

ATTACHMENT 2

Draft Resolution and Condition of Approval

RESOLUTION NO. FDP18-001A

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EMERYVILLE PROVIDING A SUPPLEMENTAL REPORT IN THE APPEAL BY WAREHAM DEVELOPMENT OF RESOLUTION NO. FDP18-001R AS REQUESTED BY CITY COUNCIL ACTION ON NOVEMBER 5, 2019, PURSUANT TO EMERYVILLE MUNICIPAL CODE SECTION 9-7.1405(d)

WHEREAS, on January 15, 2008, via Resolution No. 08-09, the City Council certified the Marketplace Redevelopment Project Environmental Impact Report (EIR) for the Marketplace Redevelopment Project Planned Unit Development (“Marketplace Project”); and

WHEREAS, on July 15, 2008, the Council adopted Resolution No. 08-126 which applied the EIR to the Planned Unit Development (“PUD”), adopted mitigation measures, and adopted a Statement of Overriding Considerations for the Marketplace Project; and

WHEREAS, on August 5, 2008, the City Council adopted Ordinance No. 08-004, approving the Marketplace Redevelopment Project Planned Unit Development/Preliminary Development Plan (“PUD/PDP”), which included conditions of approval and a Preliminary Development Plan dated April 16, 2008; and

WHEREAS, the PUD/PDP involved redevelopment of the existing Marketplace site (including the parcel now referred to as “Parcel B” or APN 49-1556-16) with a phased development consisting of 674 multi-family residential units, 180,000 square feet of retail, and 120,000 square feet of office and contemplated that the 15-acre Marketplace site would be substantially redeveloped by replacement of surface level parking, realignment of Shellmound Street directly in front of the Marketplace Tower and Public Market buildings, the addition of three new street segments with on-street parking (62nd and 63rd Streets and Market Drive), and the addition of seven new buildings within the site and an enlarged City park; and

WHEREAS, on September 25, 2013, AG- CCRP Public Market LP (“Applicant”) filed a Final Development Plan application for construction of a parking garage with ground floor retail on Parcel B, and filed an updated application on November 17, 2015; and

WHEREAS, on December 1, 2015, the City Council adopted Ordinance No. 15-010, approving a Development Agreement among the City of Emeryville, Applicant, and AvalonBay Communities, Inc (“Development Agreement”), with the ordinance effective on January 1, 2016, and the Development Agreement effective on January 13, 2016; and

WHEREAS, on June 23, 2016, at a duly held and properly noticed public hearing, the Planning Commission adopted Resolution No. FDP15-001, approving Final Development Plan 15-001 for Parcel B that included a four-story building with approximately 20,000 square feet of ground floor retail space and 300 parking spaces, and a stand-alone single story, 2,280 square foot commercial pavilion with a plaza between the garage building and the pavilion (“FDP15-001”); and

WHEREAS, building permits B2017-0029 and B2017-0030 for the FDP15-001 Project (“Building Permits”) were issued on January 12, 2018; however, no work was done under these permits, and Applicant submitted a letter withdrawing the building permits on October 10, 2018, and voluntarily relinquished their rights under the Building Permits and Resolution No. FDP15-001; and

WHEREAS, on November 28, 2018, Applicant filed a new Final Development Plan application for construction of a 113-foot tall, 8-story building with 14,000 square feet of rentable retail space, 150,000 square feet of rentable office/laboratory space, and a parking garage with 565 spaces (“Original Project”); and

WHEREAS, the Planning Commission reviewed the Original Project at study session on December 13, 2018; and

WHEREAS, the Planning Commission held a duly and properly noticed public hearing on January 24, 2019, and adopted CPC Resolution No. FDP18-001, approving the Original Project; and

WHEREAS, in a letter dated February 8, 2019, Wareham Development appealed CPC Resolution No. FDP18-001 to the City Council (“February Appeal”); and

WHEREAS, on March 19, 2019, pursuant to Emeryville Municipal Code section 9-7.1405(b)(3), the City Council reviewed the February Appeal, and staff report with attachments, and remanded the appeal to the Planning Commission with instructions to consider the issues raised in the February Appeal and to hold a new public hearing on the Original Project (Resolution No. 19-29); and

WHEREAS, on April 25, 2019, at approximately 4:30 p.m., Wareham Development submitted a letter dated April 24, 2019, with several attachments, which included drawings and suggestions of how the Original Project should be redesigned; and

WHEREAS, the Planning Commission held a duly and properly noticed public hearing on April 25, 2019 to solicit public comments to reconsider the Original Project pursuant to the City Council’s direction, and heard testimony from both Applicant and Wareham Development; and

WHEREAS, the Planning Commission closed the public hearing held on April 25, 2019 and continued deliberation to May 14, 2019 to allow the Planning Commission time to fully consider all evidence received on the Original Project, including evidence contained in the February Appeal and the letter dated April 24, 2019 from Wareham Development; and

WHEREAS, the Planning Commission held a duly and properly noticed public hearing on May 14, 2019 to solicit public comments to reconsider the Original Project pursuant to the City Council’s direction, heard testimony from both Applicant and Wareham Development, and unanimously approved the Original Project again (“Appealed Project”); and

WHEREAS, the Planning Commission's May 14, 2019 decision was called for review by the City Council on May 21, 2019 and also appealed by Wareham Development on May 29, 2019 (collectively, the "May Appeal"); and

WHEREAS, on October 1, 2019, the City Council considered the May Appeal and then voted 4-1 (Council Member Donahue voted no) to set November 5, 2019 as the date for public hearing on the May Appeal (Resolution No. 19-141); and

WHEREAS, at the November 5, 2019 City Council meeting, the Applicant submitted an alternative design to the Appealed Project (referred to herein as the "Project"), which consists of a nine-story building with approximately 15,800 square feet of rentable retail space, 150,000 square feet of office/laboratory space, and 500 parking spaces; and

WHEREAS, after the public hearing at the November 5, 2019 City Council meeting, pursuant to Emeryville Municipal Code Section 9-7.1405(d), the City Council directed the Planning Commission to render a supplemental report to the City Council regarding the Project; and

WHEREAS, the Planning Commission held a duly and properly noticed public hearing on December 12, 2019 to solicit public comments to consider the Project; and

WHEREAS, the Planning Commission has reviewed and considered the staff report, and attachments thereto, all public testimony both written and oral, relevant portions of the administrative record submitted to the City Council pursuant to Emeryville Municipal Code Section 9-7-1405(a) and the applicable provisions of the Emeryville Planning Regulations ("the Administrative Record"); now, therefore, be it

RESOLVED, that the Planning Commission hereby finds that the Marketplace Redevelopment Project Environmental Impact Report (EIR) certified by the City Council on January 15, 2008 (Resolution No. 08-09) applies to this Project, and the proposed Conditions of Approval, attached hereto as Exhibit A, and incorporated by reference, include applicable mitigation measures; and be it further

RESOLVED, that the Environmental Checklist prepared for the Appealed Project and updated for the Project, which evaluates all impact areas under the California Environmental Quality Act (CEQA), confirms that there have been no substantial changes to the project identified in the EIR, no substantial changes to the circumstances under which the project will be undertaken, and no new information of substantial importance, which would require further preparation of a subsequent EIR under CEQA section 21166 and corresponding CEQA Guidelines section 15162; and be it further

RESOLVED, that a traffic memo prepared by Kimley Horn concludes that the Project will not result in trip generation and traffic impacts that were not analyzed in the EIR and that, based on the review of actual and projected traffic volumes, the baseline conditions presented in the EIR have not significantly changed; and be it further

RESOLVED, that the Planning Commission finds there is substantial evidence in the Administrative Record to support the following findings required by Emeryville Municipal Code Section 9-7.1004(b):

1. The final development plan substantially conforms to the preliminary development plan.

The approved PUD/PDP calls for a building up to 120 feet tall on Parcel B, containing 120,000 square feet of office space, 29,150 square feet of commercial (retail) space, and 518 parking spaces. Compared to the approved PUD/PDP, the proposed building will have approximately 13,350 square feet less commercial space (15,800 square feet versus 29,150 square feet), 30,000 square feet more office space (150,000 versus 120,000 square feet), and 18 less parking spaces (500 spaces versus 518 spaces). The building height of 120 feet is consistent with the approved PUD/PDP height of 120 feet.

While the Project would contain 30,000 square feet more office space than proposed by the PDP, the overall intensity of the PUD buildout would be consistent with the intensity proposed by the PDP. The total amount of commercial space in the PUD, including both office and retail space, will be 209,800 square feet under the various approved and proposed FDPs (150,000 square feet of office plus 59,800 square feet of retail), while the PDP allows for up to 300,000 square feet of commercial space (120,000 square feet of office plus 180,000 square feet of retail), so in total there will be 90,200 square feet less commercial space (office and retail) than proposed by the PDP. Further, the Project results in buildout that is smaller in terms of Floor Area Ratio than that approved by the PUD/PDP, so the Project conforms to the Floor Area Ratio parameters set forth in the PUD/PDP. Therefore, the Project conforms to and is consistent with the approved PUD/PDP.

2. Changes and conditions of approval specified by the City Council in its approval of the preliminary development plan have been met.

The Project has met the applicable conditions of approval for the PUD/PDP as approved by the City Council and listed in the Administrative Record at AR1033-13. Specifically, the Project has met PUD/PDP Condition of Approval II.E, II.A.3.d, and II.K.1, as well as EIR Mitigation Measures AES-1, WIND-1, and TRAF-1b, to the extent that those mitigation measures apply to the Project follows:

PUD/PDP Condition of Approval II.E and Mitigation Measure AES-1: The Project design Parcel B is in conformance with the PDP as it stands 120 feet tall which is the prescribed height in the PUD/PDP and the massing of the building along the railroad tracks is shown on Sheets 8 and 10 of the Project

plans dated December 3, 2019 entitled “Emeryville Public Market Parcel B Revised Development Plan” dated January 9, 2019. Please also see Sheets 30 to 35 for elevations showing architectural details and break up of massing; and Sheet 46 for use of public art treatment to provide articulation and interest to both the west as well as the east elevations.

PUD/PDP Condition of Approval III.A.3.d and Mitigation Measure WIND-1: The Applicant and Wareham Development have submitted a variety of wind analysis studies. None of these studies demonstrate that the Project will have any significant wind impacts, either compared to the impacts contemplated by the EIR or otherwise. The Project has therefore satisfied this Condition of Approval and Mitigation Measure, to the extent that they apply. The wind studies and substantial evidence demonstrating that the Project will not have any significant wind impacts can be found at AR 1780 – Tab 62; AR 2074 – Tab 87; AR2417 – Tab10 and 112; and AR3242 – Tab 148.

