of Parcel 1, 2 or 3 of VTPM No. 8554 shall construct or cause the construction of improvements to 16th Street. The Project Sponsor of Parcel 3 shall construct or cause the construction of improvements to the 16th Street Train Station Public Plaza on Parcel 1. The Project Sponsor of Parcel 3 shall construct or cause the construction of improvements to 18th Street. Improvements to Wood Street, between 16th and 17th Streets, will be constructed prior to the completion of Parcel 1 (plaza). Wood Street between 17th and 18th Streets will be constructed when Parcel 3 is developed.

Except as otherwise provided in this condition, the street improvements referred to in this condition include complete street width, curb, gutter, sidewalk, and installation of utilities in accordance with the standards of the City of Oakland to the limits shown on VTPM 8554. Sidewalks on the opposite side of Wood Street Zoning District perimeter streets (i.e. outside the District) will get minor repairs only.

82. Public Improvements – Vesting Parcel Map 8555.

Prior to the issuance of certificate of occupancy for development on each parcel.

The Project Sponsor of Parcel 1 of VTPM No. 8555 shall construct or cause the construction of improvements to Wood Street, from 18th Street to 20th Street, (unless preceded by Parcel 2 of VTPM 8555), 18th Street (unless preceded by Parcel 3 of Map 8554), and 20th Street if needed for access. The Project Sponsor of Parcel 2 of VTPM No. 8555 shall construct or cause to be constructed public improvements to Wood Street, from 20th Street to West Grand Avenue (unless it precedes the development of Parcel 1 of VTPM 8555, in which case I shall construct Wood

Street from 18th Street to West Grand Avenue), and 20th Street, if not already installed by Project Sponsor of Parcel 1.

Except as otherwise provided in this condition, the street improvements referred to in this condition include complete street width, curb, gutter, sidewalk, and installation of utilities in accordance with the standards of the City of Oakland to the limits shown on VTPM 8555. Sidewalks on the opposite side of Wood Street Zoning District perimeter streets (i.e. outside the District) will get minor repairs only.

SHARED MAINTENANCE

83. Use and Maintenance Easement.

Prior to submittal of Final Map.

The Project Sponsor shall indicate on the Final Map a Use and Maintenance Easement reserved for all parcels to ensure the continued shared maintenance of the entire plaza (Parcel 1 on VTPM No. 8554) and the planned access road across Parcel 3 of VTPM No. 8554 and Parcels 1 and 2 of VTPM No. 8555.

84. Recordation of Agreement.

Prior to submittal of Final Map.

The Project Sponsor shall ensure that a Joint Maintenance Agreement in a form acceptable to the City Attorney is executed and recorded with the Alameda County Recorder concurrent with the recordation of the Parcel Map. Said agreement shall ensure the shared maintenance of the plaza (Parcel 1 on VTPM No. 8554) and the planned access road across Parcel 3 of VTPM No. 8554 and Parcels 1 and 2 of VTPM No. 8555. A copy of this document shall be submitted for review and approval by the Planning and Zoning Division prior to its execution.

SUBDIVISIONS

85. Recordation of Legal Descriptions.

Within sixty (60) days of the effective date of this approval.

The Project Sponsor shall record a written legal description of the new configuration of the parcels at the Alameda County Offices as part of the deed for the site; and shall provide evidence of recordation to the Planning and Zoning Division within 60 days of the effective date of this approval.

WASTE REDUCTION AND RECYCLING

86. Waste Reduction and Recycling Plan.

Prior to issuance of the first certificate of building occupancy.

The Project Sponsor shall submit a “Waste Reduction and Recycling Plan” and a plan that demonstrates a good faith effort to divert at least fifty (50) percent of operations phase solid waste from landfill disposal to the Public Works Agency for review and approval, pursuant to City of Oakland Ordinance No. 12253. This measure shall reflect future increases in the City’s waste diversion goals above the current 50 percent.

