

# CITY OF EMERYVILLE



## MEMORANDUM

**DATE:** February 16, 2010

**TO:** Patrick D. O’Keeffe, City Manager

**FROM:** Planning and Building Department

**SUBJECT:** **Appeal of the Emery Station West @ Emeryville Transit Center Project:**

- 1. Resolution of the City Council of the City of Emeryville Adopting a Mitigated Negative Declaration for the Emery Station West @ Emeryville Transit Center Project.**
- 2. Resolution of the City Council of the City of Emeryville Granting the Appeal of the Planning Commission Decision and Approving a Conditional Use Permit and Design Review for an Office/Laboratory Building, Emery Station West and a Parking Garage, Heritage Square Garage Located in the 5900 and 6100 Blocks of Horton Street (APN: 49-1489-15; -13-3; 49-1325-1-2; -2; -4).**

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### RECOMMENDATION

Staff recommends that, after holding the public hearing, the City Council adopt the two attached resolutions adopting the Mitigated Negative Declaration and approving the project subject to the attached conditions of approval, with whatever modifications the Council feels are appropriate.

### BACKGROUND

Emery Station West @ Emeryville Transit Center is a Redevelopment Agency project that will redevelop the vacant “Mound” parcel with a new office/lab building consistent with Redevelopment Agency goals to clean contaminated sites to allow productive re-use. The proposed development will better utilize an unsightly parcel of surface parking, create new jobs, and produce new tax revenues for the City’s Capital Improvement Program.

The project developer, Wareham, made an application to the Planning Commission for project approvals in compliance with its Exclusive Negotiating Rights Agreement with the City’s Redevelopment Agency. On January 28, 2010, the Planning Commission held a public hearing and considered the Mitigated Negative Declaration and planning permits for the project. The Planning Commission staff report is attached for reference concerning the details of the project, and is incorporated by reference in this report. The project consists of two buildings and a public plaza.

The Emery Station West building, adjacent to the Amtrak Station, is a 165 foot tall high-rise tower accommodating approximately 248,300 gross square feet of office/lab space, 148 car parking spaces, 4 bus bays and ground level active space accommodating retail and transit (Amtrak) oriented functions. There is a roof terrace on the third floor of the building that will connect to the existing pedestrian bridge over the railroad tracks.

The Heritage Square Garage building, on the southeast corner of 62<sup>nd</sup> and Horton Streets, is a 73 foot tall building accommodating approximately 211,000 gross square feet of parking and providing 675 parking stalls. The ground floor of the building along the Horton Street frontage has approximately 3,620 square feet of active commercial space.

The proposal also includes reconfiguration the vehicle entry and driveway between the Amtrak Station and the proposed Emery Station West building to create a public plaza which will include a protected pedestrian waiting area and pedestrian access improvements. Approximately thirteen street trees along 59<sup>th</sup>, 62<sup>nd</sup> and Horton Streets will be removed as part of the project.

Following lengthy presentations, public testimony, and deliberations, the Commission unanimously approved the Mitigated Negative Declaration on a 6-0 vote (Commissioner Donaldson was excused), but then deadlocked 3-3 on approval of the project itself. Those voting in favor of the project included Commissioners Cardoza, Scheuerman, and Vice Chair Flores; those voting against it included Commissioners Jeffery, Martin, and Chair Hoff.

In the course of their deliberations, the Commissioners discussed four new conditions of approval. These were included in the motion to approve the project, which failed. These conditions included:

1. The grand staircase connecting the third floor roof terrace to Horton Street shall include a wheel channel to facilitate access by bicyclists.
2. The elevator at the southwest corner of the Emery Station West building, between the ground floor public plaza and the third floor roof terrace, shall be open to the public at all times.
3. The design of the connection between the third floor roof terrace and the existing pedestrian bridge over the railroad shall be refined to be more open and to integrate any structural supports with the design of the plaza below. The revised design shall be reviewed and approved by the Planning Director prior to issuance of a building permit.

4. There shall be no security gates for the third floor roof terrace unless and until there are demonstrated security problems, at which time the issue may be brought back to the Planning Commission for consideration.

Wareham has indicated that conditions 1 and 2 are intended to be included in the project; they have been included in the attached conditions of approval to make them explicit. Wareham has concurred with condition 3, and it also has been included in the attached conditions of approval. Wareham objects to the fourth condition, citing security concerns and noting that the adjacent elevator will be open to the public at all times. This condition is not included in the attached conditions of approval; however, the Council may wish to add it.

In addition, after consultation with the applicant, staff recommended several minor revisions to the conditions. These include that the car-share pod shall be “publicly available”, rather than located on a street fronting the project site; that the permitted height of the Heritage Square Garage building is 75 feet, rather than 73 feet; and that the list of “future land uses” applies to the “pedestrian level ‘active space’” rather than to the entire project. There was also a numbering error in one of the conditions that was corrected. All of these minor revisions were included in the Planning Commission’s motion to approve the project and are included in the attached conditions of approval.

## **DISCUSSION**

The Planning Commission’s tie vote on the project is tantamount to a denial, since the motion to approve the project with amended conditions did not pass. Section 9-4.88.4(b) of the Zoning Ordinance provides that “The applicant or any other person affected by any ... action of the Planning Commission may file an appeal with the City Council ... within 15 days after final action by the Commission.” The section goes on to say that “The City Council may on its own motion, within the 15 day period, order that a determination of the Planning Commission stand appealed.”

On February 2, 2010, the City Council voted 4-1 to order that the Planning Commission’s January 28 action on the project stand appealed. Councilmember West voted “no”, noting that Wareham had the opportunity to file an appeal themselves. The Council’s subsequent vote to set the hearing date for February 16 passed without objection.

In considering the appeal, the Council must first approve the Mitigated Negative Declaration. When voting on the project itself, the Council should consider whether to include the Planning Commission’s condition regarding security gates, and whether to add, modify, or delete any other conditions.

## **RECOMMENDATION**

Staff recommends that the City Council:

1. Open the public hearing and take testimony regarding the appeal of the proposed project.
2. Close the public hearing and consider the staff report and resolutions.
3. Adopt the attached resolution adopting the Mitigated Negative Declaration for the project.
4. Adopt the attached resolution approving the project subject to the conditions of approval attached as Exhibit A with any modifications the Council deems appropriate.

Report Submitted By:

Report Reviewed By:

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Miroo Desai  
Senior Planner

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Charles S. Bryant  
Director of Planning & Building

## **APPROVED AND FORWARDED TO THE EMERYVILLE CITY COUNCIL BY:**

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Patrick D. O'Keeffe  
City Manager

## **Attachments:**

1. Planning Commission staff report dated January 28, 2010
2. Response to Comments to the Mitigated Negative Declaration (RTC)
3. Mitigation Monitoring and Reporting Program
4. LEED for New Construction Project Checklist
5. Memo from Applicant Regarding Parking During Construction
6. Draft Resolution Adopting Mitigated Negative Declaration
7. Draft Resolution Approving Project, including Conditions of Approval
8. Proposed Plans

**EMERYVILLE PLANNING COMMISSION**

**STAFF REPORT**

Agenda Date: January 28, 2010

Report Date: January 21, 2010

**TO:** Planning Commission

**FROM:** Planning and Building Department

**SUBJECT:** **Emery Station West and Heritage Square Garage  
@Emeryville Transit Center  
UP09-03/DR09-18**

**LOCATION:** Horton Street at 59<sup>th</sup> Street and 62<sup>nd</sup> Street (APNs: 49-1489-15; -13-3; 49-1325-1-2; -2)

**APPLICANT:** Wareham Development  
1120 Nye Street, #400  
San Rafael, CA 94901  
  
Emeryville Redevelopment Agency  
1333 Park Avenue  
Emeryville, CA 94608

**OWNERS:** Westinghouse Electric Inc (formerly Viacom, Inc)  
13155 Noel Road, LB-71  
Dallas, TX 75240  
  
Wareham Development; Hollis R and D Associates; Emery Station Office LLC II  
1120 Nye Street, #400  
San Rafael, CA 94901  
  
City of Emeryville  
1333 Park Avenue  
Emeryville, CA 94608

**PROJECT DESCRIPTION:** A Conditional Use Permit and Design Review permit for a proposal to remove two surface parking lots in the 5900 and 6100 blocks of Horton Street and construct two separate buildings: a seven story office/laboratory building on top of two levels of parking and a seven story parking garage. Emery Station West building, adjacent to the Amtrak Station, is a 165 feet

**V.A.**

tall office accommodating approximately 248,300 gross square feet of office/lab space, 148 car parking spaces, 4 bus bays and ground level active space accommodating retail and transit (Amtrak) oriented functions. There is an open plaza on the third floor of the building that will connect to the existing pedestrian bridge over the railroad tracks. The proposed Heritage Square garage building, on the east side of Horton Street, is a 73 foot tall building accommodating approximately 211,000 gross square feet of parking and providing 675 parking stalls. The proposal also includes reconfiguration vehicle entry and driveway between the Amtrak Station and the proposed Emery Station West building to create a public plaza which will include a protected pedestrian waiting area and pedestrian access improvements. Approximately thirteen street trees along 59<sup>th</sup>, 62<sup>nd</sup> and Horton Streets will be removed as part of the project.

**GENERAL  
 PLAN  
 DESIGNATION:**

Mixed-Use with Non-Residential – Emery Station West parcel  
 Office/Technology – Heritage Square parcel

**ZONING  
 DISTRICT:**

Mixed-Use with Non-Residential (MUN) – Emery Station West parcel  
 Office/Technology (OT) – Heritage Square parcel  
 North Hollis Overlay District (N-H) – both parcels

**BUILDING  
 HEIGHT:**

100+ feet with certain specifications for Emery Station West parcel;  
 75 feet/100 feet for Heritage Square parcel

**BUILDING  
 INTENSITY:**

4.0/5.0 FAR with certain specifications for Emery Station West parcel;  
 2.0/3.0 FAR for Heritage Square parcel

**ENVIRONMENTAL  
 STATUS:**

A Mitigated Negative Declaration was published on November 7, 2009 and the public review comment period ended on December 9, 2009.

**APPLICABLE  
 ZONING  
 PROVISIONS:**

<u>Section 9-6.303</u>	Uses Permitted, Conditionally Permitted, and Prohibited
<u>Section 9-6.305</u>	Special Regulations in the Mixed Use Zones
<u>Section 9-6.306</u>	Special Regulations in the OT Office/Technology Zone
<u>Section 9-6.407</u>	Bonuses
<u>Section 9-4.55</u>	Off-Street Parking and Loading Regulations
<u>Section 9-4.82.13</u>	Conditional Use Permit Requirements
<u>Section 9-4.84.4</u>	Design Review Guidelines and Standards

**RECOMMENDED  
 COMMISSION  
 ACTION:**

1. To open the public hearing and take testimony regarding the proposed project .

2. To close the public hearing and consider the staff report and Resolution.
3. To adopt the Mitigated Negative Declaration for the project.
4. To approve the project subject to the conditions of approval attached as Exhibit A.

## **BACKGROUND**

The vacant parcel to the north of the Amtrak train station (the “Mound” site) has long been part targeted for the redevelopment since the former industrial uses and buildings were removed. It remains as a blighted parcel next to an important public transit facility and thus is ripe for remediation and redevelopment.

Given the central location of the site, its proximity to the Amtrak station and underparked buildings in the immediate North Hollis area, the site was conceived as a transit center and public parking facility. Over the last five years, conceptual plans for redevelopment of the site have been reviewed by the Redevelopment Agency. At one time, as many as 490 public parking spaces were incorporated into concept plans along with various combinations of residential and commercial uses. However, a reduction of public parking spaces has occurred in recognition of reduced demand.

This project has been contemplated by the Redevelopment Agency since October 2003, when the Agency designated the surface parking lot north of the Amtrak Station as a location for a proposed transit center/mixed-use project and solicited redevelopment proposals for the site. The Agency selected Wareham Development as the developer and entered into an Exclusive Right to Negotiate Agreement (ERN) in September 2005 in order to set forth the terms under which the Agency and Developer would negotiate an Owner Participation Agreement (OPA) providing for remediation and redevelopment of the site. The ERN has been amended twice and was last amended June 15, 2008.

Initially, the developer presented plans for a 169-foot tall, 250,000 square foot Research and Development/office building that was reviewed by the Planning Commission at a March 22, 2007 study session. This proposal was then reduced to a 144-foot tall, 160,000 square foot building in early 2008. Each concept included replacement public parking, new public parking to serve the Amtrak Station, expanded bus pick-up and drop-off bays, and a public plaza. The current proposal now includes two separate sites: the 1.58-acre site at 59<sup>th</sup> and Horton Streets (formerly known as the Transit Center site and now known as Emery Station West site) and a 1.1-acre site, currently the location of the west Heritage Square parking lot, located at 62<sup>nd</sup> and Horton Streets. This proposal was reviewed by the Commission at a study session on August 27, 2009.

## **PROJECT SITE AND SURROUNDINGS**

The project site includes two sites: the Emery Station West site and the Heritage Square site. The Emery Station West site is approximately a 1.58 acre parcel that is currently used as public

parking for the Amtrak station and private parking for the Emery Station complex. The 215-space parking lot serves the users of the adjacent Amtrak train station that is located south of the site and tenants of the Emery Station # 1 and Emery Station North buildings. Wareham's affiliate, Emery Station Associates, has a 99 year lease of the project site for surface parking purposes only and the Redevelopment Agency has a 99 year sublease both of which expire in August 2097. The site is bounded by railroad tracks to the west and Horton Street (formerly Landregan Street) to the east. The Heritage Square site is an approximately 1.1 acre parcel that currently accommodates about 170 parking spaces. The surrounding development consists of a variety of commercial and office buildings including a post office, and the Emery Station North and Emery Station Number 1 buildings and the Terraces condominiums.

## **PROJECT PROPOSAL**

Wareham Development is proposing to remove two surface parking lots in the 5900 to 6100 blocks of Horton Street in order to construct two buildings: the EmeryStation West building consisting of a seven-story laboratory/office building on top of a two-level "podium" parking structure and the Heritage Square Garage parking structure that would provide seven levels of parking.

The proposed EmeryStation West building would be located immediately north of the Emeryville Amtrak Station and south of the Emeryville Post Office. The Heritage Square parking structure would be located on the east side of Horton Street across from the post office. The applicant is also proposing to reconfigure the vehicle entry and parking area of the Amtrak Station in order to create a new public plaza for the Amtrak Station. The Emery Station West site will be remediated by the current property owner, CBS, under the jurisdiction of the Department of Toxic Substances and made available to the applicant (Wareham) for construction of the new building. Approximately 8 to 10 percent of the project site would be converted to pervious surface cover after project implementation. The new pervious surfaces would derive from the plaza reconfiguration, other landscaped areas, and through the use of flow-through planters and permeable paving.

Emery Station West Building: The proposed EmeryStation West building would be approximately 165 feet tall and enclose approximately 343,700 gross square feet of space for parking, laboratory, research and development, office, building mechanical and building support uses.

The lower "podium" portion of the building would be a two-level parking structure that would accommodate 4 bus bays and 148 vehicular parking spaces, and 2,400 square feet of ground level active commercial space accommodating retail and transit (Amtrak) oriented functions. One hundred and twenty five parking spaces will be public spaces that would replace spaces available to the general public in the existing parking lot. The auto vehicle entrance and exit for the parking structure would be located on the building's south frontage. The bus entry would be off building's east frontage and the exit will be on the south frontage adjacent to the plaza between the building and the Amtrak Station (See Sheet A-1).

In addition to its parking function, the ground floor of the podium would have active, double-height spaces along its south and east frontages. Approximately 2,400 gross square feet of the south frontage would provide space for transit, retail and/or office uses, such as ticket-buying, travel and transit information, bike security, and car share information. Interior space along the east frontage would be occupied by the building's main lobby. The west frontage of the podium, which would adjoin the railroad tracks, would provide a widened train platform for Amtrak passengers. A loading dock, with two roll-up doors facing the post office utility yard, would be located at the east end of the north frontage. The façade of the podium would be clad in materials similar to that of nearby buildings, primarily masonry, such as brick or stone. A landscaped terrace would be installed on the southern one-third of the podium's roof, above the third level of parking. The roof terrace would be publicly accessible to pedestrians via a broad stairway located on the southeast corner of the podium that would ascend from street level. The roof terrace would also be served by elevators from the lobby of the laboratory/office tower and from a public entry point located west of the vehicular entry on the south frontage of the parking structure. It would also have a direct connection to the pedestrian/bicycle bridge over the railroad tracks.

The main lobby of the building is opposite Emery Station North and is integrated into the design of a large landscaped area at the street level. A seven-story, laboratory/office tower would be constructed on the northern two-thirds of the podium. The tower would contain approximately 248,300 gross square feet of which 200,000 square feet would be rentable space for laboratory, research and development, and/or office uses. The roof of the top floor would be at 139 feet, and an additional 24-foot architectural element would extend above a portion of the roof that would house some of the buildings mechanical systems, yielding a total structure height of approximately 163 feet (See Sheets A12-A14). The south side of the mechanical penthouse may potentially have louvers incorporating photovoltaic solar panels. The tower would be clad primarily in glass and metal.

*Service Functions and Deliveries:* Short term parking for commercial trucks and deliveries is provided along the northern property line. Service traffic is wrapped around the north side of the building and two roll up doors face the post office utility yard. Recycle and trash dumpsters are inside in the north-east corner of the ground floor. (See Sheets A-1 and A-2)

Heritage Square Building: The Heritage Square parking structure would be an approximately 73-foot-tall building with six enclosed levels and one roof-top level of parking. It would provide approximately 675 parking spaces. The parking structure would accommodate existing parking on site (170 spaces), private replacement parking on the Mound site (90) and provide parking for new construction of laboratory/office space at the Emery Station West building. Vehicles would enter the Heritage Square parking structure from Horton Street and would exit onto 62<sup>nd</sup> Street. In addition to its parking function, the ground floor of the building along the Horton Street frontage would have approximately 3,620 square feet of active commercial space such as retail, services or other uses that may relate to the post office use across the street.

The ground floor of the Heritage Square parking structure would be clad in masonry similar to the Emery Station North building located to the south. The upper floors would be stepped back on

the north and south ends where they face other buildings. The upper facades would consist of screens or trellises upon which vegetation would be grown. This “green screen” would be open and varied to create a pattern that allows daylight to enter the parking structure.

Amtrak Station and Public Plaza: Part of the project includes widening of the railroad platform station from 9’3” to approximately 13 to 14 feet. The project applicant proposes to install new landscape and streetscape elements to create visual and physical links between the new EmeryStation West building, Heritage Square parking structure, the Amtrak Station, and the surrounding neighborhood. The plaza design will include a reworking and upgrade of the stairs at the existing elevator tower.