PUD/PDP Condition of Approval II.K.1 and Mitigation Measure TRAF-1b: Kimley Horn study dated February 21, 2019 entitled “Emeryville Public Market Parcel B - Traffic Response to Appeal Letter” (found at AR1851 - Tab 73) concludes that: “the vehicle trips for an office use occur at different times than for a retail use. However, the trip generation analysis that was conducted in the Emeryville Public Market Parcel B – Trip Generation Evaluation Final Letter, dated December 12, 2018 accounts for these differences (found at AR 1831 – Tab 73). While only focusing on the peak hour of traffic in the AM and PM periods, the previous 2008 EIR and the proposed Parcel B were compared using trip generation rates from the industry standard Institute of Transportation Engineers (ITE) Trip Generation Manual. The trip generation rates are developed based on surveys collecting traffic counts during the AM and PM periods of adjacent street traffic at various sites throughout the country based on the square footage and land use. This evaluation concluded that the proposed Parcel B project would generate fewer AM and PM peak hour trips.”

APPROVED by the Planning Commission of the City of Emeryville at a regular meeting held on Thursday, December 12, 2019 by the following votes:

AYES: _____

NOES: _____ **ABSTAINED:** _____

EXCUSED: _____ **ABSENT:** _____

CHAIRPERSON

APPROVED AS TO FORM:

RECORDING SECRETARY

ASSISTANT CITY ATTORNEY

CONDITIONS OF APPROVAL

**Marketplace Redevelopment Planned Unit Development Project
Final Development Plan for “Parcel “B” (FDP18-001A)
Exhibit A. Conditions of Approval
December 12, 2019**

Preliminary Development Plan (PDP) Conditions of Approval dated August 5, 2008 attached as an exhibit to Ordinance No. 08-004 and the Marketplace Tentative Map Conditions of Approval adopted on October 22, 2015 (SUBDIV15-002) apply to FDP18-001A in addition to all conditions outlined below. In the event of any inconsistencies between any conditions, the conditions outlined below shall take precedence except that the Marketplace Tentative Map conditions shall take precedence over any conditions that relate to the public right-of-way improvements, and the Development Agreement adopted by Ordinance No. 15-010 on December 1, 2015 shall take precedence over all sets of conditions of approval

I. COMPLIANCE WITH APPROVALS

- A. A Final Development Plan for development of “Parcel B” located at 6200 Shellmound Street (APN: 49-1556-16) to construct a 120-foot tall, 9 story building that includes 15,800 square feet of ground floor rentable retail space, structured parking on four levels accommodating 500 parking spaces, and office/laboratory space totaling 150,000 rentable square feet on the top three levels.

No signs or any other uses are part of this approval. Any additional signs, uses or design modifications will require a separate application and approval.

- B. APPROVED PLANS. Final plans submitted for a building permit shall be reviewed by the Community Development Director to confirm that the plans substantially conform to the following drawings except as modified by these Conditions of Approval.: **[Planning]**
1. The site and architectural drawings entitled, “Emeryville Public Market Parcel B Revised Development Plan”, submitted by Hart|Howerton Sheets 1 to 52 dated December 3, 2019.

- C. INSTALLATION AND MAINTENANCE OF IMPROVEMENTS. All improvements shall be installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved. Minor changes may be approved by the Community Development Director.
- D. COMPLIANCE WITH THE MUNICIPAL CODE AND GENERAL PLAN. No part of this approval shall be construed to be a violation of the Emeryville Municipal Code or the General Plan. Operations on this site shall be conducted in a manner that does not create a public or private nuisance or otherwise violate the Emeryville Municipal Code.
- E. FAILURE TO COMPLY WITH CONDITIONS OF APPROVAL. If Applicant constructs buildings or makes improvements in accordance with these approvals, but fails to comply with any of the conditions of approval or limitations set forth in these Conditions of Approval and does not cure any such failure within a reasonable time after notice from the City of Emeryville ("City"), then such failure shall be cause for nonissuance of a certificate of occupancy, revocation or modification of these approvals or any other remedies available to the City.
- F. APPLICATION TO SUCCESSORS IN INTEREST. These Conditions of Approval shall apply to any successor in interest in the property and Applicant shall be responsible for assuring that the successor in interest is informed of the terms and conditions of this zoning approval.

II. GENERAL CONDITIONS

- A. INDEMNIFICATION. Applicant, its assignees, and successors-in-interest shall defend, hold harmless, and indemnify the City of Emeryville, the Bay Cities Joint Powers Insurance Authority and their respective officials, officers, agents and employees (the Indemnified Parties) against all claims, demands, and judgments or other forms of legal and or equitable relief, which may or shall result from: 1) any legal challenge or referendum filed and prosecuted to overturn, set-aside, stay or otherwise rescind any or all final project or zoning approvals, analysis under the California Environmental Quality Act or granting of any permit issued in accordance with the Project; or 2) Applicant's design, construction and/or maintenance of the public improvements set forth in the final building plans. Applicant shall pay for all direct and indirect costs associated with any action herein. Direct and indirect costs as used herein shall mean but not be limited to attorney's fees, expert witness fees, and court costs including, without limitation, City Attorney time and overhead costs and other City Staff overhead costs and normal day-to-day business expenses incurred by the City including, but not

limited to, any and all costs which may be incurred by the City in conducting an election as a result of a referendum filed to challenge the project approvals. The Indemnified Parties shall promptly notify Applicant, its assignees, and successors-in-interest of any claim, demand, or legal actions that may create a claim for indemnification under this section and shall fully cooperate with Applicant, its assignees and successors-in-interest. **[City Attorney]**

B. PRIOR TO ISSUANCE OF A BUILDING PERMIT

1. Public Art Program. Public Art shall be provided pursuant to Section 7.2 of that certain Development Agreement dated January 30, 2016, between City and AG-CCRP Public Market LP, a Delaware limited partnership, and AvalonBay Communities, Inc., a Maryland corporation ("Development Agreement"), which shall control the requirement of public art prior to the issuance of a building permit. Prior to the issuance of the building permit the City Council shall review the public art proposed to be installed on exterior of the building. **[Economic Development]**
2. Fees, Dedications and Exactions. Conditions of Approval set forth herein include certain fees, dedication requirements, reservation requirements and other exactions, attached as Exhibit A. Pursuant to Government Code Section 66020(d)(1), this set of Conditions of Approval constitutes written notice of a statement of the amount of such fees and a description of the dedications, reservations and other exactions. Applicant is hereby further notified that the 90-day approval period in which these fees, dedications, reservations and other exactions may be protested, pursuant to Government Code Section 66020(a) will begin upon approval of the aforementioned project approvals by the City of Emeryville Planning Commission. If Applicant fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, Applicant will be legally barred from challenging such exactions. (See Attachment 1: Fee Charts)

Prior to the issuance of a building permit, the Building Official shall confirm that all applicable fees due at the issuance of a building permit have been paid, except as provided in Section 8.3 of the Development Agreement, which allows for fees to be paid prior to (i) final inspection or (ii) issuance of a certificate of occupancy, whichever occurs first. **[Building]**

3. Cost Recovery Planning and Public Works Fees. Prior to the issuance of a building permit, the Community Development Director shall confirm that

all cost recovery planning fees and Public Works Plan Check fees have been paid to date. **[Planning]**

C. PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY

1. Fees, Dedications and Exactions. Prior to the issuance of a certificate of occupancy, the Building Official shall confirm that all applicable fees due at the issuance of a certificate of occupancy have been paid, except as provided in Section 8.3 of the Development Agreement. **[Building]**
2. Cost Recovery Planning and Public Works Fees. Prior to the issuance of a certificate of occupancy, the Community Development Director shall confirm that all cost recovery Planning fees and Public Works plan check fees have been paid in full. **[Planning]**
3. Building Sewer Lateral. Prior to the issuance of a certificate of occupancy, Applicant shall provide a valid Certificate of Compliance from East Bay Municipal Utility District (EBMUD) indicating that the building sewer lateral complies with the requirements of the EBMUD Regional PSL Ordinance.
4. Public Art Program. Prior to the issuance of a certificate of occupancy, Applicant shall notify the Community Development Department Public Art Projects Coordinator to verify Applicant's installation of the on-site public art as confirmed by the City Council or compliance with Section 7.2 of the Development Agreement. If City determines that public art has not been installed as confirmed by the City Council or the Development Agreement complied with, Applicant shall be required to pay the in-lieu public art fee in full.

III. BUILDING AND CONSTRUCTION REQUIREMENTS

A. PRIOR TO ISSUANCE OF A BUILDING PERMIT

1. Plans. Prior to the issuance of a building permit, the Building Official shall verify that the title sheet for the building permit drawings contains the following: **[Building]**
 - a. Permit number.
 - b. Zoning district.
 - c. Lot area in square feet.

- d. Total number of parking spaces with parking spaces numbered on plans in a consecutive manner and consistent with the parking summary on the title page.
 - e. Building heights with height of any appurtenances noted.
 - f. Detailed breakdown of floor areas.
 - g. Number of floors.
 - h. Existing building information (if applicable).
 - i. Total Impervious Surface area in square feet (from "Impervious Surface and Stormwater Treatment Measures - Final Form" provided by the City of Emeryville Public Works Department).
 - j. Scorecard Summary from the most recent Bay-Friendly Landscaping Guidelines checklist, as developed by StopWaste.org. (with electronic version with notes on claimed points to be emailed to the Emeryville Public Works Department Environmental Programs Staff person.)
2. Compliance with Applicable Codes. Prior to the issuance of a building permit, the Building Official shall confirm that the building permit plans, specifications and other related information conform to the California Codes in effect at the time, and all other applicable local ordinances. Compliance with the California Codes and local ordinances shall include, but not be limited to, seismic and geotechnical requirements for Seismic Zone 4, and Title 24 energy conservation and disabled access requirements. **[Building]**
3. Utility Service. Prior to the issuance of a building permit, the Building Official shall confirm that the building permit plans, specifications and information include detailed plans for providing water, electrical, gas, telephone, and other like utilities services to the site, including a review of the existing services to the site and measures or improvements on-site that will be required to adequately serve the site, including the location and design of transformers (if above ground and if required) and all connections. All new and existing on-site electrical and communication lines shall be placed underground. All transformers shall be placed underground or inside the building. **[Building]**
4. Traffic and Parking Management Plan during Construction. Prior to issuance of a building permit for any portion of the project, Applicant shall submit a traffic and parking management plan for review and approval by the Public Works Director. The plan shall comply with any City restrictions and limitations on using certain local streets for construction traffic, proposed truck delivery and haul routes, parking arrangements for construction personnel that minimizes use of public on-street parking in

the vicinity of the project, ingress and egress, noise, efforts to address street debris and dust control and proposed on-site staging and equipment/material storage areas. The plan shall include a construction worker shuttle program as a strategy to mitigate parking shortfalls.