The Project Sponsor would be responsible for development and implementation of its plan, and for reporting its progress and success rate to the City. Should the source reduction/diversion plan program not meet its stated goal, the Project Sponsor would modify the plan until the desired level of reduction/diversion is achieved. While each plan would be specific, the following general topics should be addressed:

- Goals,
- Key personnel,
- Quantification of waste,
- Identification of waste materials,
- Program elements,
- Monitoring requirements and performance standards, and
- Reporting.

[OARB MM 4.9-9]

87. Recycling Space Allocation Requirements.

Prior to issuance of a building permit and ongoing.

The design, location and maintenance of recycling collection and storage areas must substantially comply with the provision of the Oakland City Planning Commission “Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas,” Policy 100-28. Pursuant to Section 17.118.020 of the Oakland Planning Code, this condition shall apply to 1) new residential development of five or more units, 2) new commercial and industrial development that requires a building permit and, 3) additions that increase the gross floor area of the aforementioned projects by more than 30 percent. A minimum of two cubic feet of storage and collection area shall be provided for each dwelling unit and for each 1,000 square feet of commercial space.

WATER

88. Irrigation - Recycled Water.

Prior to issuance of any building permits and ongoing.

Individual actions with landscaping requirements of one or more acres shall plumb landscape areas for irrigation with recycled water and shall include a reclaimed landscaping irrigation system if required by the City at the time of permit approval. [OARB MM 4.9-4]

89. Plumbing - Recycled Water.

Prior to issuance of any building permits and ongoing.

Commercial buildings with gross floor area exceeding 10,000 square feet shall install dual plumbing for both potable and recycled water, unless determined to be infeasible by the City. Reclaimed water may be used for certain industrial uses, and for landscape irrigation, toilet flushing, and other appropriate purposes. [OARB MM 4.9-5]

90. Site Design - Recycled Water.

Prior to issuance of any building permits and ongoing.

The site design of the Project Area shall facilitate the use of recycled water, and shall comply with the requirements of CCR Title 22 regarding prohibitions of site run-off to surface waters. The Project Sponsor should coordinate these efforts with the reclaimed water supplier, EBMUD. [OARB MM 4.9-6]

91. Stormwater.

Prior to issuance of any building permits.

The Project Sponsor shall incorporate post-construction controls into the design of new redevelopment elements to reduce pollutant loads. NPDES permitting requires that best management practices (BMPs) to control post-construction stormwater be implemented to the maximum extent practicable.

92. Runoff Prevention.

During all construction activities.

Site-specific design and best management practices (BMPs) shall be implemented to prevent runoff of recycled water to receiving waters. These BMPs may be either structural or non-structural in nature and may include but are not limited to the following:

- Preventing recycled water from escaping designated use areas through the use of:
 - berms
 - detention/retention basins
 - vegetated swales (biofilters)
- Not allowing recycled water to be applied to irrigation areas when soils are saturated.
- Plumbing portions of irrigation systems adjacent to receiving waters with potable water.

[OARB MM 4.15-6]

93. Flood Protection.

Prior to issuance of any building permits.

The Project Sponsor shall conform all construction with the policies of the City of Oakland's Comprehensive Plan Environmental Health Hazards Element regarding flood protection. The Hazards Element includes development controls that place the burden of demonstrating flood safety upon the individual Project Sponsor. In addition, the Hazards Element includes policies regarding support of flood control and management programs of other agencies, maintenance of the natural character of creeks to the maximum extent possible, and City participation in the federal Flood Insurance Program. [OARB MM 4.15-7]

MISCELLANEOUS

94. Successors and Assigns.

Ongoing.

The Project Sponsor and its agents, heirs, successors and assigns (collectively the “Project Sponsor”) shall be bound by these Conditions of Approval and by any other terms and conditions of “this Approval.” The Project Sponsor’s agents, heirs, successors and assigns are fully informed of the terms and conditions of this Approval.

95. Indemnification Requirements.

Ongoing.

To the maximum extent permitted by law, the Project Sponsor shall defend, hold harmless, and indemnify the City and its respective officers, agents and employees, and the Oakland Redevelopment Agency and its respective officers, agents and employees, (the “Indemnified Parties”) against any and all liability damages, claims, demands, judgments or other losses (including, without limitation, attorneys’ fees, expert witness and consultant fees and other litigation expenses), or an initiative relating to, resulting from or caused by, or alleged to have resulted from or caused by any action or approval associated with the Project.