## **CONFORMITY TO THE GENERAL PLAN AND THE INTERIM ZONING REGULATIONS**

The table below outlines the lands use designation, Height Limit and the Floor Area Ratio (FAR) designations for the project sites:

	<b><u>EmeryStation West</u></b>	<b><u>Heritage Square Garage</u></b>
Land Use Designation	Mixed Use with Non-Residential (MUN)	Office/Technology (OT)
Height Limit (feet)	100/100+*	75/100*
Floor Area Ratio (FAR)**	4.0/6.0*	2.0/3.0*
** For Transit Center with specific attributes. Transit Center is defined as having bus bays, wide sidewalks, and improved pedestrian circulation and activation plus some of the following: car share pod; public parking for Amtrak; connection across the tracks; bicycle station/storage/parking; passenger pick off and drop-off; taxi stands; recharging for electric cars; alternative transit/transportation station	* First number permitted by right, second number is “bonus” permitted pursuant to Section 9-6.407 of the Interim Zoning Regulations	

### ***Land Use***

Emery Station West. The proposed uses in the Emery Station West building are laboratories, offices, active ground floor commercial space, Amtrak bus bays, and public parking. Under the Zoning Regulations, laboratories are classified as Research Services or High Technology, both of which require a conditional use permit in the MUN zone. Offices uses are classified as either Administrative and Business Offices, or as Professional Services, both of which are permitted by

right in the MUN zone. The ground floor commercial space could include a variety of uses, most of which require a conditional use permit in the MUN zone. The conditions of approval allow for a variety of pedestrian-oriented active commercial uses in this ground floor space (see Condition of Approval IX.C). The bus bays are classified as Transportation Services, and the public parking is classified as Public Parking Services; both of these uses require a conditional use permit in the MUN zone.

Section 9-6.305(b) of the Interim Zoning Regulations specifies that projects in the MUN zone on sites of one to five acres must be approved through a conditional use permit process and must include a “mix of use groups”, not including residential. Section 9-6.305 further stipulates that “the exact mix of uses shall be determined through the Conditional Use Permit process”. The use groups are defined in Section 9-6.603, and include retail, office, hotel, recreation, and industrial. The proposed laboratory and office uses fall into the “office” use group, while most of the ground level uses allowed by the conditions of approval fall into the “retail” use group. Therefore, the proposed project includes a mix of uses, as required. In addition, although Transportation Services and Public Parking Services are not included in any of the defined use groups, they will provide further variety in the uses of the project.

Heritage Square Garage. Most of this building is required parking for the Emery Station West building or replacement of existing parking. This is considered an Accessory Use and is permitted pursuant to Section 9-4.5.2 of the Zoning Ordinance. The active ground floor space would include the same uses stipulated in the conditions of approval for the ground floor space in the Emery Station West building, most of which require a conditional use permit in the OT zone. Section 9-6.306(a) of the Interim Zoning Regulations stipulates that retail uses are conditionally permitted in the OT zone only if they are secondary to other uses that are permitted or conditionally permitted in the OT zone. This small ground floor space is clearly secondary to the surrounding uses.

### ***Floor Area Ratio (FAR).***

The General Plan excludes parking floor area in the calculation of Floor Area Ratio. Under this methodology, the floor area ratio of the proposed EmeryStation West building is would be about 3.6 (approximately 250,700 square feet of gross floor area, divided by 69,000 square feet of site area), which is within the permitted by right FAR of 4.0. As parking is not included in the FAR calculations, the Heritage Square building FAR is 0.075 (3,620 square feet of floor area divided by about 48,000 square feet of site area). This is well within the permitted FAR of 2.0.

### ***Height***

The Emery Station West building lies in the Maximum Building Height designation of 75 feet by right and up to 100 feet with bonus points. However, on this site a building above 100 feet is permitted provided that they meet the definition of a “Transit Center”. “Transit Center is defined as having bus bays, wide sidewalks, and improved pedestrian circulation and activation plus some of the following: car share pod; public parking for Amtrak; connection across the tracks; bicycle station/storage/parking; passenger pick off and drop-off; taxi stands; recharging for

electric cars; and alternative transit/transportation station. (Figure 2-4 “Maximum Building Heights”, General Plan)

The height of the proposed Emery Station West building exceeds 100 feet. The project, therefore, is required qualify as a “Transit Center” and provide public amenities to qualify for bonus. In addition, the General Plan states that “Heights greater than 100 feet are only permitted for buildings that meet specific criteria, such as minimal impacts on public views, wind, and shadows, adequate separation from other tall buildings, and exemplary design, and/or provide public amenities, through a discretionary review and approval process.” (Policy Number LU-P-12).

Staff believes that the project complies with the requirements of the General Plan and Interim Zoning regulations. The Emery Station West building qualifies as a “Transit Center” as it includes four bus bays and can accommodate an additional two bays if needed in the future. The project involves widening of the railway platform and creation of a public plaza that improves circulation of passengers and pedestrians along with vehicles and buses. In addition, the project includes a minimum of 125 public parking spaces, bicycle parking, a connection with the pedestrian bridge and recharging conduits for electric cars. In addition, the building has an attractive design with an open space on the third level and upper stories that are set back. The skin of the building is a metal panel and glass cladding system. A “grand” staircase provides a visual and pedestrian connection to new open space on the upper level which then connects with the pedestrian bridge across the railroad tracks. The building has minimal impacts on public views, wind and shadow as analyzed in the Aesthetics section of the Mitigated Negative Declaration.

The project also needs to provide public benefits in order to qualify for additional height. Section 9-6.407(b) of the Interim Zoning Regulations outlines different ways to qualify for the bonus. The project provides public benefits in the categories of “public open space”, “public parking”, “public-right-of-way improvements”, “alternative energy” and “transportation demand management” as described below. The open space/terrace on the third level is approximately 15,600 square feet and the public plaza between Emery Station West and the Amtrak Station is approximately 20,600 square feet. The proposed public open space constitutes about 31 per cent of total site area (36,200 divided by 116,741) which is above the 10 per cent threshold needed to qualify for bonus in this category. In addition, the project will provide a minimum of 125 public parking spaces and will include widening of the railroad platform as well as sidewalks along Horton Street. The project will provide on-site generation of one of the following: wind power, solar power or cogeneration facilities (See Condition of Approval Number VII.A.11). In the “transportation demand management” category, the project will provide electric vehicle charging stations, car pod and campus wide showers and locker facilities. (See Condition of Approval Numbers VI.A.1(g), VI.B.4, VIB.6 respectively).

The 73-foot height of the building on the Heritage Square site would meet the 75-foot height limit permitted by right.

### ***Off-Street Parking:***

The Interim Zoning Ordinance, Section 9-6.314 (b)(8) requires 1.5 parking spaces per 1000 square feet for Research Services and High Technology uses. With a 20 per cent exclusion for common areas as permitted by EMC 9.4.55.5, proposed 198,640 (248,300 x0.8) sq. ft. of laboratory space would require provision of 298 parking spaces.

Replacement Parking: In addition, the project would need to replace the 215 parking spaces currently provided on the Emery Station West site. This site provides 125 public parking spaces and 90 private parking spaces that fulfill the zoning requirements of the Emery Station 1, 2 and 3 buildings. The existing 170 spaces at the Heritage Square site will also need to be replaced. The total number of replacement parking is 385 spaces.

Therefore, the total required parking, including replacement parking is 683 parking spaces.

The project proposes a total of 823 parking spaces. Emery Station West will contain 148 spaces and the Heritage Square parking garage will accommodate 675 spaces.

The Emery Station West building provides 148 parking spaces. These will include the replacement public parking spaces (125) and replacement private parking spaces (23). The remaining 67 replacement private parking spaces will be accommodated in the Heritage Square building. The Heritage Square garage will accommodate 675 spaces including 170 replacement spaces from the existing lot, 67 replacement private parking spaces and 438 new private parking spaces. The project meets the parking requirement and exceeds it by 140 parking spaces. The extra parking space is to accommodate office uses in the Emery Station West building that has a higher parking ratio of three spaces per 1,000 square feet. The parking provided would therefore accommodate a maximum of 116,700 gross square feet of office space and a minimum of 131,600 gross square feet of laboratory space. This is stipulated in the conditions of approval.

Bicycle Parking: The Bicycle Ordinance requires one short term (visitor) and one long term bicycle parking for every 20 required automobile parking spaces (Section 9-4.68.6 and 9-4.68.7). This triggers a requirement of 15 long term and 15 long term bicycle spaces. The long term spaces are provided inside the Emery Station West building on the ground floor in a secure space and short term parking will be sited along key entrances and in the public plaza area. (See Condition of Approval Number VI.A.1)

### ***Design***

The architecture is contemporary for both the buildings. Emery Station West is designed to be an object building with attractive elevations. The skin of the building is metal panel and glass cladding system (See Sheets A8-A11; A15-A-18). A “grand” staircase provides visual and pedestrian connection to new open space on the third level which then connects with the pedestrian bridge across the railroad tracks (See Sheet A-0). The Heritage Square garage has brick ground floor finishes to respond to the materials of the adjacent building (Emery Station

North). The upper floor will have panels attached to the structure to create a “green screen” that will be open and varied to create an interesting pattern. (See Sheets A25-A-30)

The landscaping plan outlines landscape elements on the roof plaza to create a pleasant usable open area for the public (See Sheets L-1 and L-3). The public plaza on the ground level includes trees, bushes and permeable paving materials to soften the environment and make it friendly to pedestrians. The Heritage Square building landscaping plan includes new street trees along Horton and 62<sup>nd</sup> Streets as well along the eastern perimeter of the building (See Sheet L-2) to make the environment conducive for pedestrians.

### ***North Hollis Urban Design Program***

The site is located in the North Hollis Overlay District (N-H), which incorporates the North Hollis Area Urban Design Plan (NHAUDP) into the Zoning Ordinance. The project provides public parking in a garage that addresses the Parking policies of the NHAUDP. In addition, the project also provides active ground level commercial uses. No other guidelines apply specifically to the project site.

### ***Tree Removal***

The project will remove approximately thirteen trees that lie in the public right of way. There are seven street trees located along 59<sup>th</sup>, 62<sup>nd</sup> and Horton Streets. The remaining six trees are located in the publicly owned land between the Amtrak Station and the proposed Emery Station West building. (See Sheet L-1). Per Emeryville’s Urban Forestry Ordinance (UFO, EMC Section 7.10.5(h0)), removal of street trees requires approval by the Planning Commission. Approval of street removal would require replacement of the trees or payment of trees’ replacement value as provided in EMC Section 7.10.05(d). The applicant proposes to replace the trees as shown in the landscape plan.

### ***Stormwater Requirements***

The project is subject to the new C.3 requirements of the City’s National Pollution Discharge Elimination System (NPDES) Stormwater Permit. The Stormwater plans showing compliance with C.3 requirements are included as Sheets C1.0, C1.1, C1.2, C2.0, C2.1, C2.2, C3.0, C3.1 and C3.0.

### ***Environmental Review***

An Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the project as required by the requirements of the California Environmental Quality Act (CEQA), and a Notice of Intent to Adopt a Mitigated Negative Declaration was circulated for public review on November 7, 2009. The deadline for comments was December 9, 2009. Comments were received from three citizens as well as the California Department of Transportation. A Response to Comments (RTC) memo has been prepared and is attached to the staff report.

The IS/MND identified impacts in the following areas that are “potentially significant unless mitigated”:

- Air Quality
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Noise
- Transportation and Traffic

Mitigation measures to reduce these impacts to less than significant levels are also identified in the IS/MND. The applicant has reviewed these mitigation measures and shall incorporate them into the project. The mitigation measures are attached and incorporated by reference into the conditions of approval. A resolution certifying the Mitigated Negative Declaration is attached.

#### **Pedestrian and Bicycle Advisory Subcommittee (BPAC) Comments**

BPAC reviewed the project at their August 3, 2009 meeting. The Committee had several clarifying questions regarding widening of the sidewalk, loading, use for active space and location of bike parking. Some concern was expressed regarding the width of the driveway into the garage and large capacity of the garage and potential stacking of cars at the intersection. The Committee unanimously voted to support the idea of eliminating the yellow zone on the east side Horton at Emery station North and create a yellow zone for loading on the north side of 59<sup>th</sup> Street where the taxi stand is currently located. No other concerns were expressed.

#### **City Council Study Session Comments**

The City Council reviewed the project at a study session on August 18<sup>th</sup>, 2009. A number of citizens made comments. A common concern was the project’s exclusion of the existing pedestrian bridge and lack of connection of the proposed upper level plaza to the bridge. There was also a concern about the reduction of “transit” elements in the project and the traffic congestion that the project might generate. It was suggested that the project incorporate green elements to which the applicant responded that they hope to obtain LEED certification. One Council member felt that the project should be able to adapt to transit functions in the future and hoped that the Planning Commission would explore that possibility. It was also suggested that the north elevation of the Emery Station West building needed further articulation. Another Council member was disappointed with the project’s lack of attention to bus parking and suggested an option of valet bike parking. It was suggested that the circulation pattern of Heritage Square building needed to be designed so that the ramps were towards the middle or the south of the building in order to minimize noise for residents on the north side.

## **RECOMMENDATION:**

Staff recommends that the Planning Commission approve the project subject to the attached conditions of approval.

### Attachments:

1. Response to Comments to the Mitigated Negative Declaration (RTC)
2. Mitigation Monitoring and Reporting Program
3. LEED for New Construction Project Checklist
4. Memo from Applicant Regarding Parking During Construction
5. Draft Resolutions and Conditions of Approval
6. Proposed Plans



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SAN LUIS OBISPO  
S. SAN FRANCISCO

## MEMORANDUM

**DATE:** January 7, 2010

**TO:** Miroo Desai, Senior Planner  
City of Emeryville

**FROM:** Dennis Brown, Project Manager  
LSA Associates, Inc.

**SUBJECT:** EmeryStation West at the Emeryville Transit Center Project Response to Comments on the draft Initial Study and proposed Mitigated Negative Declaration

The purpose of this memorandum is to respond to comments made on the draft EmeryStation West at the Emeryville Transit Center Project Initial Study and proposed Mitigated Negative Declaration (IS/MND). The comments were provided in letters or e-mails received by the City from Lisa Carboni of the California Department of Transportation (Caltrans), Brian Donahue, Scott Donahue and Sam Foushee. The enumerated comment letters and e-mails are attached to this memo. The comment letters do not identify any new significant impacts or necessary mitigation measures that would require revisions to the IS/MND findings. Revisions to the draft IS/MND necessary to amplify or clarify material in the IS/MND are recommended. These responses supplement information provided in the IS/MND and should be considered by the decision makers in the City of Emeryville as they decide whether or not to adopt the Mitigated Negative Declaration.

### COMMENTOR A

**Lisa Carboni, District Branch Chief  
Department of Transportation (Caltrans)  
Received: December 8, 2009**

**Response to Comment A-1:** The comment states that the City of Emeryville is responsible for all project mitigation, including any needed improvements to State highways. The comment also notes that financing, scheduling and implementation responsibilities for each proposed mitigation measure should be identified, that all roadway improvements should be completed prior to the issuance of the project occupancy permits, and that an encroachment permit for work within State right-of-way must be applied for and granted by Caltrans after all of their concerns are addressed.

No work within State right-of-way is proposed by the project or included in the mitigation measures recommended in the IS. Mitigation measures contained in the IS identify the financing, scheduling and implementation responsibilities for the recommended measures. The recommended mitigation measures contain requirements that they be implemented either during the construction phase or prior to issuance of the occupancy permit for the project, as appropriate. This information will be included in the project's Mitigation Monitoring and Reporting Program should the proposed MND be adopted and the project approved by the City.

**Response to Comment A-2:** The comment urges the City to develop a regional transportation impact fee program to mitigate the impacts of future growth on regional corridors, such as Interstate 80.

As noted on page 127 of the IS, the City will update its Traffic Impact Fee Program in accordance with the General Plan implementation program (the City's new General Plan was adopted on October 13, 2009) and in a manner consistent with General Plan Policy T-P-3.

**Response to Comment A-3:** The comment identifies Caltrans' requirements for submitting mitigation monitoring and reporting information to the department.

The requirements are acknowledged for projects of State, regional or area-wide significance with traffic impacts. No new impacts to the State right-of-way were identified and no work in the State right-of-way is proposed by the project or included in the mitigation measures recommended in the IS.

**Response to Comment A-4:** The comment states that an encroachment permit is required for any work or traffic control within the State right-of-way.

No work within the State right-of-way is proposed by the project or included in the mitigation measures recommended in the IS.

#### **COMMENTOR B**

**Brian Donahue**

**Emeryville Resident**

**Received: November 14, 2009**

**Response to Comment B-1:** The comment asserts that the proposed MND is not a legal document and may not be used in furtherance of the building of the proposed Transit Center project.

The proposed MND was prepared in accordance with Sections 15070 through 15075 (Article 6, Negative Declaration Process) of the *CEQA Guidelines*. The proposed MND and associated IS are draft documents until the MND is adopted by the City of Emeryville Planning Commission – an action that is subject to appeal to the City Council. Subsequent to adoption of the MND, the City would consider whether or not to approve the proposed project. In response to comments from agencies or the public the draft documents may be revised prior to the time of adoption in order to amplify or clarify material contained in the documents. Any revisions to the documents will be considered by the City of Emeryville before deciding whether to adopt the MND.

**Response to Comment B-2:** The comment states that the IS/MND makes no provision for the existence of the Horton Street Bicycle Boulevard and asserts that a metric of 3,000 Average Daily Traffic (ADT) for vehicles must not be exceeded on designated bicycle boulevards.

The Initial Study notes the presence of bicycle facilities on Horton Street (Class II bike lanes) on page 147 and discusses the impacts of the project on bicycle facilities on page 148. Horton Street is a bicycle boulevard as noted by the commenter – a fact not specifically stated in the draft IS. The text on page 147 is revised as follows:

***Bicycle and Pedestrian Facilities.*** Bikeway facilities are typically classified as Class I, Class II, or Class III. A Class I bikeway (bike path) provides a completely separate right-of-way for the exclusive use of bicycles and pedestrians. A Class II bikeway (bike lane) provides exclusive usage for bicyclists with “BIKE LANE” markings and solid white striping on the roadway. Typically, striped bike lanes are 5 to 6 feet wide. A Class III bikeway (bike route) is a signed roadway where bicyclists must share the road with vehicles; pavement markings are typically not installed. Emeryville designates some streets as Bicycle Boulevards on which bicycles are to be given priority over other vehicles. The City’s General Plan defines Bicycle Boulevards as through-routes for bicycles providing continuous access and connections to the local and regional bicycle route network. Through-motor vehicle traffic is discouraged. High volumes of motor vehicle traffic are also discouraged, but may be allowed in localized areas where necessary to accommodate adjacent land uses.