[Public Works]

5. Construction Sign. Prior to the issuance of a building permit, Applicant shall submit a construction sign for approval by the Community Development Director in accordance with the prototype provided. The sign shall be made of a permanent material with professional lettering. The sign shall be at least 3 feet by 4 feet with a minimum letter size of 3 inches. The sign shall include this information: the project name; name of the owner/developer; the name and phone number of a contact person, available at all times to address complaints and with the authority to control construction activity on the site; name and phone number of the contractor; and the approved hours of construction. The contact person should be the Noise Disturbance Coordinator listed below in Condition III.B.1.c. **[Public Works]**

The sign shall be posted at the time of placing temporary fencing and start of construction activity. At least one sign shall be placed along each public street frontage of the site in a location facing the street where the information can be easily read. Street frontages exceeding 300 feet in length shall have one sign per each 300-foot segment or fraction thereof. (See Attachment 2: Construction Sign Prototype) **[Planning]**

6. Fencing. Prior to the issuance of a building permit, Applicant shall install temporary construction fence around the perimeter of the area where construction will occur that provides for continued pedestrian traffic meeting the standards of the Americans with Disabilities Act as approved by the Public Works Director. **[Public Works]**
7. Approval of Regulatory Agencies. Prior to the issuance of a building permit, Applicant shall submit to the Building Official copies of all other permits necessary from the applicable regulatory agencies. **[Building]**
8. Approval of Hazardous Material Regulatory Agencies. Prior to issuance of a building or grading permit, Applicant shall confirm that the property has never been subject to an environmental regulatory action or order. For sites that are or have been the subject of a regulatory action or order, Applicant shall submit to the Community Development Director confirmation that the proposed use of the site is acceptable to the appropriate regulatory agency (e.g. San Francisco Bay Regional Water

Quality Control Board, Alameda County Department of Health or the State of California Department of Toxic Substances Control) and that any conditions prior to such use have been met. For closed cases, agency closure letters describing conditions of closure or use restrictions (if any) may be used to satisfy this documentation requirement. For open cases, a site-specific agency determination may be necessary. If a Risk Management Plan, Site Cleanup Plan, Health and Safety Plan or similar document is required for the work that is the subject of the permit, then Applicant shall have such plan approved by the regulatory agency; shall submit copies to the Community Development Director and Public Works Director; and shall comply with all provisions of such plan.

- B. DURING CONSTRUCTION. Violations of the following conditions and any other applicable conditions may result in a stop work notice being issued or any other measures that the City deems necessary.

1. Construction Noise.

- a. *Hours.* Unless the City Council grants a waiver allowing different construction hours pursuant to Section 5-13.06 of the Emeryville Municipal Code, construction hours shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, except that pile driving and similarly loud equipment, including but not limited to jack hammering, grading, compacting, dump trucks, generators, and chain saws shall be limited to 8:00 a.m. to 5:00 p.m., Monday through Friday. In an urgent situation, the City Manager, Community Development Director, or Public Works Director may approve weekend or night work pursuant to Section 5-13.05(e) of the Emeryville Municipal Code.
- b. *Equipment.* All heavy construction equipment used on the project shall be maintained in good operating condition, with all internal combustion, engine-driven equipment equipped with intake and exhaust mufflers that are in good condition and as deemed to be practically feasible. All non-impact tools shall meet a maximum noise level of no more than 85 dB when measured at a distance of 50 feet. All stationary noise-generating equipment shall be located as far away as possible from neighboring property lines especially residential uses.
- c. *Noise Disturbance Coordinator.* Applicant shall designate a "Noise Disturbance Coordinator" who shall be responsible for responding to any complaints about construction noise. The Noise

Disturbance Coordinator shall determine the cause of the noise complaint and shall require that reasonable measures warranted to correct the problem be implemented. Applicant shall conspicuously post a telephone number for the Noise Disturbance Coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. The Noise Disturbance Coordinator shall be the contact person listed on the construction sign required by Condition III.A.5 above.

2. Traffic Measures. Applicant, through its contractor, shall implement comprehensive traffic control measures as set forth in the approved Traffic and Parking Management Plan, including scheduling of major truck trips and deliveries to avoid peak hours (normally 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.). Applicant's Contractor shall obtain an Encroachment Permit for the maintenance of traffic vehicular, bicycle and pedestrian flow along the project frontage and elsewhere as warranted. The Encroachment Permit submittal shall include plans for the protection of the public along the project frontage including the installation of overhead protection for pedestrians.
3. Street Debris. Mud, dirt and construction debris shall not be permitted in the public right-of-way. Failure to adequately sweep the streets may result in the City undertaking the effort at Applicant's cost.
4. Dust Control Measures. Dust control measures to minimize air quality impacts shall be implemented including:
 - a. Cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.
 - b. Cover all trucks hauling soil, sand, and other loose materials.
 - c. Pave, apply non-potable water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at site.
 - d. Limit traffic speeds on unpaved roads to 5 mph.
 - e. Install, maintain and replace sandbags or other erosion control measures to prevent silt runoff to public roadways.

- f. Minimize removal and replant vegetation in disturbed areas as quickly as possible.
 - g. No grading between October 1st and April 15th unless the Public Works Director has approved an erosion and sedimentation control plan.
- 5. Archeological Resources. If archeological resources are encountered during construction, then Applicant shall immediately: cease all construction activity in the vicinity; notify the Community Development Director; have the significance of the items determined by a qualified archeologist or cultural consultant at Applicant's expense; and take any further appropriate measures under the California Environmental Quality Act and other applicable laws with the Community Development Director's approval. If human remains are encountered, state law requires that the County Coroner be called immediately. All work must immediately be halted in the vicinity of the discovery until the Coroner's approval to continue has been received.

IV. PUBLIC IMPROVEMENTS

A. PRIOR TO ISSUANCE OF A BUILDING PERMIT

- 1. Public Improvements. Applicant shall be responsible for the following Public Improvements described herein and as shown on the approved plans, to conform to City of Emeryville Standards, the City of Emeryville Urban Forestry Ordinance, the Americans with Disabilities Act and implementing regulations, California accessibility regulations, and Marketplace Tentative Map SUBDIV15-002:

- a. "Stop Ahead" Signage. Signage shall be installed on northbound Shellmound Street approximately 150 feet south of the northern parcel B driveway alerting drivers of the all-way stop-controlled intersection

Prior to the issuance of a Building Permit, the Public Works Director shall confirm that detailed improvement plans and specifications have been prepared for said public improvements. **[Public Works]**

- 2. Site Grading and Storm Drainage. Prior to the issuance of a building permit, the Public Works Director shall confirm grading plans for Parcel B have been prepared such that stormwater runoff will drain to the new storm drain on Shellmound Street to be constructed as part of the

Shellmound Street realignment as depicted on the approved Marketplace Tentative Map SUBDIV 15-002. **[Public Works]**

3. Sanitary Sewer. Applicant shall be responsible to conform to the requirements of the City's Wastewater Collection System Ordinance and to the East Bay Municipal Utility Districts (EBMUD) Private Sewer Lateral Ordinance. Any existing sanitary sewer lateral serving the property that is not to be reused shall be abandoned up to the connection to the City sanitary sewer main as directed by the Public Works Director. Any existing sanitary sewer lateral serving the property that is to be reused or any new private sanitary sewer lateral to be installed shall pass a verification test witnessed by the City of Emeryville and EBMUD inspectors prior to occupancy. If an existing sewer lateral cannot pass a verification test then it will need to be replaced. All work performed on sanitary sewer laterals shall require a Sanitary Sewer Lateral Permit and said work is not covered under the Building Permit. **[Public Works]**
4. Underground Utility Lines. All new and existing on-site electrical and communication lines shall be placed underground.
5. Trash, Recycling and Composting Collection Plan. All storage and collection for trash, recycling and composting shall be consistent with Sheets A2.20 and A2.21. Prior to the issuance of a building permit, the building permit plans shall show adequate space and containers for all three disposal types, (i.e., trash, recyclables and compostables) for "back of the house" employee use and for customer/public use. **[Public Works]**
6. Encroachment Permits. Prior to the issuance of a building permit, the applicant shall obtain an Encroachment Permit for the protection of all hardware, landscape, C3 and other improvements in the public right of way. Applicant shall submit and maintain a cash security or bond in an amount equal to replacement cost for all existing improvements within the public right of way, to the centerline of roadway, along the project frontage. Encroachment Permits for traffic control and other operations within the right of way shall be obtained prior to start of such work.

B. PRIOR TO BEGINNING CONSTRUCTION IN THE PUBLIC RIGHT OF WAY

1. Encroachment Permit. Prior to beginning any construction in the public right of way, Applicant shall apply for and receive an encroachment permit for all work and improvements within the City's right of way or City easements. As required by the Public Works Director, Applicant shall post the required security and provide evidence of liability insurance as

part of the encroachment permit process. Applicant shall pay for all Public Works Inspection fees associated with work within the City's right of way
[Public Works]

C. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

1. Completion of Public Improvements. Except as provided in Tentative Map (SUBDIV15-002) Condition III.A.6.b.i.a allowing for temporary asphalt concrete curb and sidewalk, and temporary storm drainage inlets along the Shellmound Street frontage, prior to issuance of a certificate of occupancy, the Public Works Director shall confirm that all off-site and on-site public improvements are completed in accordance with the final building permit and improvement plans or that other arrangements acceptable to the Public Works Director have been made for ensuring that the work is completed, such as an irrevocable standby letter of credit.
[Public Works]
2. Cross-walk Assessment Studies. Prior to the issuance of temporary certificate of occupancy and as deemed appropriate by the Public Works Director, the applicant shall have entered into an improvement agreement between the City of Emeryville and AG-CCRP Public Market, LLP and posted any required bonds, to ensure faithful performance of Condition of Approval VI.C.2.
3. Damage to Public Facilities. Applicant shall be deemed responsible for any damage to public improvements that occurs during construction and that is caused by construction and shall repair such damage at its expense and to the satisfaction of the Public Works Director, including but not limited to sidewalk repair, street slurry seal or street reconstruction.