This indemnity includes, without limitation, any legal or administrative challenge, or initiative filed or prosecuted to overturn, set-aside, stay or otherwise rescind any or all approvals granted in connection with the Project, certification of the Environmental Impact Report (“EIR”) for the Project, and granting any permit issued in accordance with the Project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs as used herein shall include, without limitation any attorneys’ fees, expert witness and consultant fee, court costs and other litigation fees, City Attorney time and overhead costs, and other City Staff overhead costs and normal day-to-day business expenses incurred by the City (“Litigation Expenses”). The Indemnified Parties shall have the right to select counsel to represent the Indemnified Parties, at the Project Applicant’s expense, in the defense of any action specified in this Condition of Approval No. 95. The Indemnified Parties shall take all reasonable steps to promptly notify the Project Sponsor of any claim, demand, or legal actions that may create a claim for indemnification under these Conditions of Approval.

96. Additional Indemnification Requirements.

Ongoing.

Not in limitation of the foregoing Condition of Approval No. 95, Project Sponsor shall defend, hold harmless and indemnify the Indemnified Parties and their insurers against any and all liability, damage, claims, demands, judgments, losses (“Indemnified Claims”) or other forms of legal or equitable relief related to implementation of the Project, including, without limitation, design, construction or maintenance of the Project and any private or public improvements. The foregoing indemnity shall not be released upon completion of the Project. A Project Sponsor may be released from this indemnity obligation, including the Indemnification Agreement referred to in the following Condition of Approval No. 97, only in the event (a) it is assigned to and assumed by and binding upon a subsequent owner of the Property, and (b) such Project Sponsor gives 30 days’ written notice of such proposed assignment to the City Administrator,

and the City Administrator approves such assignment in writing, which approval may be withhold if the City Council determines, in its discretion, that the proposed assignee's net worth or other financial resources are not sufficient to fulfill the foregoing indemnity obligation. Provided, however, that with respect to public improvements, this indemnity shall apply only to Indemnified Claims that arise prior to the City's acceptance of the public improvement and the expiration of any maintenance obligations of the Project Sponsor, unless the Indemnified Claim (i) arose as a result of a hidden defect in the public improvement; or (ii) arose as a result of direct or indirect action or inaction by Project Sponsor, including, without limitation, construction maintenance or operational activities, prior to the City's acceptance of the public improvement. In the case of the foregoing (i) or (ii), this indemnification shall apply regardless of whether the public improvement has been accepted by the City. "Public improvements" include all infrastructure improvements and property customarily accepted and maintained by the City that are offered for dedication to the City and actually accepted by the City, such as streets, sanitary sewer lines and the like. This indemnity shall include, without limitation, payment of all Litigation Expenses associated with any action herein. The Indemnified Parties shall have the right to select counsel to represent the Indemnified Parties, at the Project Sponsor's expense, in the defense of any action specified in this Condition of Approval No. 96. The Indemnified Parties shall take all reasonable steps to promptly notify the Project Sponsor of any claim, demand, or legal actions that may create a claim for indemnification under these Conditions of Approval.

97. Indemnification Agreement.

Within 90 days following the effective date of the adoption of these Conditions of Approval.

Within 90 days following the adoption of these Conditions of Approval, the Project Sponsor shall enter into an Indemnification Agreement in a form acceptable to the City Attorney to establish in more specific detail terms and conditions of the Project Sponsor's indemnification obligations set forth in the two preceding Conditions of Approval Nos. 95 and 96. Any failure of any party to timely execute such Indemnification Agreement shall not be construed to limit any right or obligation otherwise specified in the Conditions of Approval, including without limitation, the two preceding Conditions of Approval Nos. 95 and 96, except that it shall not limit Planning Director authority as set forth in immediately following Condition of Approval No. 98.

98. Planning Director Authority Regarding Compliance with Conditions.

Ongoing.