Directly abutting the two project parcels, Class II facilities are currently provided on Horton Street. This segment of Horton Street is designated as part of the Horton/Overland Bicycle Boulevard. This is a primary north-south route for bicyclists. Class II facilities are also provided on 59<sup>th</sup> Street west of Hollis Street. Class III facilities are provided on 59<sup>th</sup> Street east of Hollis Street. Farther from the immediate vicinity of the project site, Class II facilities are also provided on 40<sup>th</sup> Street/Shellmound Street.

The ADT metric referenced in the comment is among those used by the City of Berkeley as thresholds for deciding when traffic calming measures should be installed on its bicycle boulevards. However, the City of Emeryville has not adopted standards for ADT on its bicycle boulevards. The City of Emeryville’s Bicycle and Pedestrian Advisory Subcommittee to the Transportation Committee made a recommendation to adopt the same ADT threshold as Berkeley and a threshold for vehicle speed on bicycle boulevards at its November 2, 2009 meeting. However, neither the City Council nor the Transportation Committee has adopted the measure and the City Council has asked staff to further study the issue.<sup>1</sup>

**Response to Comment B-3:** The comment asserts that the traffic analysis is flawed and must be redone because project-generated traffic would need to be diverted away from Horton Street, a designated bicycle boulevard, where the ADT already exceeds 3,000.

As noted in Response to Comment B-2, the City of Emeryville has no requirement to maintain an ADT of less than 3,000 on the Horton/Overland Bicycle Boulevard. There is no requirement to divert traffic from Horton Street and the traffic analysis does not require revision.

**Response to Comment B-4:** The comment asserts that an Environmental Impact Report (EIR) is warranted because the IS/MND did not identify Horton Street as a designated bicycle boulevard and because of putative flaws in the traffic analysis that occurred because the street’s designation as a bicycle boulevard was not recognized.

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<sup>1</sup> Peter Schultze-Allen, 2009. *Recommendation from BPAC Regarding Bicycle Boulevards in Emeryville and Thresholds for Traffic Volumes and Speeds*, Memorandum to Transportation Committee. November 24, 2009, and City Council meeting of December 15, 2009

The IS has been revised as indicated in Response to Comment B-2 above to indicate that Horton Street is a designated bicycle boulevard. The revision does not change the impact analysis or conclusions of the IS and does not trigger the need to prepare an EIR.

#### **COMMENTOR C**

**Brian Donahue**

**Emeryville Resident**

**Received: December 7, 2009**

**Response to Comment C-1:** The comment asserts that the project allows thousands of new car trips onto the Horton/Overland Bicycle Boulevard in violation of the General Plan.

The City's General Plan discourages through-motor vehicle traffic and high volumes of motor vehicle traffic on bicycle boulevards, but states that high volumes of traffic may be allowed in localized areas where necessary to accommodate adjacent land uses.<sup>2</sup> The commenter is correct that traffic would increase on Horton (as noted in the IS), but he overstates the net increase in traffic. The project would generate about 300 trips during the AM and PM peaks; over half of the PM trips (about 170) would not use Horton Street because many cars would turn right when exiting the Heritage Square parking structure onto 62<sup>nd</sup> Street. The project generates additional trips as noted in the IS (see also Response to Comment C-2) but is not inconsistent with the General Plan, which allows additional trips in localized areas.

**Response to Comment C-2:** The comment states that the City's General Plan allows "new development but only if auto-oriented uses are limited" (Land Use Impact 3.1-4 in the Draft EIR) and that the "900 car parking garage" is not a limited auto use.

The comment incorrectly construes that the General Plan would allow development "only if auto-oriented uses are limited." The context of the discussion referenced in the Land Use analysis of the EIR for the General Plan is that "The intent of the Emeryville General Plan is to create a mixed use urban area that accommodates additional residential, office, retail, and hotel uses in a previously industrial area. These uses are compatible if building scale and character are consistent, pedestrian connections are provided, and auto-oriented uses are limited." This portion of the analysis in the EIR focuses on the potential impacts of the General Plan in allowing a mix of uses that would be incompatible – not on transportation impacts.

The proposed project has an auto-oriented component but also incorporates features conducive to transit, including bus parking and other amenities compatible with the adjacent Amtrak Station. The proposed project also provides a less congested area for transit vehicles, such as the Emery Go-Round, the parking area for which would be separated from other bus parking that would be provided on the ground floor of the EmeryStation West building parking podium. The separate but adjacent parking areas would improve service and circulation for both types of transit vehicles. The project also has a pedestrian link to the commercial area located west of the site on the opposing side of the railroad tracks. Bicycle parking would be provided in the project parking structure.

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<sup>2</sup> City of Emeryville, 2009. General Plan, Transportation Element, page 3-4.

The commenter overstates the amount of parking provided by the project. There are currently about 385 spaces in the two surface parking lots on the project site; the project would provide about 750 spaces - a net increase of 365.

**Response to Comment C-3:** The comment states that the proposed project would interfere with a bicycle facility and that this impact would be significant.

The proposed project would not permanently interfere with the existing Class II bike lanes on Horton Street or the Horton/Overland Bicycle Boulevard. The bike lanes would remain along the east and west sides of the street. The temporary disruptions of bicycle and pedestrian movements along Horton Street during the construction period are identified on page 125 and would be reduced to less-than-significant levels by Mitigation Measure TRANS-3. The entrance to Heritage Square parking structure would be in the same location as the entrance/exit for the existing surface parking lot and would not create any new interruptions of the bike lane on the east side of Horton Street. Placement of the exit for the garage on 62<sup>nd</sup> Street eliminates the potential conflict between bicycles on Horton Street and cars exiting the garage. The primary entrance/exit to the EmeryStation West parking structure would be located off of Horton Street on 59<sup>th</sup> Street; buses would enter only from Horton Street and exit on 59<sup>th</sup> Street. The project would eliminate a mid-block entrance/exit and replace it with an entrance-only portal that would be used only by buses. These changes would reduce the number of vehicles crossing the bike lane at mid-block. Although the project would increase the number of vehicles using Horton Street, but to a lesser degree than stated by the commenter (see Response to Comment C-2), the design features of the project make some aspects of the bicycle environment safer than existing conditions. For these reasons the impact would be less than significant.

**Response to Comment C-4:** The comment asserts that the developer of the proposed project is receiving special consideration with the IS/MND and that an EIR is warranted.

The developer of the proposed project has not been involved in the environmental analysis except to provide and confirm details of the project for purposes of preparing the project description. On the basis of the IS, City staff has concluded that the proposed project would not have a significant effect on the environment and, therefore, has prepared a proposed MND. The City of Emeryville Planning Commission will review the draft IS and proposed MND and then consider whether to adopt the MND. If the City finds that the proposed project will not have a significant effect on the environment, it may adopt the MND. This means that the City may approve the project without the preparation of an EIR. The MND reflects the City's independent judgment and analysis. The information received subsequent to publication of the draft IS and proposed MND does not identify any new significant impacts or necessary mitigation measures that would require revisions to the IS/MND findings.

#### **COMMENTOR D**

**Scott Donahue**

**Chairperson, Emeryville Bicycle/Pedestrian Advisory Subcommittee**

**Received: December 8, 2009**

**Response to Comment D-4:** The comment states that the IS/MND does not mention the Horton/Overland Bicycle Boulevard and that its presence should be taken into account.

Please refer to Response to Comment B-2.

**COMMENTOR E**

**Sam Foushee**

**Member, Emeryville Bicycle/Pedestrian Advisory Subcommittee**

**Received: December 8, 2009**

**Response to Comment E-4:** The comment states that the IS/MND does not mention the Horton/Overland Bicycle Boulevard and that it fails to take into account the project's impact on bicycle facilities, counter to the intent of the new General Plan.

Please refer to Responses to Comments B-2 and C-2.

**DEPARTMENT OF TRANSPORTATION**

1 GRAND AVENUE  
O. BOX 23660  
OAKLAND, CA 94623-0660  
PHONE (510) 822-5491  
FAX (510) 286-5559  
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December 8, 2009

ALA080154  
ALA-80-3.79  
SCH#2009112024

Ms. Miroo Desai  
Planning and Building Department  
City of Emeryville  
1333 Park Avenue  
Emeryville, CA 94608

Dear Ms. Desai:

**EmeryStation West at the Emeryville Transit Center Project – Mitigated Negative Declaration**

Thank you for including the California Department of Transportation (Department) in the environmental review process for the EmeryStation West at the Emeryville Transit Center Project. The following comments are based on the Mitigated Negative Declaration. As lead agency, the City of Emeryville is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, and implementation responsibilities as well as lead agency monitoring should be fully discussed for all proposed mitigation measures and the project's traffic mitigation fees should be specifically identified in the environmental document. Any required roadway improvements should be completed prior to issuance of project occupancy permits. An encroachment permit is required when the project involves work in the State's right of way (ROW). The Department will not issue an encroachment permit until our concerns are adequately addressed. Therefore, we strongly recommend that the lead agency ensure resolution of the Department's California Environmental Quality Act (CEQA) concerns prior to submittal of the encroachment permit application; see the end of this letter for more information regarding the encroachment permit process.

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**Regional Impact Fees**

The traffic generated from the proposed project will have significant impacts to the already congested state highway system. Since reducing delays on Interstate (I)-80 will benefit the region and local jurisdictions by providing more reliable travel times for commuters, recreational travelers and freight traffic, the Department strongly urges the City to develop a regional transportation impact fee program to mitigate the impacts of future growth on regional corridors such as I-80. Traffic impact fees are a permanent funding mechanism with a demonstrated nexus to project impacts. These fair share fees would be used to fund regional transportation programs that add capacity and/or improve efficiency to the transportation system and reduce delays while maintaining reliability on major roadways throughout the San Francisco Bay Area.

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Ms. Miroo Desai/City of Emeryville  
December 8, 2009  
Page 2

***Mitigation Monitoring***

The CEQA, Public Resources Code Section 21081.6 and 21081.7, requires the Department to establish mitigation monitoring submittal guidelines for public agencies. The guidelines affect agencies that have approved development projects and are required under CEQA to provide the Department reports on transportation related mitigation monitoring measures. Please see the Department's "Guidelines for Submitting Transportation Information from a Reporting or Monitoring Program to the Department of Transportation" at the following website for more information: [http://www.dot.ca.gov/hq/tpp/offices/ocpl/igr\\_ceqa.html](http://www.dot.ca.gov/hq/tpp/offices/ocpl/igr_ceqa.html)

The Mitigation Monitoring Submittal Guidelines discuss the scope, purpose and legal requirements for mitigation monitoring reporting and submittal, specify the generic content for reports, and explain procedures for timing, certification and submittal of reports. Please complete and sign a Certification Checklist form for each approved development project that includes transportation related mitigation measures and return it to this office once the mitigation measures are approved, and again when they are completed.

Please send signed Certification Checklist forms and supporting attachments to the address at the top of this letterhead, marked ATTN: Yatman Kwan, Mail Stop #10D. For supporting attachments, the CEQA lead agency, at its discretion, may also submit the entire mitigation monitoring program report for each project with the required transportation information highlighted. When the District has approved the submittal and signed the Certification Checklist form, a copy of the form will be supplied to your agency.

***Encroachment Permit***

Any work or traffic control within the State ROW requires an encroachment permit that is issued by the Department. Traffic-related mitigation measures will be incorporated into the construction plans during the encroachment permit process. See the following website link for more information: <http://www.dot.ca.gov/hq/traffops/developserv/permits/>

To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans which clearly indicate State ROW to the address at the top of this letterhead, marked ATTN: Michael Condie, Mail Stop #5E.

Should you have any questions regarding this letter, please call Yatman Kwan of my staff at (510) 622-1670.

Sincerely,



LISA CARBONI  
District Branch Chief  
Local Development - Intergovernmental Review

c: State Clearinghouse

Brian Donahue  
4333 Holden Street  
Emeryville CA 94608

November 14, 2009

To the Planning Commission and the Planning Director-

The recently released Transit Center Mitigated Negative Declaration (Neg Dek) is not a legal document and may not be used in furtherance of the building of the proposed Transit Center project. There is a glaring omission in this document that is so egregious that it renders the whole document invalid. As you all know, the proposed Transit Center is to be located on Horton Street and yet, the Transit Center Neg Dek makes no provisions at all for the existence of the Horton Street Bike Boulevard.

Givens:

- The General Plan identifies Horton Street as a Bike Boulevard
- Bike Boulevards may contain bike lanes
- Bike Boulevards have metrics
- Areas of striped lanes along a Bike Boulevard still must maintain the metrics

The salient metric for bike boulevards in this case is the universal provision that Average Daily Trips (for vehicles) must not exceed 3000. Recent traffic studies conducted on Horton Street note a sharp rise in ADT over the last five years. In the last year, the ADT now exceeds 3000. In order to maintain Horton as a bike boulevard, the City must install traffic calming measures to push this number back below 3000.

The Transit Center Neg Dek allows for much of the project-generated traffic to use Horton Street, not possible on a Bike Boulevard already in excess of 3000 ADT. Since this is not possible, all the traffic calculations in the Neg Dek are flawed. All this surplus traffic must be recalculated and placed on other streets to get an accurate appraisal of the real traffic impacts this project will have. This oversight is so large that many more intersections will be pushed into a Level Of Service (LOS) of F in my estimation.

I believe this flaw in this Neg Dek is fatal and that an Environmental Impact Report (EIR) clearly is warranted. I made a phone call to LSA Associates, the writers of the Neg Dek and they told me they "didn't know" that Horton Street was a Bike Boulevard at the Transit Center site. This lack of knowledge of facts gives me no confidence that there is an objective analysis happening with regard to the Transit Center. The Horton Street Bike Boulevard is not a thing to be traded away. If we are to dispense with it, proper procedure must be followed and the General Plan must be amended.

Brian Donahue  
28-year resident & parent

1

2

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4

**From:** Brian Donahue [mailto:sophbeau@yahoo.com]

**Sent:** Monday, December 07, 2009 9:32 PM

**To:** Miroo Desai

**Cc:** Ruth Atkins House; Ruth Atkin; Michael G. Biddle; Kurt Brinkman; Charles Bryant; @City Council; Scott Donahue; Frank Flores; John Fricke; Arthur Hoff; Patricia Jeffery; Diana L Keena; Tom Modic; Patrick D O'Keeffe; John Scheuerman; Jennifer West; bike-walk-emeryville@googlegroups.com

**Subject:** Miroo: Addendum to the Transit Center Neg Dek comment

To Miroo, et al-

This is to serve as an addendum to my previous response to the Mitigated Negative Declaration (Neg Dek) for the Transit Center project.

Emeryville's new General Plan states that through-traffic on bicycle boulevards is to be discouraged. The Neg Dek allows thousands of new car trips onto the Horton Street Bike Boulevard with no provisions to stop them from using the street as a through-street for the traffic it generates. This is a clear violation of the General Plan.

In addition, the General Plan states the intention of the Plan is to allow new development but only if "auto-oriented uses are limited." (3.1-4 in the DEIR). There is NO WAY any reasonable person can say the Transit Center development, with its 900 car parking garage has a "limited" auto use. Quite the contrary, this is one of the most auto-dependent new developments this city has had.

The Draft Environmental Impact Report for the General Plan states in the impact analysis section; bicycle impact criteria, that "a bicycle impact is considered significant if it would interfere with a planned bicycle facility" (page 3.2-18). Clearly, the Horton Street Bicycle Boulevard is a bicycle facility and it is very clear that the Transit center would indeed interfere with it, by any accepted metrics. The writers of the EIR for the General Plan accept this, so why can't the writers of the Transit Center Neg Dek?

For me, it's obvious that a favored developer, Wareham Development Corporation is receiving special consideration with this Neg Dek. It's very evident an EIR is necessary for this project but obviously Wareham isn't keen on spending the extra time and money on an EIR. If this project goes through without an EIR, it will be placed in the pantheon of other corrupt Emeryville Neg Deks' such as the the Neg Dek for the Powell Street Plaza that answered "NO" to the question: 'Will this project likely impact any archaeological remains?' This, on the site of the largest shellmound on the West Coast; clearly a corrupt document meant to save the developer money and time. Emeryville needs to finally and fully grow up and stop this cynical manipulating to the benefit of developers at the expense of the residents.

Brian Donahue  
28 year resident  
parent

**From:** Scott Donahue [scott@sdonahue.com]  
**Sent:** Tuesday, December 08, 2009 11:27 AM  
**To:** Miroo Desai  
**Subject:** transit center mitigated negative declaration

dear urban planners,  
I am chairperson of the bicycle and pedestrian subcommittee. The mitigated negative declaration for the transit center does not mention the Horton Street bike Blvd. I think it is important that the effects of the transit center on the bicycle Boulevard be taken into account. Please address this issue.  
Sincerely,  
Scott Donahue  
1420 45th St. studio 49  
Emeryville

**From:** Sam Foushee [slfoushee@comcast.net]  
**Sent:** Tuesday, December 08, 2009 2:04 PM  
**To:** Miroo Desai  
**Subject:** Transit Center Negative Declaration statement

Dear Miroo,

As a concerned resident and a member of the Bike-Ped Advisory Committee, I am concerned about the negative declaration statement for the Transit Center project. From what I can tell, this statement fails to take into account the impact that the project will have on one of our bicycle facilities, the Horton Street Bicycle Boulevard. This runs counter to the intent of the new General Plan.

Thank you,

Sam Foushee  
2 Admiral Drive #472  
510-658-4915

## MITIGATION MONITORING AND REPORTING PROGRAM

This Mitigation Monitoring and Reporting Program (MMRP) was formulated based on the findings of the Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the EmeryStation West at the Emeryville Transit Center Project in the City of Emeryville. This MMRP is in compliance with Section 15097 of the *CEQA Guidelines*, which requires that the Lead Agency “adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects.” The MMRP lists mitigation measures recommended in the IS/MND and identifies mitigation monitoring requirements.

Table 1 presents the mitigation measures identified for project. Each mitigation measure is numbered according to the topical section to which it pertains in the IS/MND. As an example, Mitigation Measure AES-1 is the first mitigation measure identified in the IS/MND for the project.