All repairs to the public right of way shall be completed to the satisfaction of the Public Works Director prior to issuance of a Temporary Certificate of Occupancy (TCO). **[Public Works]**

D. ONGOING

1. Maintenance of Street Trees, Stormwater C3 plantings, and other vegetation in the Public Right of Way: Applicant, its successors and assigns, shall maintain all landscaping improvements in the public areas fronting the property, in a healthy, growing condition at all times according to Bay Friendly Landscaping Practices as described by StopWaste.org's Bay Friendly Landscaping program. The landscaped areas shall be irrigated by an automatic system designed to reduce water

usage. Applicant shall replace all landscaping that dies with the exact living species, or substitutes approved by the Public Works Director after obtaining an encroachment permit from the City. Landscaping work shall comply with the provisions of Chapter 10 of Title 7 of the Emeryville Municipal Code. **[Public Works]**

2. Compliance with Trash, Recycling and Composting Plan: Applicant and its successors and assigns shall implement the approved Trash, Recycling and Composting plan and report its activities and achievements to the Public Works Director annually. **[Public Works]**
3. Trash Collection. It will be the responsibility of the Building/Leasing Manager to ensure that all trash bins are pre-staged inside the building and not in the public-right-of-way. Building Management will coordinate with the trash hauler regarding the pick-up, anticipated time to assist the trash hauler to move the trash bins from the staging area to the truck at that time and then immediately return the trash bins into the building after trash pick-up is complete. **[Public Works]**

V. PUBLIC SAFETY REQUIREMENTS

A. PRIOR TO ISSUANCE OF A BUILDING PERMIT

1. Fire Department Standards. Prior to the issuance of a building permit, the Fire Department shall confirm that the final building plans include all fire and emergency safety measures as required by the Department, including access requirements, premises identification, key boxes, hydrants, fire protection systems and equipment and exiting and emergency illumination. Fire hydrants shall be provided so all the exterior walls are within 400 feet of a fire hydrant as required by California Fire Code (CFC) 507.5; and fire flow for the site shall comply with the CFC appendix B. **[Fire]**
2. The Emergency vehicle access roads shall be clearly marked with signage or red curbs with the wording: FIRE LANE NO STOPPING CVC22500.1. **[Fire]**
3. The building permit plans shall be designed to the current edition of NFPA 13. The building permit plans shall include a fire alarm/sprinkler monitoring system as required by the building code and the current edition of NFPA 72. **[Fire]**

4. The project shall comply with the California Building and Fire Codes as adopted by the City of Emeryville. **[Fire]**
5. A fire command Center, a smoke control system and an Emergency Responder Radio Communication System is required according to 2016 CFC Chapter 5 Section 508, 2016 CFC Chapter 9 Section 909 and 2016 CFC Chapter 5 Section 510 respectively. **[Fire]**
6. Compliance with CFC Chapter 33 and City of Emeryville Safety during construction shall be observed. **[Fire]**
7. Site Security Management Plan. Prior to the issuance of a building permit, Applicant shall submit a Site Security Management Plan for approval by the Police Department, which conforms to the lightning standards and guidelines outlined in IESNA's "Guideline for Security Lighting for People, Property, and Public Spaces" 2003 prepared by the IESNA Security Lighting Committee. In addition, a surveillance camera plan or other equivalent security measure acceptable to the Police Chief. This plan shall be designed to the satisfaction of the Police Chief. **[Police]**

B. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

1. Fire Department Standards. Prior to the issuance of a certificate of occupancy, the Fire Department shall confirm compliance with the applicable Fire Department standards. **[Fire]**
2. Site Security Management Plan. Prior to the issuance of a certificate of occupancy, the Police Department shall confirm compliance with the approved a Site Security Management Plan including the approved surveillance plan. **[Police]**

C. ONGOING

1. Compliance with Site Security Management Plan. Applicant shall comply with the approved Site Security Management Plan during operations including the approved surveillance plan. **[Police]**
2. Compliance with Fire Department Standards. Applicant shall comply with the Fire Department Standards during operations. **[Fire]**

VI. PARKING AND TRANSPORTATION

A. PRIOR TO ISSUANCE OF A BUILDING PERMIT

1. Parking. Prior to the issuance of a building permit, the Community Development Director shall confirm that the final building plans for the project incorporate: **[Planning]**
 - a. A minimum of 500 vehicular parking spaces
 - b. A minimum of 65 bicycle parking spaces as set forth below:
 - i. 50 long term employee bicycle parking spaces in an enclosed, limited-access area.
 - iii. 15 short term bicycle parking spaces
2. Parking Availability Signage: The project shall include electronic signage indicating availability of parking spaces. The building permit plans shall include the locations and types of such signs.
[Planning]
3. Parking Design. The parking levels shall be designed such that automobiles and direct light from interior fixtures shall not be visible from any public right-of-way. In addition, all lighting shall be designed to confine direct rays to the premises. No light fixture shall emit any direct light above a horizontal plane through the fixture. No spillover beyond the property line shall be permitted, except onto public thoroughfares; provided, however, that no such light shall cause a hazard to motorists.
[Planning]
4. Public Art Structural Design. The public art elements of the building shall be finalized and included as part of the building permit application. Specifically, the public art elements shall be designed as necessary to provide appropriate screening of the parking levels, as required by Condition of Approval VI.A.3 above, and to be structurally compatible with the building. **[Planning and Building]**

B. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

1. Emery Go-Round. Applicant shall fully participate in the Emeryville Transportation Management Association (the TMA), a private, nonprofit agency responsible for administering the Emery-Go-Round, a

transportation service system serving Emeryville and the members participating in the TMA. Prior to the issuance of certificate of occupancy, Applicant shall provide evidence to the Community Development Director that it has executed a Membership Agreement as required in accordance with the policies, rules and regulations of the TMA. **[Planning]**

2. Parking Availability Signage. Prior to issuance of a certificate of occupancy, the Community Development Director shall confirm that all signage described in Condition of Approval VI.A.2 above has been installed.
3. Bicycle Parking: All bicycle spaces shall be made available free of charge to the tenants of the building. The operator of the building shall not charge for bicycle parking.

C. ONGOING

1. Emery Go-Round. Applicant, its successors and assigns, shall remain a member of the TMA so long as the TMA or its successor or assignee is in fact operating the Emery-Go-Round. Applicant and future property owners shall make good faith efforts to provide a brief description or tag line about the Emery-Go-Round and other forms of alternative transportation in its marketing and advertising efforts.
2. Crosswalk Assessment and Traffic Operations: The Applicant, its successors and assigns shall be responsible to provide the City with funding on a cost recovery basis to perform assessments of the uncontrolled pedestrian crossings and traffic operations on Shellmound Street from 63rd Street to Shellmound Way. The assessments shall address bicycle and pedestrian safety and impacts to intersection operations along the Shellmound Street Corridor. The assessments shall be performed at six months and at 18 months following the issuance of the certificate of occupancy of Parcel B.

If the assessments confirm that a traffic signal is warranted at the northern and/or southern driveways to Parcel B, then the applicant, its successors and assigns shall be responsible to design and install said traffic signals. In addition, if the assessment recommends that pedestrian signals, pedestrian flashing beacons, or other treatments be installed for pedestrian safety at the uncontrolled pedestrian crossings, then the Applicant, its successors and assigns shall be responsible to design and install said treatments.

3. Valet Parking. Any use of the public right of way for valet parking shall be subject to all applicable City approvals including, but not limited to, a review by the Transportation Committee.

VII. DESIGN CONDITIONS AND SITE STANDARDS

A. PRIOR TO ISSUANCE OF A BUILDING PERMIT

1. Elevations/Colors/Materials/Site Plan. Prior to the issuance of a building permit, Applicant shall submit a color scheme, samples and details of all exterior elevations and building materials of sufficient size to the Community Development Director for review and approval. Materials to be submitted shall include, but not be limited to, all perimeter gates and fences, window treatments, storefront windows and doors, awnings, outdoor furniture, paving and lighting fixtures. **[Planning]**
2. Art Panels: Any of the "art" panels proposed on the eastern and western façades of the building as allowed by Section 7.2 of the Development Agreement which does not use public art fees for design and installation shall be reviewed and approved by the Planning Commission.
3. Landscaping Plans. Landscaping in the public right of way shall conform with the applicable conditions of approval of the Tentative Map (SUBDIV15-002). Landscaping on private property shall conform to Title 9 Section 4.602 "Water Efficient and Bay Friendly Landscaping" of the Emeryville Municipal Code, including guidelines from StopWaste.org, the Alameda Countywide Clean Water Program C3 Stormwater Technical Guidance, and EBMUD requirements for reclaimed water.

The plans shall include species, number of plantings, size of plantings and specifications for the irrigation system. Minimum plant sizes are flats or 1-gallon containers for ground cover, 5-gallon containers for shrubs and 24-inch box containers for trees. Street trees shall be of a species approved by the Public Works Director and shall be spaced as depicted on the approved Tentative Map and as approved by the Public Works Director. All planting areas and tree wells shall include a 3 inch layer of bark mulch per the requirements of Bay Friendly Landscaping. Street trees may require tree grates as directed by the Public Works Director

The applicant shall install structural soil under sidewalk / hardscape areas, to provide adequate rootable soil volume areas for healthy street trees. The amount of rootable soil volume to be provided per tree shall depend on the

ultimate height of the tree at maturity as follows:

- 600 cubic feet per small tree, (up to 25 feet tall)
- 900 cubic feet per medium-sized tree (25 feet to 50 feet tall)
- 1200 cubic feet per large-sized tree (greater than 50 feet tall)

Rootable soil volume for each tree shall be calculated by including both the structural soil beneath the hardscape areas and Bay Friendly approved horticultural soil within the planting areas. The landscape plans shall clearly show all locations of Rootable Soil including dimensions for structural soil and Bay Friendly Horticultural Soil to account for the above referenced requirements for Rootable soil volume.

The applicant shall perform horticultural soil and drainage tests in the public right of way areas that will receive tree plantings for review and approval by the City Arborist. Tree planting areas shall include drainage as necessary for all street trees and could entail extensive excavation for sumps and subdrain systems. All existing native soil to be considered as rootable soil in planter areas shall be tested for chemical contaminants and horticultural suitability. Prior to importing any soil material to be used as rootable soil, the Applicant shall provide chemical and horticultural test results to the City for approval. Soil shall be amended as necessary with Bay Friendly compost per City standards in place of other soil amendments. **[Public Works]**

4. Recycled Water. Applicant shall submit a letter from the recycled water provider (East Bay Municipal Utility District) stating requirements for recycled water plumbing, at time of submittal of project plans for building permit plan check comments and said EBMUD requirements shall be incorporated into the plans prior to issuance of building permit. If Applicant is not complying with the requirements of the recycled water provider, Applicant shall provide a written explanation of its actions. **[Planning]**

5. Trash, Recycling and Composting Facilities. At time of submittal of project plans for building permit plan check comments, the Applicant shall include a Trash, Recycling and Composting Plan for review and comment by the City. Prior to the issuance of a building permit, the Community Development Director and Public Works Director shall confirm that all comments received by the City and all improvements necessary for the Trash, Recycling and Composting Plan are incorporated into the project plans.