For the duration of the project, the City Planning Director shall have the authority to determine whether the Project Sponsor and the Project substantially comply with terms and conditions of this approval, including, without limitation, these Conditions of Approval. In determining compliance, the Director shall interpret and apply conditions and terms requiring conformance with engineering standards, conformance with the purpose and intent of the Municipal Code sections upon which conditions are based, conformance with the intent of mitigation measures as discussed in the EIR, or as reasonably necessary to promote architectural integrity and the purpose of compatible development as set forth in the Wood Street Zoning District. Upon a determination of non-compliance, the Director shall have the authority to suspend further Project approvals, including without limitation final subdivision maps, grading permits, building permits or certificates of occupancy for the duration of such noncompliance. The City shall take

reasonable steps to promptly notify, in writing, the Project Sponsor of any request (including a request by City staff or by the public) that the City Planning Director make a determination of noncompliance, and shall provide the Project Sponsor with written notice of any non-compliance determination by the City Planning Director. The City shall provide the Project Sponsor a copy of all documents used or relied upon in making such determination.

On or before October 15 of each year, the Project Sponsor shall submit to the City Development director a report demonstrating the Project Sponsor's and the Project's compliance with the terms and conditions of the Approval, including these Conditions of Approval identified by the Planning Director. This report may be used by the City Planning Director to evaluate the Project Sponsor's and the Project's compliance with the terms and conditions of the approval. Project Sponsor's obligation to submit this annual report shall terminate upon the City's written determination that the Project is complete.

99. Conflict with Notes on Vesting Tentative Parcel Maps.

Ongoing.

In the event of a conflict between these conditions of approval and one or more notes appearing on the face of one or more vesting tentative parcel maps, these conditions of approval shall prevail.

100. Affordable Housing

Prior to the issuance of the first building permit.

a. In order to assist the Redevelopment Agency to meet the obligations of Health and Safety Code Section 33413 and the Redevelopment Plan to make available units affordable to very low income households, BUILD shall set aside Parcel 3 of VTPM 8551, which Parcel is approximately 1.5 acres (the "Affordable Housing Parcel") for a period of no less than one year from the City Council's approval of the District. During this period, the Affordable Housing Parcel shall be reserved for purchase by a nonprofit housing developer chosen by BUILD for the purpose of developing at least 94 rental units, including as many as thirty percent (30%) 3-bedroom units, if feasible, affordable to very low income households (the "Very Low Income Units"). During this period (1) BUILD and the nonprofit housing developer shall negotiate in good faith to enter into an agreement for the nonprofit housing developer to purchase the Affordable Housing Parcel for the Purchase Price, as defined below (the "Purchase Agreement"), within said one year period and (2) the nonprofit housing developer and the Redevelopment Agency or the City shall negotiate in good faith to enter into an agreement for the Agency or City to provide the financial assistance necessary to make such an affordable housing project economically feasible (the "Funding Agreement"). BUILD shall apply for such funding through the 2005 Notice of Funding Availability (NOFA) process. The Funding Agreement shall (1) provide for City/Agency funding under terms and conditions consistent with the City/Agency's affordable housing development guidelines and standard practices in the field of affordable housing finance; (2) provide that the nonprofit housing developer shall seek funding from non-Agency and non-City sources (including state and federal housing subsidy programs, low income housing tax credits, and private lenders) as appropriate; (3) require the nonprofit developer to commence construction of the project within three years from the date it acquires the site; and (4) provide for restrictions on the rental of the Very Low Income Units at an affordable rent only to very low income households (less than or equal to 50% of AMI) for at least 55 years, in

accordance with Health and Safety Code Section 33413 (contingent on adequate Agency funding necessary to make the Very Low Income Units affordable to very low income households), with the restrictions in the form of recorded covenants running with the land that are enforceable by the Redevelopment Agency or the City.