The first column of Table 1 identifies the mitigation measure from the IS/MND. The second column, entitled “Action and Implementation Timing,” describes each mitigation measure. The third column, “Party Responsible for Monitoring,” names the party ultimately responsible for ensuring that the mitigation measure is implemented. The fourth column, “Action by Monitor” outlines the steps for monitoring the action identified in the mitigation measure. The fifth column entitled “Monitoring Timing,” states the time the monitor must ensure that the mitigation measure has been implemented. The last column will be used by the City to ensure that individual mitigation measures have been monitored.

**Table 1: Mitigation Monitoring and Reporting Program**

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<b>I. AESTHETICS</b>						
<u>AES-1</u> : The project applicant shall prepare project lighting plans and submit them to the City of Emeryville for review. City staff shall review and approve these plans to ensure that proposed lighting would be low-intensity, downward-directed, and located only in places where it is necessary.	Prepare project lighting plans during final design process that incorporate design measures described in Mitigation Measure AES-1	Project applicant	City of Emeryville, Planning and Building Department	Review final lighting plans and verify that design elements have been incorporated	Prior to issuance of building permit	<i>Name:</i>  <i>Date:</i>
<b>II. AIR QUALITY</b>						
<u>AIR-1</u> : Consistent with the guidance from the Bay Area Air Quality Management District (BAAQMD), the project applicant shall include dust control measures in construction specifications for the project. The City shall review the final construction specifications to verify that the requirements have been included prior to issuing a grading or building permit for the project. The City shall verify via field inspection at least twice during construction that the measures are being implemented. The following measures are required: <ul style="list-style-type: none"> <li>• Water all active construction areas at least twice daily.</li> <li>• Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.</li> <li>• Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.</li> </ul>	Implement the dust control measures listed in Mitigation Measure AIR-1 during construction	Project applicant and construction contractor	City of Emeryville, Public Works Department	1. Review final construction specifications to ensure requirements listed in Mitigation Measure AIR-1 are included  2. Visit project site at least twice to verify that dust control measures are being implemented	1. Prior to issuance of a grading permit  2. During project construction	<i>Name:</i>  <i>Date:</i>

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<p><i>AIR-1 Continued</i></p> <ul style="list-style-type: none"> <li>Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.</li> <li>Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.</li> </ul>						
<u>AIR-2a</u> : Implement Mitigation Measure AIR-1.	See Mitigation Measure AIR-1					
<p><u>AIR-2b</u>: Consistent with guidance from the BAAQMD, the project applicant shall require contractors to include emissions control measures in construction specifications for the project. The City shall review the final construction specifications to verify that the requirements have been included prior to issuing a grading or building permit for the project. The City shall verify via field inspection at least twice during construction that the measures are being implemented. The following actions are required:</p> <ul style="list-style-type: none"> <li>Idling time of diesel powered construction equipment shall be limited to 5 minutes;</li> <li>Alternative powered construction equipment (i.e., CNG, biodiesel, electric) shall be utilized when feasible;</li> <li>Add-on control devices shall be used such as diesel oxidation catalysts or particulate filters;</li> <li>Project construction (demolition, site preparation, and building erection) shall be phased (not occur simultaneously); and operating hours of heavy duty equipment shall be minimized.</li> </ul>	Implement the emission control measures listed in Mitigation Measure AIR-2b during construction	Project applicant and construction contractor	City of Emeryville, Public Works Department	<p>1. Review final construction specifications to ensure requirements listed in Mitigation Measure AIR-1 are included</p> <p>2. Visit project site at least twice to verify that emission control measures are being implemented</p>	<p>1. Prior to issuance of a grading permit</p> <p>2. During project construction</p>	<p>Name:</p> <p>Date:</p>

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
III. BIOLOGICAL RESOURCES						
BIO-1: Implement Mitigation Measures HYD-1a and HYD-1b.	See Mitigation Measures HYD-1a and HYD-1b					
V. CULTURAL RESOURCES						
CULT-1: Ground disturbance associated with project activities below the project site fill layer shall be monitored by a qualified archaeologist. Archaeological monitors shall be empowered to halt construction activities at the location of the discovery to review possible archaeological material and to protect the resource while the finds are being evaluated. Monitoring shall continue until, in the archaeologist’s judgment, cultural resources are not likely to be encountered.  If deposits of prehistoric or historical archaeological materials are encountered during project activities, all work within 25 feet of the discovery shall be redirected and a qualified archaeologist contacted to assess the finds, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials or human remains and associated materials. Adverse effects to such deposits shall be avoided by project activities. If avoidance is not feasible, the archaeological deposits shall be evaluated for their eligibility for listing in the California Register. If the deposits are not eligible, avoidance is not necessary. If the deposits are eligible, adverse effects on the deposits shall be avoided or mitigated.	Monitor ground-disturbing activities during construction for archaeologically sensitive resources, as described in Mitigation Measure CULT-1	Project applicant and construction contractor	City of Emeryville, Public Works Department	Visit project site and verify that measures are being implemented	During project construction	Name:  Date:

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<p><b>CULT-1</b> <i>Continued</i></p> <p>Mitigation shall consist of, but is not necessarily limited to, systematic recovery and analysis of archaeological deposits; recording the resource; preparation of a report of findings; accessioning recovered archaeological materials at an appropriate curation facility. Public educational outreach may also be appropriate. Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the archaeological materials discovered. The report shall be submitted to the City of Emeryville and the Northwest Information Center.</p> <p>Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the archaeological materials discovered. The report shall be submitted to the applicant, the City of Emeryville, and the Northwest Information Center.</p>						
<p><b>CULT-2:</b> In the event that an archaeological monitor is not present and deposits of prehistoric or historical archaeological materials are encountered during project activities, all work within 25 feet of the discovery should be redirected and a qualified archaeologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. The project proponent should also be notified. Project personnel should not collect or move any archaeological materials. It is recommended that adverse effects to such deposits be avoided by project activities. If such deposits cannot be avoided, they should</p>	<p>1. Include the requirements of Mitigation Measure CULT-2 in contract documents</p> <p>2. Evaluate any archaeological deposits discovered during project construction, as described in Mitigation Measure CULT-2</p>	<p>1. Project applicant</p> <p>2. Construction contractor</p>	<p>1. City of Emeryville, Public Works Department</p> <p>2. City of Emeryville, Planning and Building Department</p>	<p>1. Verify that the requirements have been included in contract documents</p> <p>2. Visit project site and verify that measures are being implemented and that any reports are submitted to NWIC</p>	<p>1. Prior to issuance of grading permit</p> <p>2. During project construction</p>	<p><i>Name:</i></p> <p><i>Date:</i></p>

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<p><b>CULT-2</b> <i>Continued</i></p> <p>be evaluated for their California Register of Historical Resources eligibility. If the deposits are not eligible, avoidance is not necessary. If the deposits are eligible, adverse effects on the deposits must be avoided or such effects must be mitigated. Mitigation may consist of, but is not necessarily limited to, systematic recovery and analysis of archaeological deposits; recording the resource; preparation of a report of findings; and accessioning recovered archaeological materials at an appropriate curation facility. Public educational outreach may also be appropriate. Upon completion of the assessment, the archeologist should prepare a report documenting the methods and results, and provide recommendations for the treatment of the archaeological materials discovered. The report shall be submitted to the City of Emeryville and the Northwest Information Center.</p>						
<p><b>CULT-3:</b> The project applicant shall inform its contractor(s) of the sensitivity of the project area for paleontological resources by including the following directive in contract documents:</p> <p><i>The subsurface of the construction site may be sensitive for paleontological resources. If paleontological resources are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or</i></p>	<p>1. Include the directive described in Mitigation Measure CULT-3 in contract documents</p> <p>2. Evaluate any paleontological resources discovered during project construction as described in CULT-3</p>	<p>1. Project applicant</p> <p>2. Construction contractor</p>	<p>1. City of Emeryville, Public Works Department</p> <p>2. City of Emeryville, Planning and Building Department</p>	<p>1. Verify that the appropriate language has been incorporated in contract documents</p> <p>2. Visit project site and verify that measures are being implemented and that any reports are submitted to an appropriate paleontological repository</p>	<p>1. Prior to the issuance of a grading or building permit</p> <p>2. During project construction</p>	<p><i>Name:</i></p> <p><i>Date:</i></p>

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<p><i>CULT-3 Continued</i></p> <p><i>move any paleontological materials. Paleontological resources include fossil plants and animals, and such trace fossil evidence of past life as tracks. Ancient marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Paleontological resources also include plant imprints, petrified wood, and animal tracks.</i></p> <p>The City shall verify that the language has been included in the contract documents before issuing the grading or building permit.</p> <p>Adverse effects to paleontological deposits should be avoided by project activities. If avoidance is not feasible, the paleontological resources shall be evaluated for their significance. If the resources are not significant, avoidance is not necessary. If the resources are significant, project activities shall avoid disturbing the deposits, or the adverse effects of disturbance shall be mitigated. Mitigation may include monitoring, recording the fossil locality, data recovery and analysis, a technical recovery report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the paleontological assessment and/or mitigation, a report shall be prepared documenting the methods, results, and recommendations of the study. The report shall be submitted to the applicant and the City of</p>						

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<p>CULT-3 <i>Continued</i></p> <p>Emeryville and, if paleontological materials are recovered, a paleontological repository, such as the University of California Museum of Paleontology.</p>						
<p>CULT-4: If human remains are encountered, these remains shall be treated in accordance with Health and Safety Code §7050.5. The project applicant shall inform its contractor(s) of the sensitivity of the project area for human remains by including the following directive in contract documents:</p> <p><i>If human remains are encountered during project activities, work within 25 feet of the discovery shall be redirected and the County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation and consult with agencies as appropriate. Project personnel shall not collect or move any human remains and associated materials. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.</i></p> <p>The City shall verify that the language has been included in the contract documents before issuing the grading or building permit</p>	1. Include the directive described in Mitigation Measure CULT-4 in contract documents	1. Project applicant	1. City of Emeryville, Public Works Department	1. Verify that the appropriate language has been incorporated in contract documents	1. Prior to the issuance of a grading or building permit	<p>Name:</p> <p>Date:</p>

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<p><b>CULT-4 <i>Continued</i></b></p> <p>Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the human remains and any associated cultural materials, as appropriate and in coordination with the recommendations of the most likely descendent (MLD). The report shall be submitted to the applicant, the City of Emeryville, and the Northwest Information Center.</p>	2. Stop work within 25 feet of human remains discovered during project construction; prepare and submit report of findings to City, Project Applicant, and NWIC	2. Construction contractor	2. City of Emeryville, Planning and Building Department	2. Visit project site and verify that measures are being implemented and that any reports are submitted to NWIC	2. During project construction	
<b>VI. GEOLOGY AND SOILS</b>						
<p><b>GEO-1:</b> A Certified Engineering Geologist, Geotechnical Engineer or other appropriately registered professional shall be engaged by the project applicant to conduct a design-level geotechnical investigation and prepare a geotechnical and soils report for the proposed project, including remediation. The applicant shall submit a shoring plan (or evidence that shoring is not required) to the DTSC and the City of Emeryville Planning and Building Department prior to approval of the final RDIP by the DTSC. The applicant shall submit the final plans for the project and specifications for conformance with the recommendations in the geotechnical report to the City of Emeryville Planning and Building Department for review and confirmation that the proposed buildings fully comply with the California Building Code (Seismic Zone 4). The</p>	Submit geotechnical investigation results/report and final plans and specifications for conformance with the recommendations in the geotechnical report before construction begins and implement recommendations during construction	Project applicant	City of Emeryville, Planning and Building Department, Public Work Department	<p>1. Review final project plans for conformance with the recommendations in the geotechnical report</p> <p>2. Inspect the site to verify measures have been implemented</p>	<p>1. Prior to issuance of a building permit</p> <p>2. Prior to issuance of occupancy permit</p>	<p><i>Name:</i></p> <p><i>Date:</i></p>

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
GEO-1 <i>Continued</i> report shall identify building techniques appropriate for minimizing seismic damage. All mitigation measures, design criteria, and specifications set forth in the geotechnical and soils report shall be followed. The City shall review and approve the plans and specifications prior to issuing a building permit for the project.						
GEO-2: The project applicant shall prepare an Erosion Control Plan in accordance with the San Francisco Bay Regional Water Quality Control Board’s requirements. The City shall verify that the Erosion Control Plan has been prepared before issuing the grading or building permit for the project.	Prepare an Erosion Control Plan in accordance with the RWQCB’s requirements before grading begins	Project applicant	City of Emeryville, Planning and Building Department, Public Work Department	Verify that the Erosion Control Plan has been prepared	Prior to issuance of the grading permit	<i>Name:</i>  <i>Date:</i>
GEO-3: Implement Mitigation Measure HYD-1a and HYD-1b (Preparation of a SWPPP and a Storm Water Control Plan).	See Mitigation Measures HYD-1a and HYD-1b					
GEO-4: Implement Mitigation Measure GEO-1.	See Mitigation Measure GEO-1					
GEO-5: Implement Mitigation Measure GEO-1.	See Mitigation Measure GEO-1					
VII. HAZARDS AND HAZARDOUS MATERIALS						
HAZ-1: Before issuing the grading permit for the remediation phase of the project on the EmeryStation West building site, the City shall verify that the final <i>Remedial Design and Implementation Plan</i> (RDIP) has been prepared and that the Department of Toxic Substances Control (DTSC) has reviewed and concurred with the plans presented in the RDIP. The project applicant shall be responsible for ensuring that the plans are implemented. The Operations and Maintenance Plan shall describe soil	1. Verify that the RDIP has been prepared and approved by the DTSC	1. City of Emeryville, Planning and Building Department	1. City of Emeryville, Planning and Building Department	1. Verify that requirements described in Mitigation Measure HAZ-1 have been met	1. Prior to issuance of grading or building permit	<i>Name:</i>  <i>Date:</i>
	2. Implement the requirements of the RDIP	2. Project applicant	2. City of Emeryville, Planning and Building Department	2. Inspect the site to verify measures have been implemented	2. During project remediation phase	

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
HAZ-1 <i>Continued</i> confirmation sampling and groundwater sampling to ensure that soils and groundwater remaining on site do not present an environmental or human health hazard. The site-specific Health and Safety Plan shall be prepared in accordance with federal, State and local standards governing the remediation of soil and groundwater containing hazardous waste.						
HAZ-2a: Before issuing the grading or building permit for construction of the Heritage Square parking structure, the City shall confirm that the deed restriction allowing commercial development on the site has been prepared and agreed to by the property owner and the San Francisco Bay Regional Water Quality Control Board.	Verify that the San Francisco Regional Water Quality Control Board has agreed to the deed restriction for the Heritage Square site	Project applicant	City of Emeryville, Planning and Building Department	Verify that requirement described in Mitigation Measure HAZ-2a has been met	Prior to issuance of grading or building permit	Name: Date:
HAZ-2b: The project applicant shall submit final construction drawings that show maximum depths of excavation across the Heritage Square parking structure site that would be needed to accommodate the building's foundation. The City shall review the plans with respect to the residual concentrations in soil at the site as identified in the 2004 <i>Characterization and Remediation of Polychlorinated Biphenyl-impacted Soils Beneath the North and East Parking Lots at Heritage Square</i> prepared by SOMA Environmental Engineering. If excavation for the Heritage Square parking structure would extend into any areas of residual contamination then the applicant shall prepare a Site Management Plan and a Health and Safety Plan for excavation activities in areas where contaminants persist.	Prepare a Site Management Plan and Health and Safety Plan that includes the requirements described in HAZ-2b before grading begins	Project applicant	City of Emeryville, Planning and Building Department	Review the Site Management Plan and Health and Safety Plan and verify that requirements listed in Mitigation Measure HAZ-2b have been met	Prior to issuance of grading and building permits	Name: Date:

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<p>HAZ-2b <i>Continued</i></p> <p>The Site Management Plan shall describe how contaminated materials will be excavated, handled, and segregated from the underlying soil, how contaminated materials will be disposed, and the maintenance requirements necessary to ensure that long-term soil management measures, such as capping of the soils, will remain effective during the site's use and occupancy period. The project applicant shall be responsible for ensuring that long-term soil management measures are implemented. The Site Management Plan shall describe soil confirmation sampling and groundwater sampling, if needed, to ensure that soils and groundwater remaining on site do not present an environmental or human health hazard. The site specific Site Management Plan and the Health and Safety Plan shall be prepared in accordance with federal, State and local standards governing the remediation of soil and groundwater containing hazardous waste. The Health and Safety Plan shall describe air and dust monitoring procedures and corrective actions, as necessary, to ensure that workers and the public are not exposed to site-related contaminants in volatile air emissions or dust containing harmful concentrations of contaminants during construction.</p> <p>The City shall verify that the Site Management Plan and Health and Safety Plan have been prepared and that the Site Management Plan has been conditionally approved with concurrence from the San Francisco Bay Regional Water Quality Control Board before issuing the grading or building permit.</p>						

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
HAZ-3: Implement Mitigation Measures HAZ-1, HAZ-2a and HAZ-2b.	See Mitigation Measures HAZ-1, HAZ-2a and HAZ-2b					
VIII. HYDROLOGY AND WATER QUALITY						
HYD-1a: The project applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) for the post-remediation period of construction designed to reduce potential impacts to surface water quality. It is not required that the SWPPP be submitted to the Water Board, but must be maintained on site and made available to Water Board staff upon request. The SWPPP shall include specific and detailed Best Management Practices (BMPs) designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and shall include both dry and wet weather inspections. The City shall verify that the SWPPP has been prepared before issuing the grading or building permit for the project.	Prepare a SWPPP that includes requirements listed in Mitigation Measure HYD-1a before grading begins	Project applicant	City of Emeryville, Public Works Department	Verify that the SWPPP has been prepared	Prior to issuance of the grading or building permit	Name:  Date:
HYD-1b: The project applicant shall prepare a Storm Water Management Plan that is consistent with the <i>Stormwater Guidelines for Green, Dense Redevelopment: Stormwater Quality Solutions for the City of Emeryville</i> . The City shall verify that the Storm Water Management Plan has been prepared before issuing the building permit for the project.	Prepare a Storm Water Control Plan that includes requirements listed in HYD-1b before construction begins	Project applicant	City of Emeryville, Public Works Department	Verify that the Storm Water Control Plan has been prepared	Prior to issuance of the building permit	Name:  Date:

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<u>HYD-2</u> : Implement Mitigation Measure GEO-2.	See Mitigation Measure GEO-2					
<u>HYD-3</u> : Implement Mitigation Measures HYD-1a and HYD-1b.	See Mitigation Measures HYD-1a and HYD-1b					
<b>XI. NOISE</b>						
<u>NOISE-1</u> : The project contractor shall comply with the following measures:  <i>Hours.</i> Unless the City Council grants a waiver allowing different remediation and construction hours pursuant to Section 5-13.06 of the Emeryville Municipal Code, remediation and construction hours shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday. In an urgent situation, the City Manager, Planning and Building Director, or Public Works Director may approve weekend or night work pursuant to Section 5-13.05(e) of the Emeryville Municipal Code.  <i>Equipment.</i> All heavy remediation and 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 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.	Implement the noise-reducing measures described in Mitigation Measure NOISE-1 during construction	Project applicant and construction contractor	City of Emeryville, Public Works Department	1. Review plans and specification to ensure measures are included  2. Visit project site and verify that noise control measures are being implemented	1. Prior to issuance of building permit  2. During project construction	<i>Name:</i>  <i>Date:</i>

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
NOISE-1 <i>Continued</i> <i>Noise Disturbance Coordinator.</i> The applicant shall designate a “Noise Disturbance Coordinator” who shall be responsible for responding to any complaints about remediation and 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. The 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.						
NOISE-2: Implement Mitigation Measure NOISE-1.	See Mitigation Measure NOISE-1					
NOISE-3: Implement Mitigation Measure NOISE-1.	See Mitigation Measure NOISE-1					
XV. TRANSPORTATION/TRAFFIC						
TRANS-1: The project applicant shall be responsible for providing the City with funds to develop and implement timing plans that optimize the operations of the coordinated signals at the following four intersections during AM peak, mid-day, and PM peak hours: <ul style="list-style-type: none"><li>Christie Avenue /Powell Street (Intersection #8)</li><li>I-80 EB Ramps /Powell Street (Intersection #9)</li><li>Frontage Road /Powell Street (Intersection #10)</li></ul>	1. Provide funds for the development and implementation timing plans that optimize the four coordinated signals identified in TRANS-1  2. Optimize the signal timing for the four coordinated signals identified in TRANS-1	1. Project applicant  2. City of Emeryville, Public Works Department	1. City of Emeryville, Planning and Building Department, Public Works Department  2. City of Emeryville, Planning and Building Department	1. Verify that the project applicant has paid the fee for developing and implementing the signal optimization plan  2. Verify that the signal timing has been optimized	1. Prior to issuance of the certificate of occupancy  2. Upon 75% occupancy of the EmeryStation West building	<i>Name:</i>  <i>Date:</i>

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<p>TRANS-1 <i>Continued</i></p> <ul style="list-style-type: none"> <li>Frontage Road /I-80 WB Ramps (Intersection #11)</li> </ul> <p>Given that said intersections are also coordinated with the closely spaced intersections of Shellmound Street and Christie Avenue, Shellmound Way and Shellmound Street, Christie Avenue and Powell Street Plaza, and Shellmound Street and Christie Avenue, these intersections shall be included with signal timing optimization.</p>						
<p>TRANS-2: The project applicant shall be responsible for designing and installing a traffic signal at the intersection of 62<sup>nd</sup> and Hollis Street. Said new traffic signal shall be interconnected and coordinated with the existing traffic signals on Hollis Street. The applicant shall also be responsible for providing the City with funds to develop and implement timing plans that optimize the operation of the new signal with five existing coordinated traffic signals on Hollis Street from Stanford Avenue to 65<sup>th</sup> Street during AM peak, mid-day and PM peak hours. The fee for signalizing the intersection and coordination with existing traffic signal shall be paid to the City of Emeryville prior to issuing the temporary occupancy permit for the EmeryStation West building.</p>	<p>1. Provide funds for designing and installing a traffic signal at the intersection of 62<sup>nd</sup> and Hollis Streets</p> <p>2. Provide funds for developing and implementing timing plans that optimize the new signal and the five existing coordinated signals identified in TRANS-2</p> <p>3. Optimize the signal timing of the new signal and five existing signals identified in TRANS-2</p>	<p>1. Project applicant</p> <p>2. Project applicant</p> <p>3. City of Emeryville, Public Works Department</p>	<p>1. City of Emeryville, Planning and Building Department</p> <p>2. City of Emeryville, Planning and Building Department</p> <p>3. City of Emeryville, Planning and Building Department</p>	<p>1. Verify that the project applicant has paid the fee for designing and installing the traffic signal</p> <p>2. Verify that the project applicant has paid the fee for designing and installing the traffic signal</p> <p>3. Verify that the signal timing has been optimized</p>	<p>1. Prior to issuance of the certificate of occupancy</p> <p>2. Prior to issuance of the certificate of occupancy</p> <p>3. Upon installation of the new signal at 62<sup>nd</sup> and Hollis Streets</p>	<p>Name:</p> <p>Date:</p>

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<p><b>TRANS-3:</b> The project applicant shall prepare and submit detailed Traffic Management Plan (TMP) drawings for each phase of construction to the City of Emeryville for approval. This shall include preparation and implementation of a parking management plan for the existing parking uses on the EmeryStation West site and the Heritage Square site. The project applicant shall consider the following items when preparing the detailed TMP drawings:</p> <ul style="list-style-type: none"> <li>• Truck loading and unloading is strongly recommended to be conducted off-street during the remediation and post-remediation phases of construction. However, if this is determined infeasible and the applicant plans to load or unload on Horton Street, the following issues shall be considered: <ul style="list-style-type: none"> <li>○ The Horton Street roadway is approximately 30 feet wide and provides one traffic lane and an on-street bicycle lane in each direction. The project applicant shall determine whether two-way traffic could be maintained adjacent to the on-street loading area. It is desirable that two-way traffic would be maintained along this section of Horton Street and the roadway would need to be re-striped to provide a 10-foot wide loading area and two 10-foot wide traffic lanes, which would require the temporary removal of the on-street bicycle lanes on Horton Street. Adequate signage shall be installed to warn motorists and bicyclists</li> </ul> </li> </ul>	Develop and implement a TMP program that includes the elements listed in Mitigation Measure TRANS-3	Project applicant	City of Emeryville, Planning and Building Department	Review TMP drawings and verify that the elements listed in Mitigation Measure TRANS-3 have been included	Prior to issuance of the grading or building permit	<i>Name:</i>  <i>Date:</i>

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<p>TRANS-3 <i>Continued</i></p> <p>of the changed traffic conditions along this segment of Horton Street. It is also recommended that a reduced speed limit be temporarily established to highlight the changed traffic conditions and improve road safety for motorists and bicyclists.</p> <ul style="list-style-type: none"> <li>○ The installation of concrete K-rail barriers along the edge of any on-street loading area is recommended. The barriers would enable the area to be used safely for material loading and storage and for general construction parking. This proposal would necessitate closure of the abutting sidewalk. However, it is unknown whether the K-Rail barriers could be installed and two lanes of traffic still maintained.</li> <li>○ Because the width of the required loading zone has not been designed it is unknown whether the K-Rail barriers could be installed and one lane of traffic in each direction maintained. Should two-way traffic be unable to be maintained, the applicant shall implement either “two-way stop and hold contra-flow traffic” or a “local detour route for one direction of traffic.” On-site traffic controllers shall operate the two-way contra-flow traffic arrangement. The provision of safe bicycle access shall be considered for both of these potential options.</li> </ul>						

Table 1 *Continued*

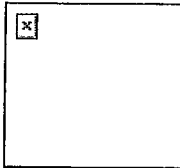
Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<p>TRANS-3 <i>Continued</i></p> <ul style="list-style-type: none"> <li>○ Fencing shall be installed along the perimeter of the construction areas to restrict the public from entering the site.</li> <li>• Safe and convenient pedestrian access shall be maintained along Horton Street. Should the sidewalk on one side of the street need to be closed, appropriate signage shall be installed and pedestrians directed to use the opposite side of the street.</li> <li>• Truck traffic that occurs during the peak commute hours (7:00 to 9:00 a.m. and 4:00 to 6:00 p.m.) could result in degraded levels of service and increased delays at local intersections than during off-peak hours. Accordingly, truck trips to or from the site shall be restricted to off-peak periods, to the extent feasible.</li> <li>• If construction work is proposed outside of normal allowed hours, the applicant shall obtain an out-of-hours permit from the City of Emeryville to undertake the proposed work.</li> <li>• Lane detours for street improvements and utility connections may be required to undertake asphalt paving, sewer, water, phone, data, temporary power, gas and electrical works. The applicant shall provide specific and detailed TMP drawings to the City of Emeryville for these phases of construction.</li> </ul>						

Table 1 *Continued*

Recommended Mitigation Measures	Action and Implementation Timing	Party Responsible for Implementing Mitigation	Party Responsible for Monitoring	Action by Monitor	Monitoring Timing	Verification of Compliance Name/Date
<p>TRANS-3 <i>Continued</i></p> <ul style="list-style-type: none"> <li>• Adjacent property owners and City public safety personnel shall be notified regarding when major deliveries, detours, lane closures and out-of-hours work would occur.</li> <li>• A process shall be developed for responding to and tracking complaints pertaining to construction activity, including identification of an on-site complaint manager. The manager shall determine the cause of each complaint and shall take prompt action to correct the problem. The Planning and Building Department shall be informed of the name and contact information for the complaint manager prior to the issuance of the first permit.</li> </ul>						
<p>TRANS-4: The City shall signalize the Doyle Street/Powell Street intersection when traffic conditions warrant. Because this impact can be attributed to existing traffic in the area, as well as traffic from approved, planned, and potential development in and around Emeryville, the applicant shall pay a pro rata share of the cost of signalization based on the project's contribution to the total cumulative growth. In the Cumulative Plus Project scenario, project traffic represents 3.6 percent of the total cumulative growth at this intersection in the PM peak hour.</p>	<p>The applicant shall pay a fair share portion of the cost of signalization of the intersection at Doyle and Powell Streets prior to allowing tenants to occupy the building</p>	<p>Project applicant</p>	<p>City of Emeryville, Planning and Building Department</p>	<p>Verify that the project applicant has paid their portion of the cost of signalization</p>	<p>Prior to issuance of the Certificate of Occupancy</p>	<p>Name: Date:</p>
<p>TRANS-5: Implement Mitigation Measure TRANS-2.</p>	<p>See Mitigation Measure TRANS-2</p>					

Source: LSA Associates, 2009.

11 NOV 09



## LEED for New Construction v2.2 Registered Project Checklist

Project Name: **EMERYVILLE TRANSIT CENTER - WAREHAM**  
 Project Address: **Horton Street at 59th St.**

Yes ? No

**10 22****Sustainable Sites****14 Points**

<b>Y</b>	Prereq 1	<b>Construction Activity Pollution Prevention</b>	Required
<b>I</b>	Credit 1	<b>Site Selection</b>	1
<b>I</b>	Credit 2	<b>Development Density &amp; Community Connectivity</b>	1
<b>I</b>	Credit 3	<b>Brownfield Redevelopment</b>	1
<b>I</b>	Credit 4.1	<b>Alternative Transportation, Public Transportation Access</b>	1
<b>I</b>	Credit 4.2	<b>Alternative Transportation, Bicycle Storage &amp; Changing Rooms</b>	1
<b>I</b>	Credit 4.3	<b>Alternative Transportation, Low-Emitting &amp; Fuel-Efficient Vehicles</b>	1
<b>I</b>	Credit 4.4	<b>Alternative Transportation, Parking Capacity</b>	1
<b>I</b>	Credit 5.1	<b>Site Development, Protect or Restore Habitat</b>	1
<b>I</b>	Credit 5.2	<b>Site Development, Maximize Open Space</b>	1
<b>I</b>	Credit 6.1	<b>Stormwater Design, Quantity Control</b>	1
<b>I</b>	Credit 6.2	<b>Stormwater Design, Quality Control</b>	1
<b>I</b>	Credit 7.1	<b>Heat Island Effect, Non-Roof</b>	1
<b>I</b>	Credit 7.2	<b>Heat Island Effect, Roof</b>	1
<b>I</b>	Credit 8	<b>Light Pollution Reduction</b>	1

Yes ? No

**1 4 0****Water Efficiency****5 Points**

<b>I</b>	Credit 1.1	<b>Water Efficient Landscaping, Reduce by 50%</b>	1
<b>I</b>	Credit 1.2	<b>Water Efficient Landscaping, No Potable Use or No Irrigation</b>	1
<b>I</b>	Credit 2	<b>Innovative Wastewater Technologies</b>	1
<b>I</b>	Credit 3.1	<b>Water Use Reduction, 20% Reduction</b>	1
<b>I</b>	Credit 3.2	<b>Water Use Reduction, 30% Reduction</b>	1

**3 14 0****Energy & Atmosphere****17 Points**

<b>Y</b>	Prereq 1	<b>Fundamental Commissioning of the Building Energy Systems</b>	Required
<b>Y</b>	Prereq 2	<b>Minimum Energy Performance</b>	Required
<b>Y</b>	Prereq 3	<b>Fundamental Refrigerant Management</b>	Required
<b>I</b>	Credit 1	<b>Optimize Energy Performance</b>	1 to 10
<b>I</b>		<input checked="" type="checkbox"/> 10.5% New Buildings or 3.5% Existing Building Renovations	1
<b>I</b>		<input type="checkbox"/> 14% New Buildings or 7% Existing Building Renovations	2
<b>I</b>		<input type="checkbox"/> 17.5% New Buildings or 10.5% Existing Building Renovations	3
<b>I</b>		<input type="checkbox"/> 21% New Buildings or 14% Existing Building Renovations	4
<b>I</b>		<input type="checkbox"/> 24.5% New Buildings or 17.5% Existing Building Renovations	5
<b>I</b>		<input type="checkbox"/> 28% New Buildings or 21% Existing Building Renovations	6
<b>I</b>		<input type="checkbox"/> 31.5% New Buildings or 24.5% Existing Building Renovations	7
<b>I</b>		<input type="checkbox"/> 35% New Buildings or 28% Existing Building Renovations	8
<b>I</b>		<input type="checkbox"/> 38.5% New Buildings or 31.5% Existing Building Renovations	9
<b>I</b>		<input type="checkbox"/> 42% New Buildings or 35% Existing Building Renovations	10
<b>I</b>	Credit 2	<b>On-Site Renewable Energy</b>	1 to 3
<b>I</b>		<input type="checkbox"/> 2.5% Renewable Energy	1
<b>I</b>		<input type="checkbox"/> 7.5% Renewable Energy	2
<b>I</b>		<input type="checkbox"/> 12.5% Renewable Energy	3
<b>I</b>	Credit 3	<b>Enhanced Commissioning</b>	1
<b>I</b>	Credit 4	<b>Enhanced Refrigerant Management</b>	1
<b>I</b>	Credit 5	<b>Measurement &amp; Verification</b>	1
<b>I</b>	Credit 6	<b>Green Power</b>	1

continued...

Yes ? No

**436 Materials & Resources**

13 Points

<b>Y</b>	Prereq 1	<b>Storage &amp; Collection of Recyclables</b>	Required
<input checked="" type="checkbox"/>	Credit 1.1	<b>Building Reuse</b> , Maintain 75% of Existing Walls, Floors & Roof	1
<input checked="" type="checkbox"/>	Credit 1.2	<b>Building Reuse</b> , Maintain 100% of Existing Walls, Floors & Roof	1
<input checked="" type="checkbox"/>	Credit 1.3	<b>Building Reuse</b> , Maintain 50% of Interior Non-Structural Elements	1
<input checked="" type="checkbox"/>	Credit 2.1	<b>Construction Waste Management</b> , Divert 50% from Disposal	1
<input checked="" type="checkbox"/>	Credit 2.2	<b>Construction Waste Management</b> , Divert 75% from Disposal	1
<input checked="" type="checkbox"/>	Credit 3.1	<b>Materials Reuse</b> , 5%	1
<input checked="" type="checkbox"/>	Credit 3.2	<b>Materials Reuse</b> , 10%	1
<input checked="" type="checkbox"/>	Credit 4.1	<b>Recycled Content</b> , 10% (post-consumer + ½ pre-consumer)	1
<input checked="" type="checkbox"/>	Credit 4.2	<b>Recycled Content</b> , 20% (post-consumer + ½ pre-consumer)	1
<input checked="" type="checkbox"/>	Credit 5.1	<b>Regional Materials</b> , 10% Extracted, Processed & Manufactured Regional	1
<input checked="" type="checkbox"/>	Credit 5.2	<b>Regional Materials</b> , 20% Extracted, Processed & Manufactured Regional	1
<input checked="" type="checkbox"/>	Credit 6	<b>Rapidly Renewable Materials</b>	1
<input checked="" type="checkbox"/>	Credit 7	<b>Certified Wood</b>	1

Yes ? No

**1410 Indoor Environmental Quality**

15 Points

<b>Y</b>	Prereq 1	<b>Minimum IAQ Performance</b>	Required
<b>Y</b>	Prereq 2	<b>Environmental Tobacco Smoke (ETS) Control</b>	Required
<input checked="" type="checkbox"/>	Credit 1	<b>Outdoor Air Delivery Monitoring</b>	1
<input checked="" type="checkbox"/>	Credit 2	<b>Increased Ventilation</b>	1
<input checked="" type="checkbox"/>	Credit 3.1	<b>Construction IAQ Management Plan</b> , During Construction	1
<input checked="" type="checkbox"/>	Credit 3.2	<b>Construction IAQ Management Plan</b> , Before Occupancy	1
<input checked="" type="checkbox"/>	Credit 4.1	<b>Low-Emitting Materials</b> , Adhesives & Sealants	1
<input checked="" type="checkbox"/>	Credit 4.2	<b>Low-Emitting Materials</b> , Paints & Coatings	1
<input checked="" type="checkbox"/>	Credit 4.3	<b>Low-Emitting Materials</b> , Carpet Systems	1
<input checked="" type="checkbox"/>	Credit 4.4	<b>Low-Emitting Materials</b> , Composite Wood & Agrifiber Products	1
<input checked="" type="checkbox"/>	Credit 5	<b>Indoor Chemical &amp; Pollutant Source Control</b>	1
<input checked="" type="checkbox"/>	Credit 6.1	<b>Controllability of Systems</b> , Lighting	1
<input checked="" type="checkbox"/>	Credit 6.2	<b>Controllability of Systems</b> , Thermal Comfort	1
<input checked="" type="checkbox"/>	Credit 7.1	<b>Thermal Comfort</b> , Design	1
<input checked="" type="checkbox"/>	Credit 7.2	<b>Thermal Comfort</b> , Verification	1
<input checked="" type="checkbox"/>	Credit 8.1	<b>Daylight &amp; Views</b> , Daylight 75% of Spaces	1
<input checked="" type="checkbox"/>	Credit 8.2	<b>Daylight &amp; Views</b> , Views for 90% of Spaces	1

Yes ? No

**140 Innovation & Design Process**

5 Points

<input checked="" type="checkbox"/>	Credit 1.1	<b>Innovation in Design</b> : Provide Specific Title	1
<input checked="" type="checkbox"/>	Credit 1.2	<b>Innovation in Design</b> : Provide Specific Title	1
<input checked="" type="checkbox"/>	Credit 1.3	<b>Innovation in Design</b> : Provide Specific Title	1
<input checked="" type="checkbox"/>	Credit 1.4	<b>Innovation in Design</b> : Provide Specific Title	1
<input checked="" type="checkbox"/>	Credit 2	<b>LEED® Accredited Professional</b>	1

Yes ? No

**33288 Project Totals (pre-certification estimates)**

69 Points

Certified: 26-32 points, Silver: 33-38 points, Gold: 39-51 points, Platinum: 52-69 points



Geoff Sears  
<GSears@warehamdevelopment.com>

11/11/2009 03:14 PM

To 'Miroo Desai' <mdesai@ci.emeryville.ca.us>  
cc "Roland\_Lazzarotto@ellerbebecket.com"  
<Roland\_Lazzarotto@ellerbebecket.com>  
bcc

Subject FW: EmeryStation West and Heritage Square Garage:  
parking during construction

You have asked us to address the above issue. This is our plan:

- We will construct the EmeryStation West (ESW) Garage podium first. The roughly 215 surface lot spaces currently on the site will be accommodated by using the Terraces Garage directly on the other side of the train station. Right now that garage has some unused spaces in it despite the high leasing level of our campus. This is because not all tenants use all of their parking rights due to a combination of using mass transit, lower employee densities and/or employees being away on travel, etc. We already operate the Terraces Garage as being available for visitor/public parking during the day via a manned ticket-taker booth, so it would easily serve those visitor and public parkers who used to use the mound. If we reach capacity in that garage via self-parking, we will institute valet-assisted parking effort there. Industry rule-of-thumb is that valet can increase a garage's effective parking capacity by 25% - 35% (it can get surface lots even higher). Our Terraces Garage has over 600 commercial parking spaces (i.e. excluding those used by condo residents) so it should easily meet the need (particularly because it is not fully utilized now).