- a. Maintenance and Service: Trash, recycling and composting storage areas shall include adequate space for the maintenance and servicing of containers for all materials that are provided by local hauling companies. Sewer drains, fire sprinklers, enclosures, and roofing (if outdoors) shall be provided as per city standards.
 - b. Adequate Space for Trash, Recyclables and Compostables: The amount of space provided for the collection and storage of recyclable materials shall be at least as large as the amount of space provided for the collection and storage of trash materials and shall reflect the estimated volumes of trash and recyclable and compostable materials to be generated providing for the separate and dedicated containers for those materials with the goal of 25% or less of the total materials generated going to a landfill. An appropriately sized and designed area for wastes banned from regular trash containers such as electronics, fluorescent lamps and batteries shall be designated. Residential properties will also provide area for bulky item collection such as mattresses, furniture, tires and white goods.
 - c. Convenience and Accessibility: The recycling area shall be at least as accessible and convenient for tenants and collection vehicles as the trash collection and storage area. If chutes are planned then separate, properly labeled (as per City Standards) and dedicated chutes must be provided for each and every collected stream of materials - not just for trash (non-recyclable and non-compostable materials.) The trash and recycling room(s) or areas shall be located on an exterior wall of the building (if indoors) with adequately-sized door or gate access to the street through the wall so as to minimize distance for the collection vehicle personnel and eliminate temporary outdoor storage of containers on collection days. If the storage area is located outside then it must be easily accessible by the collection vehicles. If the day-to-day-use trash and recycling area(s) cannot be located adjacent to the street, then service-day locations easily accessible by the collection vehicle staff, must be provided in an area on-site as per city standards in enclosures completely screened and covered from off-site view by a solid fence or masonry wall at least six feet high and in harmony with the architecture of the building(s). **[Planning and Public Works]**
6. Height. A height of up to 120 feet (not including parapets and rooftop elements) shall be permitted. **[Planning]**

7. Development Sign. The project is allowed one development sign indicating developer, architect, contractor, etc. during construction that shall not exceed twelve square feet. Other development/marketing signs may be approved administratively by the Community Development Director provided that they are removed prior to issuance of a final certificate of occupancy. **[Planning]**
8. Exterior Lighting. Prior to issuance of a building permit, Applicant shall provide sufficient information for the Community Development Director to confirm that exterior lighting for the project complies with the following standards and criteria: **[Planning]**
 - a. Parking area illumination shall conform to the requirements of Section 9-4.406(k) of the Emeryville Municipal Code.
 - b. Light fixtures attached to buildings shall be designed as an integral part of the building facades to highlight building forms and architectural details.
9. Noise. Prior to the issuance of a building permit, the Building Official shall confirm that the project is designed in order to limit noise exposure to those levels set forth in the Emeryville Municipal Code and General Plan. **[Building]**
10. Garage Openings. The open parking on the north and south elevations shall be screened with an aesthetically pleasing treatment that is compatible with that of the east and west elevations. **[Planning]**
11. Terrace/Roof Deck. Final design of the terrace/roof deck open space at the sixth level shall be heavily landscaped to reduce wind and improve usability and shall incorporate porous materials or structures (e.g., vegetation, hedges, screens, latticework, perforated or expanded metal) which offer superior wind shelter compared to solid surfaces. Outdoor furnishings, such as tables, shall either be either weighted or attached to the deck. **[Planning]**

B. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

1. Sign Permit. Applicant shall apply for a sign permit for any proposed signs not included in this approval, in accordance with the Sign Regulations at Article 16 of Chapter 5 of Title 9 of the Emeryville Municipal Code. **[Planning]**

2. Master Sign Program. Prior to the issuance of a temporary certificate of occupancy, the Applicant shall apply for a master sign program in accordance with the Section 9-5.1613 of the Emeryville Municipal Code. The master sign program shall be reviewed and approved by the Planning Commission prior to implementation. Applicant shall submit to the Community Development Director an overall tenant sign handbook, detailing sign requirements, restrictions, dimensions, colors, materials, approval procedures, prohibited signs, a protocol for temporary signs and other specifications for the long-term operations of the sign program. When a specific sign design is submitted to the Planning Department for approval, the sign application shall indicate how the sign is consistent with the approved master sign program. The Master Sign Program shall also include Way-finding elements along the path of travel to and from the pedestrian bridge. The way finding signage shall be installed prior to the issuance of certificate of occupancy of the residential component of the building. **[Planning]**
3. Completion of Landscaping.
 - a. Prior to issuance of a certificate of occupancy, the project landscape architect shall confirm to the Community Development Director that all on-site landscaping is completed and in accordance with the final building permit and improvement plans, including off-site and public improvements, or that other acceptable arrangements acceptable have been made for ensuring that the work is completed, such as an irrevocable standby letter of credit to cover all costs of the unfinished work plus 25 percent. **[Planning]**
 - b. Prior to issuance of a certificate of occupancy, the project landscape architect shall confirm to the Public Works Director that all off-site landscaping as required by the Tentative Map (SUBDIV15-002) is completed and in accordance with the final building permit and improvement plans, including off-site and public improvements, or that other acceptable arrangements acceptable have been made for ensuring that the work is completed, such as an irrevocable standby letter of credit to cover all costs of the unfinished work plus 25 percent. **[Public Works]**
4. Equipment/Storage. Prior to issuance of a certificate of occupancy, the Community Development Director shall confirm that: **[Planning]**

- a. All mechanical equipment, including electrical and gas meters, heating/air conditioning or ventilation units, radio/TV antennas or satellite dishes shall be appropriately screened from off-site view, and electrical transformers shall be either placed underground or appropriately screened.
- b. All trash enclosures shall be completely roofed and screened from off-site view by a solid fence or masonry wall at least six feet high and in harmony with the architecture of the building(s). Alternatively, the trash facilities may be placed within the building.
- c. All visible vents, gutters, down spouts, flashings, and the like shall match the color of adjacent surfaces, or shall be incorporated into the overall exterior color and materials scheme for the building.

C. ONGOING

1. Landscaping. All landscaping improvements shall be maintained in a healthy, growing condition at all times. The landscaped areas shall be irrigated by an automatic sprinkler system designed to reduce water usage. Applicant shall replace all landscaping that dies with the exact living species, or substitutes approved by the Community Development Director. Landscapes within the public right of way shall be maintained according to the principles of Bay Friendly Landscaping per guidelines by StopWaste.org
2. No Outside Storage. There shall be no outside storage of any type in parking areas. Those areas shall be kept free of obstruction and available for their designated use at all times. Boats, trailers, camper tops, inoperable vehicles and the like shall not be parked or stored on the parking areas.
3. Maintenance and Graffiti Removal. The site and improvements shall be well maintained and kept free of litter, debris, weeds and graffiti. Any graffiti shall be removed within 72 hours of discovery in a manner which retains the existing color and texture of the original wall or fence as most practically feasible.
4. Noise. The project shall operate in order to limit noise exposure to those levels set forth in the Emeryville Municipal Code and General Plan.
5. Exterior Lighting. Exterior lighting shall provide adequate illumination for on-site security and display purposes for the building, parking lots and

pedestrian accessways while limiting off-site spillover of light through shielding. No light shall create a hazard for auto drivers.

6. Trash, Recycling and Composting Plan. Applicant and its successors and assigns shall implement the approved Trash, Recycling and Composting Plan and report its activities and achievements to the Public Works Director annually. **[Public Works]**
7. Real Estate Signs in Public Right-of-Way. Off-site signs located on the public sidewalk and directing the public to "open house" events for the viewing of lots, premises, dwellings or structures that are for sale, lease, or rent, shall be regulated by the applicable provisions of Chapter 34 of Title 5.

VIII. STORMWATER

A. GENERAL.

1. Design, Construction, Operation, and Maintenance. The project shall be designed, constructed, operated, and maintained in conformance with the attached "Stormwater Pollution Prevention and Source Control Measures" ("Stormwater Measures") and the City's "Stormwater Guidelines for Green Dense Redevelopment" ("Stormwater Guidelines"). (Attachments 3 and 4).
2. Cost Recovery. The Applicant shall pay cost recovery fees related to the verification of permanent stormwater treatment drainage facilities planned and implemented on the site. Fees will be charged for plan check and engineering analysis of stormwater treatment system, inspection during construction of stormwater treatment facilities, and inspection before the issuance of the certificate of occupancy to verify that the stormwater treatment systems are properly functioning. Applicant shall also permit City representatives to perform inspection of said treatment facilities to enter the property during and after construction to perform said duties. **[Public Works]**

B. PRIOR TO ISSUANCE OF A BUILDING PERMIT.

1. Compliance with Stormwater Measures. At time of submittal of project plans for building permit plan check comments, the Applicant shall provide a separate C3 Stormwater Permit Packet and application to the Public Works Department for review and comment. Said Stormwater Permit shall be approved by the City prior to the issuance of a building

permit. The project shall comply with the attached Stormwater Measures, in particular with the provision C.3 requirements (or new development section) of the City's NPDES Stormwater Permit and with plans and calculations showing how the project meets the numeric hydraulic sizing requirements as described in Section A of the attached Stormwater Measures. **[Public Works]**

2. Site Grading and Storm Drainage. Prior to the issuance of a building permit, the Public Works Director shall confirm that the building permit plans, specifications and information include detailed site drainage, grading plans and hydraulic calculations in conformance with the City's stormwater runoff requirements and specifications. All runoff from the site shall be intercepted at the project boundary, and shall be collected, treated and conducted via an approved drainage system through the project site to an approved public storm drain facility. Roof drainage from the structure shall be collected, treated and conducted to an approved drainage facility. No concentrated drainage of surface flow across sidewalks shall be permitted. Grading and drainage plans shall conform to Section A of the attached Stormwater Measures. **[Public Works]**
3. Site Plan. The site plan shall conform to Section B of the attached Stormwater Measures. **[Public Works]**

C. DURING CONSTRUCTION. Applicant and contractor shall comply with Section C of the attached Stormwater Measures. **[Public Works]**

D. PRIOR TO THE ISSUANCE OF CERTIFICATE OF OCCUPANCY

1. Operations and Maintenance Agreement. Prior to the issuance of a certificate of occupancy, Applicant shall enter into a Stormwater Treatment Measures Operation and Maintenance Agreement with the City of Emeryville to ensure the faithful performance of the design, construction, operation, and maintenance of the stormwater treatment systems. **[City Attorney/Public Works]**
2. Commitment to the Stormwater Pollution Prevention Practices. Prior to the issuance of a certificate of occupancy, Applicant shall submit evidence of commitment to the stormwater pollution prevention practices, as detailed in Section D of the attached Stormwater Measures. **[Public Works]**
3. Completion of Construction of Stormwater Treatment Systems. Prior to issuance of a certificate of occupancy, the Public Works Director shall

confirm that the stormwater treatment systems are properly installed and functioning. **[Public Works]**

- E. ONGOING. The owner/operator of the facility shall permit, in perpetuity, city representatives to enter the property during and after construction in order to perform periodic inspection of stormwater treatment facilities.