For purposes of the above, the “Purchase Price” for the Affordable Housing Parcel shall be the lesser of (1) Fair Market Value, or (2) the Acquisition/Holding/Entitlement Costs. “Fair Market Value” shall mean the purchase price that an unrelated party negotiating at arm’s length would pay to purchase such property unrestricted by affordable housing requirements, taking into account all then current market factors, including without limitation the quality, design, condition and location of the property including the extent and condition of the construction completed to date, if any, the amount of any and all liens, mortgages, and encumbrances against the property, environmental remediation costs, and the value of the existing improvements to such party.

“Acquisition/Holding/Entitlement Costs” shall mean (1) the actual price initially paid for the Affordable Housing Parcel by BUILD, calculated on the basis of the overall purchase price paid by BUILD for developable acres within the Wood Street Zoning District and prorated on a square footage basis to the Affordable Housing Parcel, plus (2) actual costs incurred by BUILD in holding, maintaining and entitling the Affordable Housing Parcel (calculated on a developable square footage basis prorated to the Affordable Housing Parcel), including taxes, carrying costs (which shall be defined as the investment return BUILD’s investor, CalPERS, has received on investments in similar projects in the Cal PERS CURE program (California Urban Real Estate) since its inception in 1997, but not to exceed 10%), insurance, maintenance, and other out-of-pocket payments by BUILD to third parties for holding, maintaining and entitling the property, but not including BUILD’s administrative or staff costs. The Acquisition/Holding/Entitlement Costs shall be determined by an independent cost certification obtained by BUILD. BUILD shall submit its determination of Acquisition/Holding/Entitlement Costs, along with the independent cost certification, and its determination of Fair Market Value to the Redevelopment Agency within three months of the City Council’s approval of the District. If the Agency disputes BUILD’s determination either of Fair Market Value or Acquisition/Holding/Entitlement Costs, or both, as contained in BUILD’s notice, the Agency shall notify BUILD in writing within 30 calendar days of its receipt of BUILD’s determination, which notice shall set forth the Agency’s determination of the Fair Market Value and/or cost of Acquisition/Holding/Entitlement. The Agency and BUILD shall thereupon attempt to resolve their differences within 10 days following BUILD’s receipt of the Agency’s notice. If the Agency and BUILD cannot agree on Fair Market Value during such 10-day period, the Agency and BUILD shall each appoint an appraiser who shall be an M.A.I. and a California licensed appraiser experienced in appraising commercial and residential real estate in Alameda County, and give notice of such appointment to the other within 10 calendar days after the foregoing 10-day period. Such appraisers shall, within 30 calendar days after the appointment of the last of them to be appointed, complete their written determinations of Fair Market Value and furnish the same to the Agency and BUILD. Each party shall pay the fees and costs of the appraiser appointed by it. If the valuations vary by ten percent (10%) or less of the higher value, the Fair Market Value shall be the average of the two valuations. If the valuations vary by more than ten percent (10%) of the higher value, the two appraisers shall, within ten (10) calendar days after submission of the last appraisal report,

appoint a third disinterested appraiser who shall be an M.A.I. and a California licensed appraiser with the experience described above. If the two appraisers are unable to agree in a timely manner on the selection of the third appraiser, then either appraiser, on behalf of both, may request appointment of such third disinterested M.A.I. appraiser by the presiding judge of the Superior Court of Alameda County. Such third appraiser shall, within 15 calendar days after appointment, make a determination of Fair Market Value by selecting one of the prior appraisals. The third appraiser shall have no right to select a Fair Market Value other than as determined by one of the prior appraisals. If the Agency and BUILD cannot agree on Acquisition/Holding/Entitlement Costs during such 10-day period, the Agency and BUILD shall submit the issue to binding arbitration.

If, after good faith negotiations, BUILD and the nonprofit housing developer have not entered into a Purchase Agreement for the Affordable Housing Parcel within the one-year period, or the Agency and the nonprofit housing developer have not entered into a Funding Agreement within the one-year period, then BUILD shall provide notice to the Agency of its purchase option and the Agency shall exercise its purchase option within 60 days of the notice, for the purpose of providing housing at an affordable price to households at or below 50% of AMI, and deed restrict the parcel as affordable housing for households at or below 50% of AMI.