We used valet in just this way quite effectively during the simultaneous construction of both EmeryStation North and of the Terraces Garage. Each was built on top of former surface parking lots that served EmeryStation 1. Valet on the one remaining lot – the Mound – met all the needs, which was a much larger job than what we are proposing here.

- Once the ESW parking podium is complete we would look to use it for parking while the tower is being completed above. That is standard practice for high rises and can be done quite safely. We did this at our very own Terraces Garage. It was used by parkers when we built the condominiums above. With the ESW parking in operation we could valet park it or continue to valet park the Terraces Garage as a way of satisfying the parking demand from the Heritage Square west lot, thus allowing us to commence the new garage on that site.
- Because the ESW podium and tower will take much longer to build than the Heritage Square garage, this proposed timing should allow them to be complete about the same time, such that any prospective tenants moving in to ESW would have the needed parking in the new Heritage Square garage.

This plan is fundamentally the same as we did when building EmeryStation North, the Terraces Garage and the condos above, so we have proven it works. Let me know of any questions.

**RESOLUTION NO. 10-\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE  
ADOPTING A MITIGATED NEGATIVE DECLARATION FOR THE  
EMERY STATION WEST @ EMERYVILLE TRANSIT CENTER PROJECT.**

**WHEREAS**, on June 6, 2009 Wareham Development submitted an application for a Conditional Use Permit and Design Review for a proposal to remove two surface parking lots in the 5900 and 6100 blocks of Horton Street and construct two separate buildings: an office/laboratory building and a parking garage. The Emery Station West building, adjacent to the Amtrak Station, is a seven story, 165 foot tall office building accommodating approximately 248,300 gross square feet of office/lab space, 148 car parking spaces (two levels), 4 bus bays and ground level active space accommodating retail and transit (Amtrak) oriented functions and the Heritage Square Garage on the east side of Horton Street, is a seven story, 73 foot tall building accommodating 675 parking stalls; and

**WHEREAS**, an Initial Study for the Project was completed by the City of Emeryville as the lead agency, in compliance with the California Environmental Quality Act (Public Resources Code § 21000 et seq.; “CEQA”); and

**WHEREAS**, on November 4, 2009 a Notice of Intent to Adopt a Mitigated Negative Declaration was mailed to all responsible agencies and to all property owners within 300 feet of the property; and

**WHEREAS**, a Notice of Intent to adopt a Mitigated Negative Declaration, together with the Initial Study, was made available for public review and comment on November 7, 2009. The deadline for comments was December 9, 2009. Comments were received and a Response to Comments was prepared; and

**WHEREAS**, the City of Emeryville has specified the Emeryville Planning Department, 1333 Park Avenue, Emeryville, California 94608, as the custodian of all documents, reports, plans and all other materials which constitute the record of proceedings upon which the actions required to approve the Project will be based; and

**WHEREAS**, on January 28, 2010, the Planning Commission held a duly and properly noticed public hearing on the proposed Mitigated Negative Declaration and the proposed Project approvals and then voted to adopt the Mitigated Negative Declaration, but did not pass a motion to approve the Project; and

**WHEREAS**, on February 2, 2010, the City Council passed a motion ordering that the Planning Commission’s action on the Project stand appealed; and

**WHEREAS**, on February 16, 2010, the City Council held a duly and properly noticed public hearing on the proposed Mitigated Negative Declaration and the proposed Project approvals; and

**WHEREAS**, the mitigation measures to reduce the Project's potential significant impacts on the environment shall be incorporated into the Project as conditions of approval; and

**WHEREAS**, the conditions of approval contain a mitigation monitoring and reporting program for the required mitigation measures to ensure that the Applicant shall comply with such mitigation measures during implementation of the Project; and

**WHEREAS**, the City of Emeryville City Council has reviewed the following environmental documentation for the Project: Mitigated Negative Declaration; Response to Comments (RTC), Draft Initial Study and the staff report prepared for the proposed Project (collectively, the "CEQA Documentation"); and

**WHEREAS**, the City Council has considered the information contained in the CEQA Documentation, the public comments, and the evidence in the record as a whole; now, therefore, be it

**RESOLVED**, that based on its review and consideration of the foregoing documents and the testimony received at the February 16, 2010 public hearing concerning the proposed Mitigated Negative Declaration, the City of Emeryville City Council makes the following specific findings:

1. Compliance with CEQA Requirements: The City of Emeryville City Council has received, reviewed and considered the CEQA Documentation and other substantive and procedural components of CEQA compliance for the proposed Project, including the mitigation monitoring and reporting program. The CEQA Documentation prepared for the Project has been completed, and review procedures required by CEQA have been completed, in conformance with CEQA as set forth in the recitals to this resolution.
2. Compliance with the City of Emeryville Review Requirements: The City Council has received, reviewed and considered the CEQA Documentation for the Project in conformance with all applicable CEQA procedural requirements.
3. Independent Judgment. The Mitigated Negative Declaration reflects the City of Emeryville City Council's independent judgment and analysis.

and be it further

**RESOLVED**, that the City Council hereby adopts the Mitigated Negative Declaration for the Emery Station West @ Emeryville Transit Center Project, having found, on the basis of the whole record before it, including all of the CEQA Documentation listed in the recitals of this resolution, and all public comments and other information received, that the Project, as mitigated by the mitigation measures contained in the Mitigated Negative Declaration, will not have a significant effect on the environment.

**ADOPTED** by the City Council of the City of Emeryville at a regular meeting held on Tuesday, February 16, 2010 by the following votes:

**AYES:** \_\_\_\_\_

**NOES:** \_\_\_\_\_ **ABSENT:** \_\_\_\_\_

**EXCUSED:** \_\_\_\_\_ **ABSTAINED:** \_\_\_\_\_

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**CITY CLERK**

\_\_\_\_\_  
**CITY ATTORNEY**

**RESOLUTION NO. 10-\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE  
GRANTING THE APPEAL OF THE PLANNING COMMISSION DECISION  
AND APPROVING A CONDITIONAL USE PERMIT AND DESIGN  
REVIEW FOR AN OFFICE/LABORATORY BUILDING, EMERY STATION  
WEST AND A PARKING GARAGE, HERITAGE SQUARE GARAGE  
LOCATED IN THE 5900 AND 6100 BLOCKS OF HORTON STREET (APN:  
49-1489-15; -13-3; 49-1325-1-2; -2; -4).**

**WHEREAS**, on June 6, 2009 Wareham Development submitted an application for a Conditional Use Permit and Design Review for a proposal to remove two surface parking lots in the 5900 and 6100 blocks of Horton Street and construct two separate buildings: an office/laboratory building and a parking garage. The Emery Station West building, adjacent to the Amtrak Station, is a seven story, 165 foot tall office building accommodating approximately 248,300 gross square feet of office/lab space, 148 car parking spaces (two levels), 4 bus bays and ground level active space accommodating retail and transit (Amtrak) oriented functions and the Heritage Square Garage on the east side of Horton Street, is a seven story, 73 foot tall building accommodating 675 parking stalls; and

**WHEREAS**, the Emeryville Planning Commission reviewed the proposal at study session August 27, 2009; and

**WHEREAS**, on January 28, 2010, the Planning Commission held a duly and properly noticed public hearing to solicit public comments and consider the proposal, and then failed to pass a motion approving the Project; and

**WHEREAS**, on February 2, 2010, the City Council passed a motion ordering that the Planning Commission's action on the Project stand appealed; and

**WHEREAS**, on February 16, 2010, the City Council held a duly and properly noticed public hearing on the proposed Project approvals; and

**WHEREAS**, the City of Emeryville City Council has reviewed the following environmental documentation for the Project: Mitigated Negative Declaration; Response to Comments (RTC), Draft Initial Study and the staff report prepared for the proposed Project (collectively, the "CEQA Documentation"); and

**WHEREAS**, the Emeryville City Council has reviewed and considered the staff report and attachments thereto, the plans, all public comments, the CEQA documentation and the proposal to construct two buildings on lots in the 5900 and 6100 blocks of Horton Street as described above and subject to the conditions and requirements set forth in Exhibit A attached to this Resolution and the applicable standards of the Emeryville Zoning Ordinance ("the Record"); now, therefore, be it

**RESOLVED**, that the City Council finds that, based on the Record, no further environmental review under CEQA is required, and the Council hereby directs the Planning Director to file a Notice of Determination with the Alameda County Clerk accordingly; and be it further

**RESOLVED**, that the City Council approves removal of approximately thirteen street trees along 59<sup>th</sup> and 62<sup>nd</sup> and Horton Streets as part of the project and subject to the conditions of approval attached hereto; and be it further

**RESOLVED**, that in granting the appeal of the Planning Commission decision and approving **UP09-03/DR09-18**, the City Council makes the following findings required by Emeryville Municipal Code Sections 9-4.82.13, 9-4.84.4(b), 9-6.503(a) and 9-6.509(c):

Section 1.      Use Permit Findings Pursuant to Section 9-4.82.13:

- a)      That the location, size, design and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to: neighborhood character with consideration given to harmony in scale, bulk, coverage, and density of nearby uses, buildings and structures; the availability of civic facilities and utilities; the capacity and physical character of surrounding streets; the physical safety of the immediate area; and the amount of light falling on adjacent buildings and open spaces;

**The location, size, design, and operating characteristics of the project will be compatible with the surrounding neighborhood. The scale, bulk and coverage of the project are similar to other mixed use projects that have been approved in the area. The project will not result in any significant impacts on the neighborhood.**

**In addition, the proposed project can adequately be served by the capacity and physical character of surrounding streets. The proposed heights and design features break up the massing and are compatible with varied heights of buildings along Hollis and Horton Streets. The project as designed will not adversely affect safety in the immediate area; light which falls on adjacent buildings and open spaces will also not be impacted. The project can be served by existing public services and utilities.**

- b)      That the proposed use is consistent with the capability of the circulation, water supply, wastewater disposal, fire, police and school systems to operate adequately and cost effectively;

**The proposed project can be adequately served by all required utilities and public services, and it is not foreseen that there will be an increased demand for such services with the new use.**

**Demand for public safety services may be slightly increased with the new uses but no deficiencies have been identified by the Police and Fire Departments.**

- c) That the proposed use with its impacts and at its proposed location is consistent with the General Plan;

**The General Plan Land Use Classification for the property is Mixed Use with Non Residential (MUN) and Office/Technology (O/T). The proposal is consistent with the General Plan's goals and policies in the following way:**

**The project fulfills goals LUG-2 and LU-G-11 by adding laboratory, research space and ground level commercial, and transit related uses help to create a mix of uses and a wide range of economic activity that will strengthen the city's economic base. Additionally, the project meets policy LU-P-15 by widening the rail platform, providing bus bays next to the platform, creating a protected pedestrian waiting area as well as providing public parking. This assists in developing the Amtrak Station area with pedestrian amenities and transit-supporting uses as outlined in policy LU-P-15.**

- d) That the proposed use at its proposed location will provide a facility which will contribute to the general well-being of the surrounding neighborhood or community;

**The proposed project will enhance the surrounding area by replacing surface parking lots with buildings that will accommodate public parking and transit related commercial uses, a laboratory space and covered parking. In addition, the project includes a public plaza between the Amtrak Station and the proposed building that will improve the circulation of all modes of traffic. The project also includes a podium level landscaped area that will be open to the public and that will connect with the pedestrian bridge over the railroad tracks. These project components will add to the general well-being of the surrounding neighborhood.**

- e) That the proposed use complies with all applicable standards and requirements of the Zoning Ordinance;

**The project as proposed meets the standards and requirements of the Mixed Use with Non Residential and Office/Technology Zones.**

- f) That an environmental determination has been prepared in accordance with CEQA.

**An Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the project under the requirements of the California Environmental Quality Act (CEQA), and a Notice of Intent to Adopt a Mitigated Negative Declaration was circulated for public review between November 7, 2009 and December 9, 2009.**

Section 2.     Design Review Findings Pursuant to Section 9-4.84.4(b):

- 1) The site subject to design review shall be graded and developed with due regard for the natural terrain, aesthetic quality and landscaping so as not to impair the environmental quality, value or stability of the site or the environmental quality or value of improved or unimproved property in the area;

**The project site is a flat urban infill site. The proposed building will require minimal grading which will consider site terrain, aesthetic quality, and landscaping in such a manner so as not to impair environmental quality, value of adjacent property or site stability.**

- 2) A building, structure, or sign shall (a) Relate congruously to its site and property in the immediate and adjacent areas; and (b) Not be of such poor quality of design as to adversely affect the environmental quality or desirability of the immediate areas or neighboring areas; and (c) Not impede the benefits or occupancy of existing property or environmental quality thereof in such areas or the stability or value of improved or unimproved real property in such areas, or produce degeneration of property in such areas with attendant deterioration of conditions affecting the health, safety, and general welfare of the community;

**The project site is located in an area with a mix of building types, uses, and architectural styles. The surrounding buildings include Emery Station offices and other commercial buildings such the Post Office. The proposed project will visually upgrade the site by removing two surface parking lots and constructing buildings whose design, intensity and scale are appropriate to the site as well as compatible with the surrounding development.**

- 3) A site shall be developed to achieve a harmonious relationship with the area in which it is located and adjacent areas, allowing originality which does not impair the environmental quality or value of the improved or unimproved property or prevent appropriate development and use of such areas or produce degeneration of such Area with attendant deterioration of conditions affecting the health, safety, and general welfare of the City;

**This project will result in visually attractive buildings and will provide an active presence along Horton 59<sup>th</sup> and 62<sup>nd</sup> Streets.**

- 4) Open space, parking areas, pedestrian walks, signs, illumination, and landscaping (including irrigation) shall be designed and developed to enhance the environmental quality of the site and achieve a safe, efficient and harmonious development, and accomplish the objectives set forth in the precise plan of design and design criteria;

**The design provides for a publicly accessible landscaped terrace on the podium level of the Emery Station West (ESW) building, a landscaped public plaza between the Amtrak Station and the ESW building and new street trees and landscaping along Horton Street.**

- 5) Electrical and mechanical equipment or works and fixtures and trash storage areas shall be designed and constructed so as not to detract from the environmental quality of the site. Electrical and mechanical equipment or works shall be concealed by an appropriate architectural structure which uses colors and materials harmonious with the principal structure, placed underground if appropriate, or some other reasonable alternative;

**All mechanical equipment are screened by their location in the penthouse level of the ESW building. Trash collection and storage is sited on the northern side of the ESW building such that it faces the storage area of the post office. In addition, conditions of approval ensure that all electrical and mechanical equipment or works and fixtures and trash storage areas are designed and constructed such that they are well screened and functional.**

- 6) For the purpose of determining a reasonable implementation of said design and the effect on environmental quality of the area, the components considered in design review shall include but not be limited to exterior design, materials, textures, colors, means of illumination, landscaping, irrigation, height, shadow patterns, parking, access, security, safety, and other usual on-site development elements. Recommendations as to site coverage, and the intensity of proposed development may also be made;

**Design review consideration of this project has included the overall massing, bulk, building form, height, exterior materials, colors, and landscaping. These elements, taken together, have been reviewed and have been found to be well-designed and compatible with the surrounding development in the area.**

Section 3. Findings for Retail Uses in Office/Technology Zone Pursuant to Section 9-6.503(a)

1. That the use is secondary to other uses that are permitted or conditionally permitted in the OT Office/Technology zone.

**The ground level commercial space in the Heritage Square Garage building constitutes only about 3,620 square feet of a 211,000 square foot structure. Any retail use in this space would be intended to serve, and would clearly be secondary to, other surrounding uses that are permitted or conditionally permitted in the OT zone.**

Section 4. Findings for Bonus Height over 100 feet Pursuant to Section 9-6.509 (c)

1. That the proposed project is of excellent design quality;

**The Emery Station West building with its metal and glass skin provides a podium level roof terrace with upper floors that are set back and provide visually interesting lines. Overall, the building removes a surface parking lot to provide a well-designed project.**

2. That the proposed project will provide significant public benefits substantially beyond normal requirements in three or more of the areas listed in Section 9-4.407(b);

**The project provides public benefits in the categories of “public open space”, “public parking”, “public-right-of-way improvements”, “alternative energy” and “transportation demand management” as described below. The open space/terrace on the third level is approximately 15,600 square feet and the public plaza between Emery Station West and the Amtrak Station is approximately 20,600 square feet. The proposed public open space constitutes about 31 per cent of total site area (36,200 divided by 116,741) which is above the 10 per cent threshold needed to qualify for bonus in this category. In addition, the project will provide a minimum of 125 public parking spaces and will include widening of the railroad platform as well as sidewalks along Horton Street. The project will provide on-site generation of one of the following: wind power, solar power or cogeneration facilities (See Condition of Approval Number VII.A.11). In the “transportation demand management” category, the project will provide electric vehicle charging stations, car pod and campus wide showers and locker facilities. (See Condition of Approval Numbers VI.A.1(g), VI.B.4, VIB.6 respectively).**

3. That the proposed project will minimize impacts on public views, wind and shadows at the street level.

**The building has minimal impacts on public views, wind and shadow as analyzed in the Aesthetics section of the Mitigated Negative Declaration.**

4. That the proposed project will be separated by an adequate distance from any other building with a height greater than 100 feet.