Attachments:

1. Fee Chart
2. Construction Sign Prototype
3. Stormwater Pollution Prevention and Source Control Measures
4. Stormwater Permit Requirements and Application Form

PROJECT

Public Market Parcel B Mixed-Use Tower with La

PRELIMINARY FEE CALCULATIONS

Valuation

\$ 60,000,000.00

Print Date: December 2, 2019

SUMMARY OF ALL FEES	FEES	PAYMENT DATE	AMOUNT PAID	AMOUNT DUE	NOTES
Building Permit Fee	\$ 480,000.00			\$ 480,000.00	
Plan Review Fee	\$ 312,000.00			\$ 312,000.00	
Energy Review Fee	\$ 60,000.00			\$ 60,000.00	
Electrical Permit Fee	\$ 96,000.00			\$ 96,000.00	
Plumbing Permit Fee	\$ 86,400.00			\$ 86,400.00	
Mechanical Permit Fee	\$ 81,600.00			\$ 81,600.00	
S.M.I.P.	\$ 16,800.00			\$ 16,800.00	
Microfiche	\$ 4,800.00			\$ 4,800.00	
Fire Department Fees	\$ 192,000.00			\$ 192,000.00	
Fire Suppression Fees	\$ -			\$ -	Under separate permit
Sewer Connection Fees	\$ 21,200.00			\$ 21,200.00	estimate for 80
Bay-Shell-Mound Contingent Fees	\$ 1,701.35			\$ 1,701.35	
Transportation Facility Fees	\$ 558,371.00			\$ 558,371.00	FY 19-20 To be paid at Occ
School Fees	\$ 107,543.00			\$ 107,543.00	New Fees Effective 8/27/2018
**Art In Public Places	\$ 600,000.00			\$ 600,000.00	**To be paid into Art Escrow
Technology Fee	\$ 60,000.00			\$ 60,000.00	
Building Standards Commission Fee	\$ 2,400.00			\$ 2,400.00	
General Plan Maintenance Fee	\$ 300,000.00			\$ 300,000.00	
Affordable Housing Fee	\$ -			\$ -	N.A. per DA (CAO)
Parks and Recreation Fee	\$ 481,266.00			\$ 481,266.00	FY 19-20 for Reference Only
TOTAL:	\$ 3,462,081.35		\$ -	\$ 3,462,081.35	3,462,081.35

FEES TO BE PAID AT PLAN CHECK SUBMITTAL:					
Plan Review Fee	\$ 312,000.00		\$ -	\$ 312,000.00	
Energy Review Fee	\$ 60,000.00		\$ -	\$ 60,000.00	
Other Fees	**				
Sub Total:	\$ 372,000.00		\$ -	\$ 372,000.00	

FEES TO BE PAID AT PERMIT ISSUANCE:					
Building Permit Fee	\$ 480,000.00		\$ -	\$ 480,000.00	
Electrical Permit Fee	\$ 96,000.00		\$ -	\$ 96,000.00	
Plumbing Permit Fee	\$ 86,400.00		\$ -	\$ 86,400.00	
Mechanical Permit Fee	\$ 81,600.00		\$ -	\$ 81,600.00	
S.M.I.P.	\$ 16,800.00		\$ -	\$ 16,800.00	
Microfiche	\$ 4,800.00		\$ -	\$ 4,800.00	
Fire Department Fees	\$ 192,000.00		\$ -	\$ 192,000.00	
Fire Suppression Fees	\$ -		\$ -	\$ -	
Sewer Connection Fees	\$ 21,200.00		\$ -	\$ 21,200.00	
Bay-Shell-Mound Contingent Fees	\$ 1,701.35		\$ -	\$ 1,701.35	
School Fees	\$ 107,543.00		\$ -	\$ 107,543.00	
**Art In Public Places	\$ 600,000.00		\$ -	\$ 600,000.00	**To be paid into Art Escrow
Technology Fee	\$ 60,000.00		\$ -	\$ 60,000.00	
Building Standards Commission Fee	\$ 2,400.00		\$ -	\$ 2,400.00	
General Plan Maintenance Fee	\$ 300,000.00		\$ -	\$ 300,000.00	
Sub Total:	\$ 2,050,444.35		\$ -	\$ 2,050,444.35	

FEES TO BE PAID AT OCCUPANCY:					
Transportation Facility Fee	\$ 558,371.00		\$ -	\$ 558,371.00	
Sub Total:	\$ 558,371.00		\$ -	\$ 558,371.00	

Encroachment, Stormwater & PSL Fees	See separate Fee Chart by Public Works for additional fees	{Calculated By Public Works}
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Notes: This is a PRELIMINARY fee calculation for estimating purposes only. Fees will be recalculated at the time of submittal, prior to permit issuance and at any time when the scope of work is revised (including: type of construction, # of stories, floor area, declared valuation, and use).

AR3508

Parcel B Mixed Use Tower with Lab Prelim Fee Calcs - 2019-12-02

12/2/2019

CITY OF EMERYVILLE CALCULATION OF BUILDING FEES:

PROJECT: Public Market Parcel B Mixed-Use Tower with Lab **PRELIMINARY FEE CALCULATIONS**
DATE: December 2, 2019
PREPARED BY: Giyan and Courtney

FEES ARE BASED UPON THE VALUATION OF THE PROJECT. "VALUATION OF A BUILDING SHALL BE THE ESTIMATED COST TO REPLACE THE BUILDING AND STRUCTURE IN KIND, BASED ON CURRENT COSTS "

This fee calculation is based upon the information submitted to the Building Department.

FEES BASED ON VALUATION OF:			\$ 60,000,000.00
TYPE OF PERMIT OR FEE			AMOUNT
BUILDING PERMIT FEE (See calculation below)			\$ 480,000.00
PLAN REVIEW FEE (65% of Building Permit Fee / 50% for Residential <)			\$ 312,000.00
ENERGY CONSERVATION REVIEW FEE (12.5% of Building Permit Fee)			\$ 60,000.00
ELECTRICAL PERMIT FEE (20% of Building Permit Fee)			\$ 96,000.00
PLUMBING PERMIT FEE (18% of Building Permit Fee)			\$ 86,400.00
MECHANICAL PERMIT FEE (17% of Building Permit Fee)			\$ 81,600.00
S.M.I.P. (Res. <= 3 story = 0.00013 or 0.00028 of the Valu.)			\$ 16,800.00
MICROFICHE	Valuation < \$ 100,000 = \$ 1.00/ Page.	# of Pages	
	Valuation > \$ 100,000 = 1% of Bldg. Permit Fee	Bldg.. Permit Fee * 1%	\$ 4,800.00
FIRE DEPARTMENT FEES (New Construction, T.I's - 40% of Building Permit Fee)			\$ 192,000.00
FIRE SUPPRESSION FEES - Separate Submittal - (See calculation below)			
SEWER CONNECTION FEE * \$274.00 per Trap or \$1372.00 per Dwelling Unit	New traps - traps removed	80	\$ 21,200.00
	Number of Dwelling Units		
BAY SHELLMOUND FEES			\$ 1,701.35
TRANSPORTATION FACILITY FEE (effective July 1, 2019 - June 30, 2020)			\$ 558,371.00
EMERY UNIFIED SCHOOL DISTRICT FACILITIES DEVELOPMENT FEE (See calculation below)			\$ 107,543.00
ART IN PUBLIC PLACES (Commercial Projects > \$300k valu. Artwork or in-lieu fee -1% of valu.)			\$ 600,000.00
TECHNOLOGY FEE (Effective February 3, 2010 - 0.1% of Valuation)			\$ 60,000.00
BUILDING STANDARDS COMMISSION FEE (\$ 1.00 per \$ 25k Valuation)			\$ 2,400.00
GENERAL PLAN MAINTENANCE FEE (Effective May 20, 2004 - 0.5% of Valuation)			\$ 300,000.00
AFFORDABLE HOUSING (effective July 1, 2019 - June 30, 2020)			\$ -
PARKS AND RECREATION (effective July 1, 2019 - June 30, 2020)			\$ 481,266.00
TOTAL			\$ 3,462,081.35

* Unable to determine the sewer connection fees at this time with the information provided.

FEES ARE BASED ON THE USE, GROSS FLOOR AREA, TYPE OF CONSTRUCTION, NUMBER OF STORIES, AND NUMBER OF PLUMBING TRAPS. IF ANY OF THESE FACTORS CHANGE, THE FEES WILL CHANGE.

FEE PAYMENT SCHEDULE:

AT SUBMITTAL OF INITIAL BUILDING PERMIT APPLICATION AND PLANS:

- 1 Plan Review Fee for the Entire Project .
- 2 Energy Conservation Review Fee.

AT ISSUANCE OF FIRST BUILDING PERMIT

(All of the following fees shall be paid with the issuance of the first permit for phased permits.)

- 1 Building Permit Fee. (Plumbing, Electrical & Mechanical permits may be taken out by the General Contractor or by the subs. These permits may not be divided into phases. The entire sewer connection fee shall be paid with the plumbing permit.)
- 2 S.M.I.P and Building Standards Commission Fees
- 3 Microfiche Fee
- 4 Bay/Shellmound Contingent Assessment (N.A for residential projects)
- 5 School District Facilities Impact Fee
- 6 General Plan Maintenance and Technology Fees
- 7 Art in Public Places: For residential projects exceeding 19 units 0.5% of the project valuation is required for Art in Public Places.
- 8 Development Impact Fees (including Traffic Impact, Affordable Housing and Park & Rec)
- 9 Business Licenses: City of Emeryville Business Licenses are required from the contractor.

PRIOR TO OCCUPANCY OF THE BUILDING AND RELEASE OF THE FINAL UTILITY METER:

- 1 If public art is to be installed it shall be in place.
- 2 Any and all outstanding fees; including charges for review of changes to approved plans or increased fees due to increased project valuation.
- 3 Final business license fees will be calculated by the finance department for all projects with a valuation in excess of 1,000,000.00 (one million) dollars. These fees must be paid prior to building occupancy.