Upon exercise of the Agency's option, BUILD shall deliver title to the Affordable Housing Parcel to the Agency or its designee free and clear of any junior liens, leases, mortgages, or encumbrances, except those liens, mortgages, or encumbrances that have been specifically approved by the Agency in writing. Escrow for the sale of the Affordable Housing Parcel shall close and BUILD shall execute and deliver to the Agency or its designee a grant deed or deeds to the Affordable Housing Parcel no later than 180 calendar days after exercise of the option, at which time the Purchase Price shall be paid by the Agency or its designee to BUILD. Prior to the close of escrow, BUILD shall take all necessary steps to ensure that a title company will be able to issue to the Agency or its designee, upon close of escrow, a standard CLTA owner's policy of title insurance, in an amount equal to the Purchase Price, showing title to the Affordable Housing Parcel vested in the Agency or its designee, with only the following exceptions:

- Liens for property taxes not yet due and payable;
- Any other lien or encumbrance approved in writing by the Agency in its sole discretion;
 - Conditions restricting use of the property to the development of the Very Low Income Units for rental only to very low income households.

At any time following the Agency's notice of its election to exercise the option, the Agency or its designee and its agents may enter the Affordable Housing Parcel for purposes of inspection, survey, tests, or other actions reasonably related to acquisition of the property by the Agency. The Agency or its designee shall indemnify and defend BUILD for any liability, claims or

damages arising from such entry. The Agency may assign the option to purchase the Affordable Housing Parcel to any other entity in its sole discretion.

If after good faith negotiations either the Purchase Agreement or the Funding Agreement have not been entered into within the one-year period, and if the Agency or its designee has declined to exercise its option to purchase the Affordable Housing Parcel as set forth above, then BUILD shall have no further obligations with respect to affordable housing development on the Affordable Housing Parcel.

b. Each of the Wood Street Project Sponsors shall reserve at least 12.65% of the units within each for-sale project but no fewer than 9% of the total number of residential units built within the District (the “Reserved Units”) for purchase by persons and families of low or moderate income until the Close of Escrow Date (defined below) for such unit. At least six months prior to the anticipated completion date of each Reserved Unit, the applicable Project Sponsor shall notify the Agency in writing of the anticipated completion date, the Purchase Price (defined below), and the address of each such unit (the “Availability Notice”). The Agency Administrator shall have 60 days from receipt of the Availability Notice (the “Option Period”) to provide written notice to the applicable Project Sponsor that the Agency has elected to participate in the purchase of such unit, either by providing the Additional Homebuyer Purchase Assistance (defined below) or by directly purchasing the Reserved Unit (the “Agency Participation Notice”). The Agency Participation Notice need not specify whether the Agency will provide the Additional Homebuyer Assistance or purchase the unit; rather, it need only state it will do one or the other by the Close of Escrow Date for each unit. If the Agency Administrator does not provide the Project Sponsor with the Agency Participation Notice during the Option Period, the Agency Administrator shall inform the Agency Board of such inaction, but such information shall not extend the Option Period.

Close of escrow shall occur within 165 days after completion of a Reserved Unit (“Close of Escrow Date”). The Purchase Price for the Reserved Unit shall be comparable to that of similar unit types, and situations within the same phase and development, except that in the event the closing occurs more than 120 days after completion of the unit, an amount equal to the extra costs attributable to construction financing costs resulting from such delay shall be added to the Purchase Price. All Reserved Units shall contain the same quality level of finishes, appliances and amenities, and the same standard features as are included in the base price for the same market rate unit.

Fewer than 12.65% of the units within each for-sale project may be reserved if the Project Sponsor demonstrates to the Agency Administrator’s satisfaction that the total number of Reserved Units to be built within the District, when combined with the Very Low Income Units described in paragraph a, will equal or exceed 15% of the total number of residential units built within the District.

BUILD or its designee shall commit at least \$2.5 million of mortgage assistance funding to assist persons or families of low or moderate income in qualifying to purchase the Reserved Units. This assistance will be provided in the form of a loan of up to \$25,000 per borrower as a second mortgage with 4% interest-only payments for the first five years, and the remaining payments

amortized over 15 years at 4% interest. Such funds will be available consistent with the conditions imposed upon the provider of the assistance by the source of the funds (i.e., per unit maximums, credit criteria, etc.).