**There are no other buildings with a height greater than 100 feet in the immediate vicinity of the project site.**

and be it further

**RESOLVED**, that the City Council hereby approves **UP09-03/DR09-18** for the Emery Station West @ Emeryville Transit Center project on the 5900 and 6100 blocks of Horton Street subject to the Conditions of Approval attached hereto and the applicable standards of the City of Emeryville Municipal Code.

**ADOPTED** by the City Council of the City of Emeryville at a regular meeting held on Tuesday, February 16, 2010 by the following votes:

**AYES:** \_\_\_\_\_

**NOES:** \_\_\_\_\_ **ABSENT:** \_\_\_\_\_

**EXCUSED:** \_\_\_\_\_ **ABSTAINED:** \_\_\_\_\_

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**CITY CLERK**

\_\_\_\_\_  
**CITY ATTORNEY**

## **CONDITIONS OF APPROVAL**

**Emery Station West @ Emeryville Transit Center  
Horton Street at 59<sup>th</sup> Street and 62<sup>nd</sup> Street  
UP09-03/DR09-18: Exhibit A. Conditions of Approval  
City Council Resolution No. 10-\_\_\_\_  
February 16, 2010**

### **I. COMPLIANCE WITH APPROVALS**

- A. **PROJECT APPROVALS.** The project shall be constructed and operated in accordance with the following actions by the City Council in accordance with the staff report dated February 16, 2010, as modified by these Conditions of Approval.

:

1. A Conditional Use Permit to allow multiple uses including laboratory space, active commercial space, office, parking, and open space in two buildings and a public plaza.

**Emery Station West Building:** This use permit allows approximately 248,300 gross square feet of laboratory/office space (“High Technology”/”Research Services”), 93,000 square feet of parking accommodating 148 car parking spaces that include a minimum of 125 public parking spaces, and a minimum of 4 bus bays, and 2,400 square feet of ground level active commercial space accommodating retail and transit oriented functions. No more than 116,700 square feet of the building maybe used for general office space (“Administrative and Business Offices” or “Professional Services”)

**Heritage Square Garage Building:** This approximately 211,000 square-foot building accommodates 675 parking spaces and approximately 3,620 square feet of active commercial uses.

The space described as “active commercial use” in both buildings are limited to the uses outlined in Condition of Approval Number IX.C.2

Public Plaza: An approximately 25,100 square foot plaza between the Amtrak Plaza and the Emery Station West building providing pedestrian, automobile and bus interconnections with associated landscaping.

2. Design review for construction of a nine-story 165-foot commercial building (Emery Station West), a seven story 73-foot parking garage (Heritage Square) and an approximately 25,100 square foot public plaza in accordance with the approved plans described below, as modified by these Conditions of Approval.
3. Tree removal permit to remove approximately 13 street trees.

Any additional uses or design modifications, including signs, will require a separate application and approval.

B. APPROVED PLANS. Final plans submitted for a building permit shall be reviewed by the Planning Director to confirm that the plans substantially conform to the following except as modified by these Conditions of Approval: **[Planning]**

1. The architectural drawings entitled, "Emeryville Transit Center", submitted by Ellerbe Becket, Sheets A-0, A-1 to A-19 (19 pages) and A-20 to A-30 (10 pages) dated January 8, 2010.
2. The civil and landscape drawings entitled, "Emeryville Transit Center", submitted by Ellerbe Becket, Sheets C-0, C1.1, C2.0, C2.1, C2.2, C3.0, C3.1, and C3.2; L-1, L1a, L-2 and L-3, dated January 8, 2010.

C. APPROVAL EFFECTIVENESS AND DURATION. Pursuant to Section 9-4.82.10 of the Emeryville Municipal Code, this permit shall automatically expire if an application for a building permit has not been filed and fees have not been paid within two years from the date of this approval, and a good faith effort to commence work upon the use has not been made, as determined by the Planning Director in his/her sole discretion. Time extensions not exceeding one year may be requested by applying to the City Council for such extension period prior to the expiration date of the permit. In no case shall the expiration period extend more than three years from the date of this approval. After that time, a new application shall be required. In the event Applicant undertakes no construction pursuant to this approval, then Applicant shall have no obligation under these conditions of approval.

- D. 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 Planning Director.
- E. 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.
- F. 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.
- G. 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 City of Emeryville Redevelopment Agency, the Bay Cities Joint Powers Insurance Authority and their respective officials, officers, agents and employees (the AIndemnified 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 the 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. **MITIGATION MEASURES.** The mitigation measures identified in the Mitigated Negative Declaration prepared for the project are attached and incorporated by reference into this document. All mitigation measures that apply to the project's impacts shall be considered conditions of approval of the project, as may be further refined or clarified by these Conditions of Approval. Overall monitoring compliance with the mitigation measures will be the responsibility of the Planning Director. **[Planning, et. al.]**

C. **PRIOR TO ISSUANCE OF A BUILDING PERMIT**

1. **Public Art Program.** Prior to the issuance of a foundation permit, Applicant shall submit evidence of compliance with the Art in Public Places Ordinance (Article 4 of Title 3 of the Emeryville Municipal Code) by showing a signed contract to commission or purchase and to install the artwork on the development site, or by payment of the full amount of the in-lieu public art fee. If Applicant intends to install on-site art rather than pay the in-lieu public art fee, but has not supplied the above-specified information prior to the issuance of the foundation permit, payment of the in-lieu public art fee will be required and will be repaid to Applicant only at such time the above-specified information is provided to City. In addition, Redevelopment-Agency supported projects may have further requirements as set forth in the applicable agreements with the Agency. **[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 City Council .

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.

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. **[Building]**

3. Cost Recovery Planning Fees. Prior to the issuance of a building permit, the Planning Director shall confirm that all cost recovery planning fees have been paid to date. **[Planning]**

D. PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY

1. Notice to Tenants and Future Owners. Prior to the issuance of a certificate of occupancy, Applicant shall provide to the Planning Director a notice in all lease and sales documents to all prospective tenants and future purchasers of the property on the site, in a form acceptable to the City Attorney, addressing: 1) the existence of nearby industrial uses which have the potential to emit noise at levels and during hours of the day that persons may find disturbing; 2) nearby manufacturing/industrial uses which may generate odors; 3) existence of truck traffic; 4) existence of a nearby mainline railroad that operates 24 hours per day seven days per week with associated train horns and other sounds and vibration; and 5) the possibility of future nearby development that may block views.**[City Attorney/Planning]**
2. 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. **[Building]**
3. Cost Recovery Planning Fees. Prior to the issuance of a certificate of occupancy, the Planning Director shall confirm that all cost recovery planning fees have been paid in full. **[Planning]**
4. Bay-Shellmound Contingent Assessment. Prior to the issuance of a certificate of occupancy, the Building Official shall confirm that the Bay-Shellmound Contingent Assessment has been paid. **[Building]**

5. Public Art Program. Prior to the issuance of a certificate of occupancy, Applicant shall notify the Economic Development and Housing Department Public Art Projects Coordinator to verify Applicant's installation of the on-site public art. If City determines that public art has not been installed, Applicant shall be required to pay the in-lieu public art fee in full. **[Economic Development]**

### 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. FAR
  - d. Lot area in square feet by each parcel.
  - e. 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.
  - f. Building heights with height of any appurtenances noted.
  - g. Detailed breakdown of floor areas.
  - h. Number of floors.
  - i. Existing building information (if applicable).
  - j. 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).
  - k. Scorecard Summary from one of the following applicable checklists: the most recent Multi-Family or Single Family Green Building Guidelines, developed by StopWaste.org or Build It Green, or the most recent LEED-NC Guidelines (or other LEED product most appropriate for the project from the USBGC) (with electronic version with notes on claimed points to be emailed to the Emeryville Public Works Department Environmental Programs Staff person).
  - l. 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.)

The building permit plans shall include colored elevation renderings that incorporate landscape design elements. A reduced copy of final colored landscape and elevation sheets shall be submitted to the Planning Division.

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 unless prior permission is granted by the City to place them above ground, in which case they shall be screened from public view by fencing, dense landscaping, or other acceptable means. **[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 include any City restrictions and limitations on using certain local streets for construction traffic, proposed truck delivery and haul routes, parking arrangements for construction personnel, ingress and egress, noise, efforts to address street debris and dust control and proposed on-site staging and equipment/material storage areas. **[Public Works]**

5. Construction Sign. Prior to the issuance of a building permit, Applicant shall submit a construction sign for approval by the Planning 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 signs shall be posted along the Horton, 59<sup>th</sup> and 62<sup>nd</sup> Street frontages. 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. 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. **[Planning]**
6. Fencing. Prior to the issuance of a building permit, Applicant shall install temporary construction fence around the perimeter of the site 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 submit to the Planning Director confirmation that the proposed use of the site is acceptable to the appropriate regulatory agency (e.g. Regional Water Quality Control Board, Alameda County Department of Health or Department of Toxic Substances Control) and that any conditions prior to such use have been met. If a Risk Management Plan, Health and Safety Plan or similar document is required, then Applicant shall have such plan approved by the regulatory agency; shall submit copies to the Planning Director and Public Works Director; and shall comply with all provisions of such plan. **[Planning and Public Works]**

9. Lead and Asbestos. Prior to the issuance of a demolition or building permit, the Building Official shall confirm that a survey of lead-based paint (LBP) and asbestos-containing materials (ACMs) shall be completed and all identified ACMs and any loose or peeling LBP must be abated. If intact LBP is present on the site and not abated, demolition and construction activities must comply with the State's construction lead standard (Title 8, California Code of Regulations, Section 1532.1).  
**[Building]**
10. Location of Mechanical Equipment: The building permit plans shall clearly indicate location of existing and proposed HVAC and other noise-making mechanical systems. These systems shall either be placed in the building or be screened so that they meet the noise standard as required by the City's General Plan. **[Planning and Building]**

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, and pile driving activity shall be limited to 8:00 a.m. to 5:00 p.m., Monday through Friday. In an urgent situation, the City Manager, Planning and Building 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.).
3. Street Debris. All mud, dirt and construction debris carried off the construction site onto adjacent streets shall be removed and cleaned daily. 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 1<sup>st</sup> and April 15<sup>th</sup> 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: cease all construction activity in the vicinity; notify the Planning Director; have the significance of the items determined by a qualified archeologist or cultural consultant; and take any further appropriate measures under the California Environmental Quality Act and other applicable laws with the Planning Director's approval. If human remains are encountered, state law requires that the County Coroner be called immediately. All work must 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 Improvement Plan. Prior to the issuance of a building permit, the Applicant shall submit a Public Improvement Plan for review and approval by the City and provide evidence that the Applicant has made acceptable arrangements for the payment of fees as required by each City. The Plan shall include street and sidewalk improvements, site grading, storm drainage, landscaping and irrigation, and sanitary sewers.
- 2. Street Improvements. Prior to the issuance of a building permit, the Public Works Director shall confirm that the building permit plans, specifications and information include detailed improvements for all street frontages of the project (i.e. Horton, 59<sup>th</sup> and 62<sup>nd</sup> Streets), including, but not limited to, construction or reconstruction of the curbs, gutters, sidewalks, driveways, curb cuts and street trees in conformance with the City of Emeryville standards, City of Emeryville Urban Forestry Ordinance and the Americans with Disabilities Act and implementing regulations and California accessibility regulations, unless the Public Works Director determines that the curb, gutter and sidewalk are already in conformance and in good condition. There shall be an effective width of at least 4 feet between obstacles (light poles, street signs, pedestrian

seating, building frontages, landscaping, curb, etc.). Bicycle lanes shall be provided on Horton Street. **[Public Works]**

2. Site Grading and Storm Drainage. Development that contributes additional stormwater to an existing off-site drainage facility shall be required to perform a hydraulic review of the off-site drainage systems and shall be required to make improvements to the system as may be necessary to accommodate the additional stormwater flow. **[Public Works]**
3. Sanitary Sewer. Prior to the issuance of a building permit, the Public Works Director shall confirm that the building permit plans, specifications and information include detailed plans and design calculations for providing sewer service to the site. If an existing sanitary sewer lateral is to be reused, it shall comply with the City Sanitary Sewer Infiltration/Inflow Reduction Standards. As requested by the Public Works Director, Applicant shall be required to review the existing public sanitary sewer main to determine if there is sufficient capacity to serve the proposed project and shall be responsible to perform any off-site improvements that may be necessary to serve the proposed project. **[Public Works]**
4. Improvement Agreement. Prior to the issuance of a building permit and as deemed appropriate by the Public Works Director, Applicant shall enter into an Improvement Agreement with the City of Emeryville to ensure the faithful performance of the design, construction, inspection and installation of all public improvements secured by good and sufficient surety bond or cash deposit adequate to cover all of the costs, inspections and administrative expenses of completing such improvement in the event of a default. **[City Attorney/Public Works]**
5. Underground Utility Lines. All new and existing on-site electrical and communication lines shall be placed underground. In addition, existing overhead utility lines along the 62<sup>nd</sup> Street frontage of the Heritage Square site between Hollis and Horton Streets shall be placed underground.

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

1. Encroachment Permit. Prior to removing any street trees or 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 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. 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]**

D. ONGOING

1. Damage to Public Facilities. Applicant shall be deemed responsible for any damage to public improvements that occurs during 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.
2. Maintenance of Street Trees 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 sprinkler 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.
3. 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.

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 as more particularly set forth in the attached Fire Department standards..  
**[Fire]**

B. **PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY**

1. **Site Security Management Plan.** Prior to the issuance of a certificate of occupancy, Applicant shall submit a Site Security Management Plan for approval by the Police Department, which shall address the following issues:
  - a. *Lighting:* The lighting for the parking shall be on an emergency generator in case of power outage.
  - b. *Emergency Telephones:* There shall be clearly identifiable emergency phones (a minimum of three per level per building) placed through out the parking complex. These phones must ring directly to a security station or to the Emeryville Police Department at 510-596-3700.
  - c. *Knox Boxes:* Knox boxes shall be required at entrances/exits into the building and also if the parking garage has a motorized gate that closes.
  - d. *Security Cameras:* A surveillance camera may be required for the parking garage. **[Police]**
2. **Fire Department Standards.** Prior to the issuance of a certificate of occupancy, the Fire Chief shall confirm compliance with the applicable Fire Department standards. **[Fire]**

C. ONGOING

1. Compliance with Site Security Management Plan. Applicant shall comply with the approved Site Security Management Plan during operations. **[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 Planning Director shall confirm that the final building plans for the project incorporate: **[Planning]**
  - a. A minimum of one hundred and twenty five (125) replacement public parking spaces in the Emery Station West building.
  - b. A minimum of four (4) bus bays in Emery Station West building.
  - c. Ninety replacement private parking spaces to accommodate the parking requirements for Emery Station 1, 2, and 3 buildings. These may be located in Emery Station West building, Heritage Square garage or distributed in both buildings.
  - d. One hundred and seventy (170) replacement private parking spaces that exist in the Heritage Square site. These shall be located in the Heritage Square Garage.
  - e. A minimum of two hundred and ninety eight (298) private parking spaces for new construction based upon a parking requirement of 1.5 spaces per 1,000 square feet (Interim Zoning Regulations Section 9-6.314 (b)8.c for High Technology and Research Services uses. Note, however, that the allowance for general office space in Condition I.A.1 above is contingent upon the provision of additional parking above this 298 space minimum. All general office space must be parked at a ratio of 3.0 spaces per 1,000 square feet.

Parking spaces shall be clearly numbered consecutively on plans, and a summary table provided.

- f. A minimum number of bicycle parking spaces as set forth below:
    - i. 15 short term spaces parking spaces in visible locations near entrances and public plaza area in the form of bike racks, waves, inverted U's or hitching posts with verticals at least 18 inches apart enabling cyclists to lock frame and wheel to rack or post with a U-lock, and with adequate clearances shall be provided in form of an inverted U's. The installation and racks shall conform with the City of Emeryville Bike Parking Ordinance, standards and the "Bicycle Parking Guidelines" from the APBP.
    - ii. 15 long term spaces in an enclosed, limited-access area. The installation and racks shall conform with the City of Emeryville Bike Parking Ordinance, standards and the "Bicycle Parking Guidelines" from the APBP.
  - g. Conduit for a minimum of 6 future electrical recharging stations. This shall be clearly shown on building permit plans.
  - h. Ten percent of the employee parking spaces shall be stenciled as carpool spaces. The carpool spaces shall be located closer to the employee entrance(s) than other non-handicap spaces.
2. Transportation Information Display. Prior to the issuance of a building permit, the Planning Director shall confirm that the final building plans for the project incorporate a transportation information display including Berkeley and Oakland biking and walking maps (which include Emeryville); BART, AMTRAK, AC Transit and Emery Go-Round route maps, schedules and fares; and NextBus, 511 and Zipcar contact information. The display shall be placed in a prominent location convenient to building occupants. **[Planning]**
3. Bicycle Valet. Prior to the issuance of a building permit, the applicant shall indicate the location and the operation of bike valet system in the Emery Station West building. At a minimum, this shall include manned

storage of bicycle during morning and evening commute hours as well as bike shop/repair type facilities.

B. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

1. Transportation Information Display. Prior to issuance of a certificate of occupancy, the Planning Director shall confirm that an up-to-date information display as described in section VI.A.2 has been installed. **[Planning]**
2. 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 Planning Director that it has executed a Membership Agreement as required in accordance with the policies, rules and regulations of the TMA. **[Planning]**
3. Vehicular Parking Distribution. Prior to the issuance of temporary certificate of occupancy of either building, the applicant shall provide a parking plan that clearly outlines location of the public replacement parking, private replacement parking and required parking for new construction.
4. Car-share: The applicant shall install one publicly available car-share pod.
5. Bicycle Valet: Prior to the issuance of a certificate of occupancy, the applicant shall install a bicycle valet service in the Emery Station West building.
6. Lockers and Showers: Prior to the issuance of certificate of occupancy, the applicant shall submit to the Planning Director language to be included in tenant leases in the Emery Station West building that allows use of showers and lockers in the Emery Station campus.