VALUATION CALCULATIONS:

Type of Const.	Use	Number of Floors	Gross Floor Area	Square Foot Cost	Sprinklers + \$5.22	Air Cond. + 8..43/7.02	Modifier x 1.00	Story > 3, +5% ea.	Total Valuation
			(sq.ft.)	(\$)	\$5.22	\$8.43	1	(\$)	(\$)
I-A	Lab	8	160,500	\$ 214.94	\$ 220.16	\$ 228.59	\$228.59	\$ 234.30	\$ 37,605,912.38
I-A	Parking	8	194,510	\$ 73.86	\$ 79.08	\$ 87.51	\$87.51	\$ 89.70	\$ 17,447,109.35
I-A	Retail	8	15,800	\$ 165.84	\$ 171.06	\$ 179.49	\$179.49	\$ 183.98	\$ 2,906,840.55
					\$ 5.22	\$ 13.65	\$13.65	\$ 13.99	\$ -
					\$ 5.22	\$ 13.65	\$13.65	\$ 13.99	\$ -
Totals		8	370,810						\$ 57,959,862.28
Exist. Bldg. Adjustment - 80% (No credit for existing sprinklers or HVAC)									
	W'House				\$ 2.40	\$ 2.40	\$ 2.40		\$ -
T.I. ONLY Adjustment * 20%									
				\$ -	\$ 1.04	\$ 2.73	\$ 3.08		\$ -
DECLARED VALUATION									\$ 60,000,000.00
								TOTAL	\$ 60,000,000.00

BUILDING PERMIT FEE CALCULATIONS {Without Adjustments}: (Valuation is the replacement cost of the project once it is completed.) Grading, Demolition and Fire Sprinkler Permits are calculated in the same way except that the contract price may be used instead of the valuation.

TOTAL VALUATION		\$ 60,000,000.00	
VALUATION BASIS	AMOUNT	PERCENTAGE	TOTAL
\$ 1.00 - \$ 50,000.00	\$ 50,000.00	0.80%	\$ 400.00
\$ 50,000.00 - \$ 250,000.00	\$ 200,000.00	0.80%	\$ 1,600.00
Over \$ 250,000.00	\$ 59,750,000.00	0.80%	\$ 478,000.00
BUILDING PERMIT FEE:			\$ 480,000.00

EMERY UNIFIED SCHOOL FACILITIES DEVELOPMENT FEE CALCULATION: (D78)			
TYPE OF PROJECT	AREA	FEE/SQ.FT.	TOTAL FEE
Commercial	176,300	\$ 0.61	\$ 107,543.00
Live/work		\$ 2.20	\$ -
Residential		\$ 3.79	\$ -
Existing Building Credit		\$ -	\$ -
Low Income Housing Credit			\$ -
SCHOOL DISTRICT FEE:			\$ 107,543.00

(School fees reflect the new fees effective August 27, 2018)

School Facilities Development Fees are due and payable at the Building Division at the time of issuance of the first building permit for the project. An applicant who believes the fee is not justified shall pay the fee and appeal directly to the Emery School District.

**XYZ PROJECT
ACE DEVELOPMENT COMPANY**

Approved Construction Hours:

7am to 6pm

(Pile Driving 8am to 5pm)

Monday through Friday

Contractor: Acme Construction

123-456-7890

For complaints or concerns call

Joe Smith at 098-765-4321

3 feet

4 feet

**ATTACHMENT TO CONDITIONS OF APPROVAL
STORMWATER POLLUTION PREVENTION AND SOURCE CONTROL MEASURES
City of Emeryville
Revised 2/2016**

A. Grading and Drainage

1. Plans shall incorporate appropriate site design measures to minimize impacts to water quality. These may include, but are not limited to, the following: (a) minimizing impervious surfaces, especially directly-connected impervious surfaces, (b) clustering buildings, (c) preserving quality open space, (3) maintaining and/or restoring riparian areas and wetlands and establishing vegetated buffer areas to minimize the volume of stormwater runoff and the pollutants in the stormwater. The City has adopted an Ordinance that addresses approved treatment measures and sizing criteria, available on the City's website. A permit application and design worksheets are also on the City's website, at <http://www.ci.emeryville.ca.us/335/Stormwater>. Plans shall include stormwater pollution prevention and control features as required by the City's current NPDES permit.
2. The City of Emeryville requires that treatment measures be constructed for applicable projects, as defined in section C.3.c. of the City's NPDES permit. These measures must incorporate, at a minimum, the hydraulic sizing criteria outlined in the Alameda County Clean Water Program's Technical Guidance Manual, available at <http://www.cleanwaterprogram.org/c3-guidance-table/item/c3-guidance-table.html>.
3. The design of any stormwater treatment measures must incorporate the treatment control design guidance for vector control included in Appendix G of the Technical Guidance Manual.
4. Access to treatment devices must be maintained. Design stormwater treatment devices to be easily and safely accessible without the need for special requirements (e.g., OSHA requirements for "confined spaces.") If utilizing covers, include in the design spring-loaded or light-weight access hatches that can be opened easily for inspection.
5. All on-site storm drain inlets shall be stenciled or labeled "No Dumping! Flows to Bay" or equivalent, using methods approved by the City.
6. Construction access routes shall be limited to those approved by the City Engineer and shall be shown on the approved grading plan.
7. Prior to the commencement of any clearing, grading, and/or excavation resulting in a land disturbance of one acre or more, the applicant shall submit the following documents to the City, both of which should be checked daily, especially around storm events, and updated as necessary. A daily log should be kept stating that BMPs have been checked and are effective. The necessary documents are:
 - a. A copy of the project's Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall contain the erosion, sediment and pollution control BMPs (some of which are described in

Section C of this document), and the BMPs shall be in place before any work begins, as appropriate for that phase of construction.

- b. Evidence to the City that a Notice of Intent (NOI) has been submitted to the State Water Resources Control board.
- 8. For projects involving clearing, grading or excavation resulting in disturbance of less than one acre of land, the applicant shall have in place erosion, sediment and pollution controls (described in Section C of this document) to the maximum extent practicable using the current standard BMPs as required by the City.

B. Site Plan and Source Control Measures

The site plan shall include the following items:

- 1. Stormwater Measures and Calculations as Defined in the Technical Guidance Manual
- 2. Refuse and Recycling Areas
 - a. New or redevelopment projects such as food service facilities, recycling facilities, multi-family residential complexes or similar facilities shall provide a roofed and enclosed area for waste, recycling, and compostables containers. The area shall be designed to prevent water run-on to the area and runoff from the area and to contain litter and trash, so that it is not dispersed by the wind or runoff during waste removal.
 - b. Any drains installed in or beneath dumpsters, compactors, and tallow bin areas serving food service facilities shall be connected to a grease removal device and/or treatment devices prior to discharging to the sanitary sewer. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.
 - c. Runoff from food service areas, recycling areas, and/or food compactor enclosures or similar facilities shall not discharge to the storm drain system.
- 3. Vehicle/Equipment and Commercial/Industrial Cleaning
 - a. Wastewater from vehicle and equipment washing operations shall not be discharged to the storm drain system.
 - b. Commercial/industrial facilities having vehicle/equipment cleaning needs and new residential complexes of 25 units or greater shall either provide a roofed, bermed area for washing activities or discourage vehicle/equipment washing by removing hose bibs (faucets) and installing signs prohibiting such uses. Vehicle/equipment washing areas shall be paved, designed to prevent run-on to or runoff from the area, and plumbed to drain to the sanitary sewer. A sign shall be posted indicating the location and allowed uses in the designated wash area. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.

- c. Commercial car wash facilities shall be designed and operated such that no runoff from the facility is discharged to the storm drain system. Wastewater from the facility shall discharge to the sanitary sewer. The applicant shall contact EBMUD for specific connection and discharge requirements.

4. Loading Docks

- a. Loading docks shall be graded to minimize run-on to and runoff from the loading area [and/or be covered]. Roof downspouts shall be positioned to direct stormwater away from the loading area. Stormwater runoff from loading dock areas shall be connected to a post-construction stormwater treatment measure prior to discharge to the storm drain system. The applicant shall contact the local permitting authority for specific connection and discharge requirements.
- b. Door skirts between the trailers and the building shall be installed to prevent exposure of loading activities to rain, unless one of the following conditions apply:: the loading dock is covered, or the applicant demonstrates that rainfall will not result in an untreated discharge to the storm drain system.

5. Food Service Equipment Cleaning

- a. Food service facilities (including restaurants and grocery stores) shall have a cleaning area for floor mats, containers, and equipment which is connected to a grease interceptor prior to discharging to the sanitary sewer system. The cleaning area shall be large enough to clean the largest mat or piece of equipment to be cleaned. The cleaning area shall be indoors or in a roofed area outdoors; in either case it must be plumbed to the sanitary sewer. Outdoor cleaning areas shall be designed to prevent stormwater run-on from entering the sanitary sewer and to prevent stormwater run-off from carrying pollutants to the storm drain. Signs shall be posted indicating that all food service equipment washing activities shall be conducted in this area. The applicant shall contact EBMUD for specific connection and discharge requirements.

6. Outdoor Process Activities/Equipment

(Examples of businesses that may have outdoor process activities and equipment include machine shops and auto repair shops, and industries that have pretreatment facilities.)

- a. Process activities shall be performed either indoors or in roofed outdoor areas. If performed outdoors, the area shall be designed to prevent run-on to and runoff from the area with process activities.
- b. Process equipment areas shall drain to the sanitary sewer system. The applicant shall contact EBMUD for specific connection and discharge requirements.

7. Fuel Dispensing Areas

- a. Fueling areas shall have impermeable surfaces (i.e., Portland cement concrete or equivalent smooth impervious surface) that are: a) graded at the minimum slope necessary to prevent

ponding; and b) separated from the rest of the site by a grade break that prevents run-on of stormwater to the maximum extent practicable.

- b. Fueling areas shall be covered by a canopy that extends a minimum of ten feet in each direction from each pump. Alternative: The fueling area must be roofed and the roof's minimum dimensions must be equal to or greater than the area within the grade break or fuel dispensing area which is defined as the area extending a minimum of 6.5 feet from the corner of each fuel dispenser or the length at which the hose and nozzle assembly may be operated plus a minimum of one foot, whichever is greater. The canopy or roof shall not drain onto the fueling area.

8. Pesticide/Fertilizer Application

- a. Landscapes and gardens should incorporate Bay-Friendly practices, as described at: <https://www.bayfriendlycoalition.org/BFRated-why.shtml>.
- b. Landscaping shall be designed to minimize irrigation and runoff, promote surface infiltration where appropriate, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution.
- c. Structures shall be designed to discourage the occurrence and entry of pests into buildings, thus minimizing the need for pesticides. For example, dumpster areas should be located away from occupied buildings, and building foundation vents shall be covered with screens.
- d. If a landscaping plan is required as part of a development project application, the plan shall meet the following conditions related to reduction of pesticide use on the project site:
 - i. Where feasible, landscaping shall be designed and operated to treat stormwater runoff by incorporating elements that collect, detain, and infiltrate runoff. Plants suitable for treatment areas are specified in Appendix B of the Technical Guidance document referenced above.
 - ii. Landscapes over 500 square feet in size must comply with the City's Water Efficient Landscape Ordinance (WELO) requirements, available at: <http://www.ci.emeryville.ca.us/documentcenter/view/1754>.
 - iii. Plant materials selected shall be appropriate to site specific characteristics such as soil type, topography, climate, amount and timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment.
 - iv. Existing native trees, shrubs, and ground cover shall be retained and incorporated into the landscape plan to the maximum extent practicable.
 - v. Proper maintenance of landscaping, with minimal pesticide use, shall be the responsibility of the property owner.