The Redevelopment Agency or City may provide any additional funding necessary for a person or family of low or moderate income to purchase a Reserved Unit at an affordable housing cost to persons or families of low or moderate income, with an affordability level for all Reserved Units within each respective for-sale project at or below 100% of area median income (the “Additional Homebuyer Purchase Assistance”). Should the Agency or City provide the Additional Homebuyer Purchase Assistance, the Wood Street Project Sponsors shall cooperate with the Agency and the City to record restrictions on the Reserved Units restricting resale only to persons and families of low or moderate income at an affordable housing cost, with an affordability level of all Reserved Units at 100 % of area median income within each respective for-sale project, for at least 45 years, in accordance with Health and Safety Code Section 33413. Such restrictions also shall require that Reserved Units may be resold only to households with incomes at or below 100% AMI, at an affordable housing cost as defined by California Redevelopment Law, during the 45 year restricted affordability period, and must be in the form of recorded covenants running with the land that are enforceable by the Redevelopment Agency or the City.

In the event the Agency fails to provide the Agency Participation Notice, then the Wood Street Project Sponsors shall have no obligation with respect to the sale of the Reserved Units, other than to reserve such units for purchase by persons and families of low or moderate income until the Close of Escrow Date and to provide the mortgage assistance from BUILD or its designee as specified above.

c. The Project Sponsor shall establish a Homeownership Center in West Oakland no later than January, 2006, and shall provide operating funding for the Center for at least two years at no less than \$60,000 per year. The Center shall provide information on housing opportunities within the Project to prospective very low, low and moderate income homebuyers, and shall employ the services of home counseling agencies and financial institutions to assist such households.

d. Although the units built within the Wood Street Zoning District will be exempt from the provisions of Oakland’s Just Cause Eviction Ordinance because they will be new construction, the Wood Street developers will agree to voluntarily incorporate and abide by provisions in tenant leases which would require cause before a tenant could be evicted from rental units within the Wood Street Zoning District.

e. The following terms are defined as follows:

- “affordable housing cost” means the definition contained in Health & Safety Code § 50052.5, as further defined in 25 California Code of Regulations § 6924.
- “affordable rent” means the current definition contained in Health & Safety Code § 50053, as further defined in 25 California Code of Regulations § 6922.