- vi. Integrated pest management (IPM) principles and techniques shall be encouraged as part of the landscaping design. Examples of IPM principles and techniques include:
 - a. Select plants that are well adapted to soil conditions at the site.
 - b. Select plants that are well adapted to sun and shade conditions at the site. Consider future conditions when plants reach maturity. Consider seasonal changes and time of day.
 - c. Provide irrigation appropriate to the water requirements of the selected plants.
 - d. Select pest- and disease-resistant plants.
 - e. Plant a diversity of species to prevent a potential pest infestation from affecting the entire landscaping plan.
 - f. Use “insectary” plants in the landscaping to attract and keep beneficial insects.

9. Interior Floor Drains

Interior floor drains shall be plumbed to the sanitary sewer system and shall not be connected to storm drains. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.

10. Parking Garages

Interior level parking garage floor drains shall be connected to the sanitary sewer system. The applicant shall contact the City of Emeryville and EBMUD for specific connection and discharge requirements.

11. Pool, Spa, and Fountain Discharges

- a. Pool (including swimming pools, hot tubs, spas and fountains) discharge drains shall not be connected directly to the storm drain or sanitary sewer system, unless the connection is specifically approved by EBMUD.
- b. Subject to local requirements, when draining is necessary, a hose or other temporary system shall be directed into a sanitary sewer clean out. The clean out shall be installed in a readily accessible area, example: within 10 feet of the pool. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.
- c. Subject to local requirements, swimming pool, spa and fountain water may be allowed to discharge to the storm drains if the water has been dechlorinated, the water is within ambient temperature, and no copper-based algae control products have been added to the water.
- e. If commercial and public swimming pool discharges are discharged to land where the water would not flow to a storm drain or to a surface water, the discharge may be subject to the requirements of the State Water Resources Control Board’s (SWRCB) Statewide General Waste Discharge Requirements (WDRs) for Discharges to Land with a Low Threat to Water Quality.

12. Outdoor Equipment/Materials Storage

- a. All outdoor equipment and materials storage areas shall be covered and bermed, or shall be designed with BMPs to limit the potential for runoff to contact pollutants
- b. Storage areas containing non-hazardous liquids shall be covered by a roof and drain to the sanitary sewer system, and be contained by berms, dikes, liners, vaults or similar spill containment devices. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.
- c. All on-site hazardous materials and wastes, as defined and/or regulated by the California Public Health Code and the local Certified Unified Program Agency (CUPA), (for Emeryville this is the Alameda County Environmental Health Department), must be used and managed in compliance with the applicable CUPA program regulations and the facility hazardous materials management plan approved by the CUPA authority.

13. Vehicle/Equipment Repair and Maintenance

- a. Vehicle/equipment repair and maintenance shall be performed in a designated area indoors, or if such services must be performed outdoors, in an area designed to prevent the run-on and runoff of stormwater.
- b. Secondary containment shall be provided for exterior work areas where motor oil, brake fluid, gasoline, diesel fuel, radiator fluid, acid-containing batteries or other hazardous materials or hazardous wastes are used or stored. Drains shall not be installed within the secondary containment areas.
- c. Vehicle service facilities shall not contain floor drains [unless the floor drains are connected to wastewater pretreatment systems prior to discharge to the sanitary sewer, for which an industrial waste discharge permit has been obtained. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.]
- d. Tanks, containers or sinks used for parts cleaning or rinsing shall not be connected to the storm drain system. Tanks, containers or sinks used for such purposes may only be connected to the sanitary sewer system if allowed by an industrial waste discharge permit. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.

14. Fire Sprinkler Test Water

Fire sprinkler test water shall be drained to the sanitary sewer system (with approval from the local permitting authority [and/or sanitary district with jurisdiction]) or drain to landscaped areas where feasible. [In the event that the sanitary district does not approve the connection and drainage to landscaped areas is infeasible, the applicant may propose an alternative method of providing for drainage of fire sprinkler test water, such as by filtering and dechlorinating the water prior to discharge to a storm drain, subject to approval by RWQCB staff.]

15. Miscellaneous Drain or Wash Water

- a. Boiler drain lines shall be directly or indirectly connected to the sanitary sewer system and may not discharge to the storm drain system. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.
- b. For small air conditioning units, air conditioning condensate should be directed to landscaped areas as a minimum BMP. For large air conditioning units, in new developments or significant redevelopments, the preferred alternatives are for condensate lines to be directed to landscaped areas, or alternatively connected to the sanitary sewer system after obtaining permission from the sanitary sewer's owner. As with smaller units, any anti-algal or descaling agents must be properly disposed of. Air conditioning condensate lines may discharge to the storm drain system provided they are not a source of pollutants.
- c. Roof drains shall discharge and drain away from the building foundation to an unpaved area wherever practicable.
- d. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge of soaps or other pollutants to the storm drain. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements. These conditions shall be required for automotive related businesses.

C. Construction Practices

Construction workers shall:

1. Maintain and replace filter materials as necessary to ensure effectiveness and prevent flooding. Dispose of filter particles in the trash.
2. Broom-sweep the sidewalk and street adjoining the site daily, scraping off caked-on mud and dirt.
3. Minimize removal of natural vegetation or ground cover, and replant as soon as possible.
4. Stabilize all cut and fill slopes as soon as possible after grading is completed.
5. Ensure that concrete, gunite and plaster supply trucks and operations do not discharge wash water into street gutters or drains.
6. Create and use a contained, covered area on the site for storing bags of cement, paints, flammables, oils, fertilizers, pesticides and any other materials used on the project site that could be discharged to the storm drain system by wind or a spill.

7. Place tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.
8. Gather all construction debris daily and place it in a container which is emptied or removed weekly.
9. Never clean machinery, tools, brushes, etc. or rinse containers into a street, gutter, storm drain or stream.
10. For projects with on-site storm drain inlets, clean all inlets immediately prior to the rainy season (October 1), and as required by the City Engineer.
11. Install straw wattles, berms, check dams as appropriate to contain and/or filter stormwater and the sediments from the site.
12. Hydroseed or cover exposed soil with compost, tarps, loose straw or mats to reduce erosion and sediment suspension in stormwater.
13. Check all on-site machinery and vehicles for oil, fuel and other machine fluid leaks on a daily basis, and fix machinery as necessary and/or capture all leaked fluids.

D. Post-Occupancy Maintenance and Operational BMPs

This section describes operational best management practices (BMPs) that rely on private property owners to implement following construction of projects.

1. Operation, Maintenance and Inspection of Stormwater Treatment Measures
 - a. For commercial and industrial projects and residential projects with stormwater treatment measures, before the City issues the Certificate of Occupancy, the applicant must submit an Operations and Maintenance Agreement. This Agreement shall be executed and recorded with the County Recorder's Office of the County of Alameda. The property owner must submit five required Exhibits to the Agreement:
 - i. A legal description of the property
 - ii. A legible, recordable, reduced-scale (8.5"x11") copy of the site plan indicating treatment measures' locations and site drainage patterns
 - iii. A maintenance plan, including specific long-term maintenance tasks and schedule
 - iv. A standard Treatment Measure Operation and Maintenance Inspection Report form (template to be provided by the City), and
 - v. Checklists appropriate to the type of treatment measure(s) that will be used on the property (to be provided by the City)
 - b. All commercial and industrial projects, and all projects with an Operations and Maintenance Agreement, must allow and facilitate inspections of the stormwater treatment measures by the City or its agent.

- c. In addition, all projects must adhere to the following practices.

2. Paved Sidewalks and Parking Lots

Sidewalks and parking lots shall be swept regularly to minimize the accumulation of litter and debris. Debris resulting from pressure washing shall be trapped and collected to prevent entry into the storm drain system. Washwater containing any soap, cleaning agent or degreaser shall not be discharged to the storm drain and shall be collected and discharged to the sanitary sewer. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.

3. Private Streets, Utilities and Common Areas

- a. The owner of private streets and storm drains shall prepare and implement a plan for street sweeping of paved private roads, installation of full trash capture devices in and cleaning of all storm drain inlets.
- b. For residential developments, where other maintenance mechanisms are not applicable or otherwise in place, a property owners' association, architectural committee, maintenance assessment district, special assessment district, or similar arrangement shall be created and shall be responsible for maintaining all private streets and private utilities and other privately owned common areas and facilities on the site including landscaping. These maintenance responsibilities shall include implementing and maintaining stormwater BMPs associated with improvements and landscaping and will include the maintenance responsibilities described in the maintenance plan, which is included as an attachment to the stormwater treatment measure O&M agreement for the subject property.

4. On-site Storm Drains

- a. All on-site storm drains must be cleaned at least once a year immediately prior to the rainy season and as required by the City Engineer.
- b. All on-site storm drains shall be equipped with City-approved full trash capture devices unless the City Engineer agrees that such controls are infeasible for one or more inlets. These must be maintained according to the requirements in the Municipal Regional NPDES Permit (http://www.swrcb.ca.gov/sanfranciscobay/water_issues/programs/stormwater/Municipal/R2-2015-0049.pdf) , and records of their inspections and maintenance must be made available to the City upon request.

5. Vehicle/Equipment Repair and Maintenance

- a. No person shall dispose of, nor permit the disposal, directly or indirectly, of vehicle fluids, hazardous materials, or rinsewater from parts cleaning operations into storm drains.
- b. No vehicle fluid removal shall be performed outside a building, nor on asphalt or ground surfaces, whether inside or outside a building, except in such a manner as to ensure that any

spilled fluid will be in an area of secondary containment. Leaking vehicle fluids shall be contained or drained from the vehicle immediately.

- c. No person shall leave unattended drip pans or other open containers containing vehicle fluid, unless such containers are in use or in an area that cannot discharge to the storm drain, such as an area with secondary containment.

6. Fueling Areas

The property owner shall dry-sweep the fueling area and spot clean leaks and drips routinely. Fueling areas shall not be washed down with water unless the wash water is collected and disposed of properly (i.e., not in the storm drain).

7. Loading Docks

The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill clean-up.

8. Outdoor Storage Areas

Manage outdoor storage to minimize stormwater contact with pollutants, covering stored materials as required by the City Engineer.