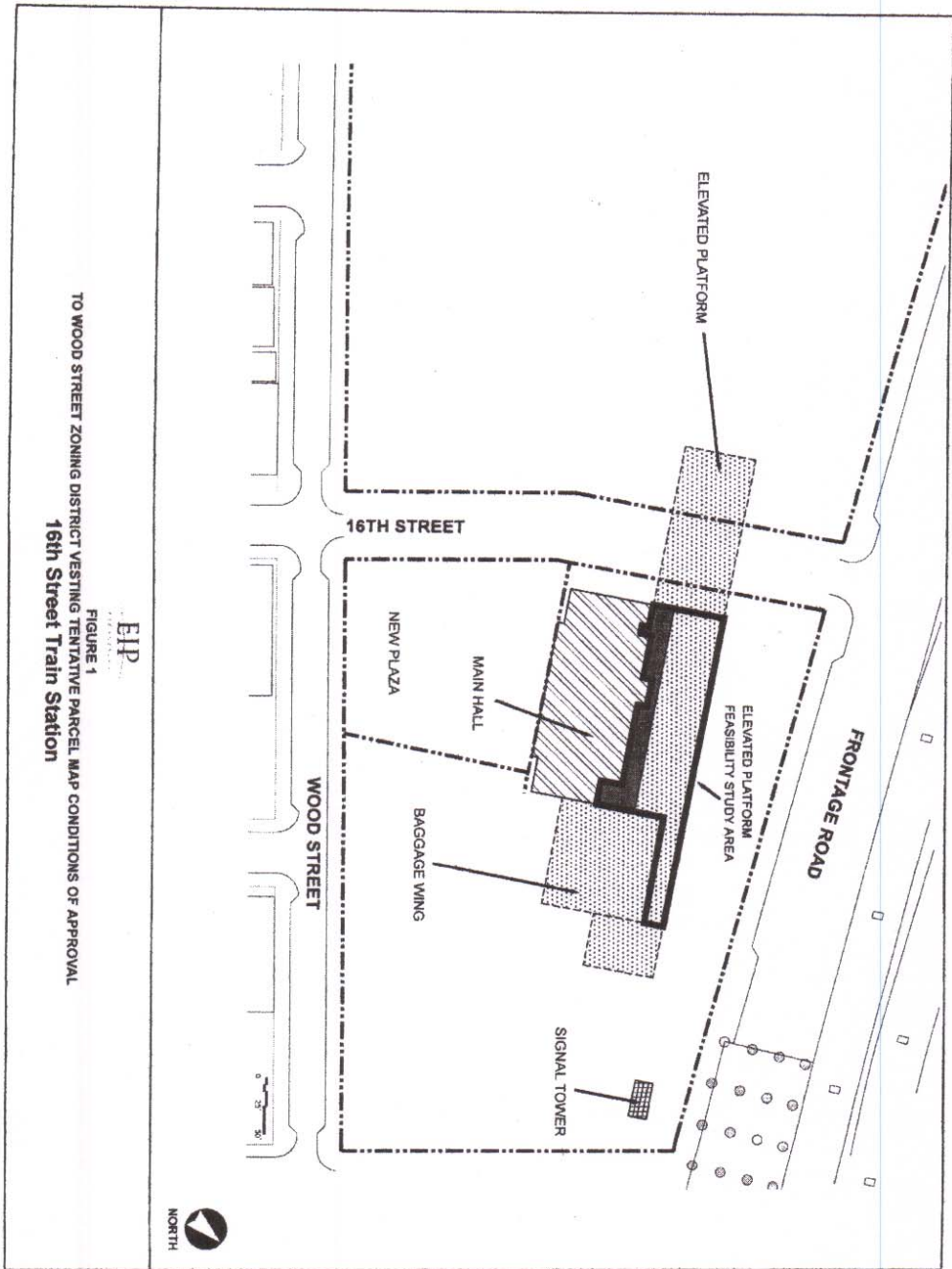
- “low income” means the definition contained in Health & Safety Code § 50079.5, as further defined in 25 California Code of Regulations § 6928.
- “persons and families of low or moderate income” means the definition contained in Health & Safety Code § 50093, as further defined in 25 California Code of Regulations § 6930.
- “monitor” means the collection of information about the continued affordability of a dwelling unit and taking steps to insure that affordability is maintained as required by law, pursuant to the provisions of the California Community Redevelopment Law, including but not limited to Health & Safety Code § 33418 and 33334.3.
- “very low income” means the current definition contained in Health and Safety Code § 50105, as further defined in 25 California Code of Regulations § 6926.

f. The Agency shall monitor, on an ongoing basis, the affordable rental housing units by requiring the then current owner to submit an annual report to the Agency containing all information required by Health & Safety Code § 33418, including but not limited to annual compliance reports, operating budgets and a fair housing marketing plan. The annual compliance report will include information as to the family size, household income and affordable rent calculation. Additionally, the then current owner shall allow for on site inspections of tenant records and tenant units. As to the ownership units, the Agency shall monitor the initial and subsequent sales of the affordable units for compliance with all affordability resale restrictions as defined by California Community Redevelopment Law, including but not limited to an affordable housing cost calculation. The units are to be sold to owner occupants only.

101. Consistency with Final Action of the City Council

The City Council hereby directs and authorizes the Planning Director to make any and all necessary changes to the Exhibits to this approval to make them consistent with the final action of the City Council.

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EIP
 FIGURE 1
 TO WOOD STREET ZONING DISTRICT VESTING TENTATIVE PARCEL MAP CONDITIONS OF APPROVAL
 16th Street Train Station