C. ONGOING

1. Transportation Information Display. Applicant, its successors and assigns shall maintain the Transportation Information Display described in Section IV.A.2 and update it annually.
2. 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. **[Planning]**
3. Bicycle Valet. Applicant, its successors and assigns shall maintain the bike valet system in the Emery Station West building.

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 Planning 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. Landscaping Plans.
  - a. Prior to the issuance of a building permit, Applicant shall submit a detailed on-site landscaping and irrigation plan for the approval of the Planning Director. The plans shall conform to Article 54 of Chapter 4 of Title 9 of the Municipal Code and Section B of the attached Stormwater Pollution Prevention and Source Control Measures. 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. **[Planning]**

- b. Prior to the issuance of a building permit, Applicant shall submit a detailed off-site landscaping and irrigation plan for the approval of the Public Works Director. The plans shall conform to Article 54 of Chapter 4 of Title 9 of the Emeryville Municipal Code, Bay Friendly Landscaping Practices as per the guidelines from StopWaste.org and Section B of the attached Stormwater Pollution Prevention and Source Control Measures. 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 no farther than 25 feet on center or as approved by the Director. Street trees may require tree grates and an automatic sprinkler system. Removal of any existing street trees shall comply with the provisions of Chapter 10 of Title 7 of the Emeryville Municipal Code, including, but not limited to, providing replacement trees of equal or cumulative diameter and/or payment of a replacement value fee as determined by a certified arborist, or combination thereof. As part of the encroachment permit fees, the applicant will pay to have the City Consulting Arborist perform soil and drainage tests in the public right of way areas that will have tree plantings. The City also requires the applicant to pay for the installation of structural soil or other engineered products, as per City standards and in consultation with the arborist, under sidewalk areas, to provide adequate rootable soil volume areas for healthy street trees. The amount of rootable soil volume to be provided per tree is based on the size of the tree at maturity: 600 cubic feet of rootable soil volume shall be installed per small tree, 900 cubic feet per medium-sized tree and 1200 cubic feet per large-sized tree. The plan shall also discuss proper drainage to be provided for all street trees based on the Consulting Arborist's soil and drainage findings which could entail extensive excavation for sumps or trenching with clean sand or rock backfill. All imported soils shall be tested and the results provided to the City for approval before import. Import soil shall be amended with compost per city standards in place of other soil amendments. Street trees may require tree grates and an automatic sprinkler system.

Removal of any existing street trees shall comply with the provisions of Chapter 10 of Title 7 of the Emeryville Municipal Code, including, but not limited to, providing replacement trees of equal or cumulative diameter and/or payment of a replacement value fee as determined by a certified arborist, or combination thereof. The replacement trees shall be provided off-site but within the vicinity of the project site. **[Public Works]**

Note: The on-site and off-site landscaping and irrigation plans required by conditions (a) and (b) above may be combined into a single landscaping and irrigation plan showing both on-site and off-site improvements.

3. Recycled Water. Prior to the issuance of a building permit, Applicant shall submit plans for the approval of the Planning Director showing the design of a plumbing system to serve nonpotable uses in common areas including, but not limited to, landscaped areas and planters, if recycled water is available at the project site at a reasonable cost, is of adequate quality, will not be detrimental to public health, and will not adversely affect downstream water rights, degrade water quality or injure plants, fish and wildlife. In addition, Applicant shall submit a letter from the recycled water provider (East Bay Municipal Utility District) stating requirements for recycled water plumbing, 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]**
4. Trash, Recycling and Composting Facilities. Prior to the issuance of a building permit, the Planning Director and Public Works Director shall review and approve a Trash, Recycling and Composting Plan from the applicant.
  - 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]**

- 5. Height. A height of up to 165 feet, including rooftop equipment shall be permitted for the Emery Station West building and a height of up to 75 feet shall be permitted for the Heritage Square Garage. **[Planning]**

6. 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 Planning Director provided that they are removed prior to issuance of a final certificate of occupancy.  
**[Planning]**
7. Exterior Lighting. Prior to issuance of a building permit, Applicant shall provide sufficient information for the Planning 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 Article 55 of Chapter 4 of Title 9 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.
8. 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]**
9. Water Efficiency. Prior to issuance of a building permit, the Public Works Director shall confirm that the project is complies with the East Bay Municipal Utility District requirements. **[Public Works]**
10. Alternative Energy. The applicant shall include on-site generation of at least one of the following alternative energy sources: solar, wind and co-generation. This shall be included in the building permit set of plans for Emery Station West building.
11. Wheel Channel for Bicycles. The grand staircase connecting the third floor roof terrace to Horton Street shall include a wheel channel to facilitate access by bicyclists.
12. Bridge Connection. The design of the connection between the third floor roof terrace and the existing pedestrian bridge over the railroad shall be refined to be more open and to integrate any structural supports with the

design of the plaza below. The revised design shall be reviewed and approved by the Planning Director prior to issuance of a building permit.

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 61 of Chapter 4 of Title 9 of the Emeryville Municipal Code. **[Planning]**
2. Completion of Landscaping.
  - a. Prior to issuance of a certificate of occupancy, the project landscape architect shall confirm to the Planning 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 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]**
3. Equipment/Storage. Prior to issuance of a certificate of occupancy, the Planning 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 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). 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 Planning 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, particularly along Horton Street. No light shall create a hazard for auto drivers.
6. Maintenance of Street Trees 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 sprinkler 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]**

7. 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]**
8. LEED-CS Certification for Building and LABS21 Certification for Tenant Improvements: Green Features will be incorporated into the building at a level necessary to be LEED-CS (core and shell) Certified at Silver or better and with independent certification of LABS21 for each tenant space. Within one year after issuance of a Certificate of Occupancy, applicant shall receive Certification for the project from the United States Green Building Council for the LEED-CS program. Within one year after issuance of a Certificate of Occupancy for tenant improvement of lab spaces, applicant shall receive certification from an independent third-party for the LABS21 program for each lab space.
9. Elevator Access. The elevator at the southwest corner of the Emery Station West building, between the ground floor public plaza and the third floor roof terrace, shall be open to the public at all times.

## **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").

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. Prior to the issuance of a building permit, the applicant shall submit plans as part of the building permit package, showing how the project complies 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. The applicant shall also provide calculations showing the percentage of on-site stormwater treatment through mechanical means and percentage of on-site treatment through vegetative means. If a portion of on-site stormwater treatment is through mechanical means, then the applicant shall provide justification as to why all on-site treatment by vegetative means is not feasible. **[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]**
  4. Operations and Maintenance Agreement. Prior to the issuance of a building permit, 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]**
- 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. 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]**
  2. 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, allow city representatives to enter the property during and after construction in order to perform periodic inspection of stormwater treatment facilities.

## **IX. FUTURE LAND USE APPROVAL PROCEDURES**

- A. BUSINESS LICENSE REQUIREMENT. Land use approvals do not abrogate the City's requirement for any business operating within the City to have a business tax certificate ("business license"), nor for a specific operator to obtain a cabaret or dance hall license issued through the Police and Finance Departments and approved by the City Council.
- B. ACTIVITIES OUTSIDE OF BUILDING. No sales of merchandise or services, nor any business activity related to any retail or commercial space, shall take

place outside of the building or in any retail kiosk without prior approval of the Director of Planning and Building.

C. MULTI-TENANT STANDARDS.

1. Permitted Uses. The following uses are permitted in the pedestrian level “active space” of the project as part of the business license review:
  - a. Animal Sales and Services: Grooming and Pet Stores
  - b. Personal Services
  - c. Retail Sales and Services (excluding food related uses and alcoholic beverage sales)
  - d. Financial Services
2. Uses Subject to Performance Standards. The following uses are permitted in the pedestrian level “active space” of the project subject to a zoning compliance review by the Planning Director or designee upon determination that they meet the performance standards and review criteria set forth below in subsection IX.C.4:
  - a. Food and Beverage Retail Sales - Including Alcoholic Beverages
  - b. Eating and Drinking Establishments: Convenience - Full Service and excluding drive-thru windows
  - c. On-Premise Liquor Sales
  - d. Convenience Sales and Services
  - e. Custom Manufacturing
  - f. Transportation Services
  - g. Indoor Entertainment
  - h. Any noise generating commercial use with hours of operation earlier than 7:00 a.m. and later than 10:00 p.m.
  - i. Commercial Recreation: Amusement Center, Indoor Entertainment, Indoor Sports and Recreation
3. Uses Requiring Approval of the Planning Commission. For those uses where all the performance standards cannot be met or the results of the review criteria indicate the use may result in a potential adverse impact, the Planning Director shall forward the application on to the Planning Commission for review and consideration pursuant to the conditional use permit procedure in Article 82 of Chapter 4 of Title 9 of the Emeryville Municipal Code.

4. Performance Standards and Review Criteria. The following performance standards and review criteria shall be used to evaluate uses for the project listed in Condition IX.C.2 above:
  - a. Review and written verification shall be provided to confirm that parking and loading areas have been designed and designated to account for the needs of the proposed use without interfering with the parking, access or loading areas of other uses in the project.
  - b. Review and written verification shall be provided to confirm that the total number of required parking spaces meets the requirements of these conditions of approval and Article 55 of Chapter 4 of Title 9 of the Emeryville Municipal Code.
  - c. For commercial entertainment or uses involving cabarets or public dances as defined in Chapter 4 of Title 5 of the Emeryville Municipal Code or any other public events or use of amplified sound, a site security and management plan shall be submitted with the use request, documenting compliance with the overall Site Security and Management Plan of the Project, compliance with the other provisions of Chapter 4 of Title 5 of the Emeryville Municipal Code, including obtainment of a cabaret or dance hall license as applicable, and special acoustical requirements if warranted.
  - d. For food related uses such as cafes, delicatessens, restaurants and similar activities, the following standards and conditions shall apply:
    - i. Appropriate provisions shall be made for trash disposal and recycling, following the provisions of the California Uniform Retail Food Facilities Law (Health and Safety Code Sections 37500 et. seq.) as reviewed by the Planning Department or other designated City staff.
    - ii. Adequate ventilation, filtration and odor control systems shall be installed for any commercial hoods, along with submittal of provisions for maintenance and inspection of such a system should odor complaints be received.

- e. Compatibility of proposed use with current uses with respect to noise, odor, vibrations, glare, number of other similar uses, hours, location to residential uses, security or policing concerns or other potential nuisance conditions.

Attachments: Mitigation Measures  
Fee Chart  
Construction Sign Prototype  
Fire Department Conditions of Approval Checklist  
Stormwater Pollution Prevention and Source Control Measures

## EMERYSTATION WEST AT THE EMERYVILLE TRANSIT CENTER PROJECT MITIGATION MEASURES

### I. AESTHETICS

Mitigation Measure AES-1: The project applicant shall prepare project lighting plans and submit them to the City of Emeryville for review. City staff shall review and approve these plans to ensure that proposed lighting would be low-intensity, downward-directed, and located only in places where it is necessary.

### III. AIR QUALITY

Mitigation Measure AIR-1: Consistent with the guidance from the Bay Area Air Quality Management District (BAAQMD), the project applicant shall include dust control measures in construction specifications for the project. The City shall review the final construction specifications to verify that the requirements have been included prior to issuing a grading or building permit for the project. The City shall verify via field inspection at least twice during construction that the measures are being implemented. The following measures are required:

- Water all active construction areas at least twice daily.
- Cover all trucks hauling soil, sand, and other loose materials *or* require all trucks to maintain at least two feet of freeboard.
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.
- Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.
- Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.

Mitigation Measure AIR-2a: Implement Mitigation Measure AIR-1.

Mitigation Measure AIR-2b: Consistent with guidance from the BAAQMD, the project applicant shall require contractors to include emissions control measures in construction specifications for the project. The City shall review the final construction specifications to verify that the requirements have been included prior to issuing a grading or building permit for the project. The City shall verify via field inspection at least twice during construction that the measures are being implemented. The following actions are required:

- Idling time of diesel powered construction equipment shall be limited to 5 minutes;
- Alternative powered construction equipment (i.e., CNG, biodiesel, electric) shall be utilized when feasible;
- Add-on control devices shall be used such as diesel oxidation catalysts or particulate filters;

- Project construction (demolition, site preparation, and building erection) shall be phased (not occur simultaneously); and operating hours of heavy duty equipment shall be minimized.

#### **IV. BIOLOGICAL RESOURCES**

Mitigation Measure BIO-1: Implement Mitigation Measures HYD-1a and HYD-1b.

#### **V. CULTURAL RESOURCES**

Mitigation Measure CULT-1: Ground disturbance associated with project activities below the project site fill layer shall be monitored by a qualified archaeologist. Archaeological monitors shall be empowered to halt construction activities at the location of the discovery to review possible archaeological material and to protect the resource while the finds are being evaluated. Monitoring shall continue until, in the archaeologist's judgment, cultural resources are not likely to be encountered.

If deposits of prehistoric or historical archaeological materials are encountered during project activities, all work within 25 feet of the discovery shall be redirected and a qualified archaeologist contacted to assess the finds, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials or human remains and associated materials. Adverse effects to such deposits shall be avoided by project activities. If avoidance is not feasible, the archaeological deposits shall be evaluated for their eligibility for listing in the California Register. If the deposits are not eligible, avoidance is not necessary. If the deposits are eligible, adverse effects on the deposits shall be avoided or mitigated.

Mitigation shall consist of, but is not necessarily limited to, systematic recovery and analysis of archaeological deposits; recording the resource; preparation of a report of findings; accessioning recovered archaeological materials at an appropriate curation facility. Public educational outreach may also be appropriate. Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the archaeological materials discovered. The report shall be submitted to the City of Emeryville and the Northwest Information Center.

Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the archaeological materials discovered. The report shall be submitted to the applicant, the City of Emeryville, and the Northwest Information Center.

Mitigation Measure CULT-2: In the event that an archaeological monitor is not present and deposits of prehistoric or historical archaeological materials are encountered during project activities, all work within 25 feet of the discovery should be redirected and a qualified archaeologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. The project proponent should also be notified. Project personnel should not collect or move any archaeological materials. It is recommended that adverse effects to such deposits be avoided by project activities. If such deposits cannot be avoided, they should be evaluated for their

California Register of Historical Resources eligibility. If the deposits are not eligible, avoidance is not necessary. If the deposits are eligible, adverse effects on the deposits must be avoided or such effects must be mitigated. Mitigation may consist of, but is not necessarily limited to, systematic recovery and analysis of archaeological deposits; recording the resource; preparation of a report of findings; and accessioning recovered archaeological materials at an appropriate curation facility. Public educational outreach may also be appropriate. Upon completion of the assessment, the archeologist should prepare a report documenting the methods and results, and provide recommendations for the treatment of the archaeological materials discovered. The report shall be submitted to the City of Emeryville and the Northwest Information Center.

**Mitigation Measure CULT-3:** The project applicant shall inform its contractor(s) of the sensitivity of the project area for paleontological resources by including the following directive in contract documents:

*The subsurface of the construction site may be sensitive for paleontological resources. If paleontological resources are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Paleontological resources include fossil plants and animals, and such trace fossil evidence of past life as tracks. Ancient marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Paleontological resources also include plant imprints, petrified wood, and animal tracks.*

The City shall verify that the language has been included in the contract documents before issuing the grading or building permit.

Adverse effects to paleontological deposits should be avoided by project activities. If avoidance is not feasible, the paleontological resources shall be evaluated for their significance. If the resources are not significant, avoidance is not necessary. If the resources are significant, project activities shall avoid disturbing the deposits, or the adverse effects of disturbance shall be mitigated. Mitigation may include monitoring, recording the fossil locality, data recovery and analysis, a technical recovery report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the paleontological assessment and/or mitigation, a report shall be prepared documenting the methods, results, and recommendations of the study. The report shall be submitted to the applicant and the City of Emeryville and, if paleontological materials are recovered, a paleontological repository, such as the University of California Museum of Paleontology.

**Mitigation Measure CULT-4:** If human remains are encountered, these remains shall be treated in accordance with Health and Safety Code §7050.5. The project applicant shall inform its contractor(s) of the sensitivity of the project area for human remains by including the following directive in contract documents:

*If human remains are encountered during project activities, work within 25 feet of the discovery shall be redirected and the County Coroner notified immediately. At the same time,*

*an archaeologist shall be contacted to assess the situation and consult with agencies as appropriate. Project personnel shall not collect or move any human remains and associated materials. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.*

The City shall verify that the language has been included in the contract documents before issuing the grading or building permit.

Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the human remains and any associated cultural materials, as appropriate and in coordination with the recommendations of the most likely descendent (MLD). The report shall be submitted to the applicant, the City of Emeryville, and the Northwest Information Center.

## **VI. GEOLOGY AND SOILS**

Mitigation Measure GEO-1: A Certified Engineering Geologist, Geotechnical Engineer or other appropriately registered professional shall be engaged by the project applicant to conduct a design-level geotechnical investigation and prepare a geotechnical and soils report for the proposed project, including remediation. The applicant shall submit a shoring plan (or evidence that shoring is not required) to the DTSC and the City of Emeryville Planning and Building Department prior to approval of the final RDIP by the DTSC. The applicant shall submit the final plans for the project and specifications for conformance with the recommendations in the geotechnical report to the City of Emeryville Planning and Building Department for review and confirmation that the proposed buildings fully comply with the California Building Code (Seismic Zone 4). The report shall identify building techniques appropriate for minimizing seismic damage. All mitigation measures, design criteria, and specifications set forth in the geotechnical and soils report shall be followed. The City shall review and approve the plans and specifications prior to issuing a building permit for the project.

Mitigation Measure GEO-2: The project applicant shall prepare an Erosion Control Plan in accordance with the San Francisco Bay Regional Water Quality Control Board's requirements. The City shall verify that the Erosion Control Plan has been prepared before issuing the grading or building permit for the project.

Mitigation Measure GEO-3: Implement Mitigation Measure HYD-1a and HYD-1b (Preparation of a SWPPP and a Storm Water Management Plan).

Mitigation Measure GEO-4: Implement Mitigation Measure GEO-1.

Mitigation Measure GEO-5: Implement Mitigation Measure GEO-1.

## VII. HAZARDS AND HAZARDOUS MATERIALS

Mitigation Measure HAZ-1: Before issuing the grading permit for the remediation phase of the project on the EmeryStation West building site, the City shall verify that the final *Remedial Design and Implementation Plan* (RDIP) has been prepared and that the Department of Toxic Substances Control (DTSC) has reviewed and concurred with the plans presented in the RDIP. The project applicant shall be responsible for ensuring that the plans are implemented. The Operations and Maintenance Plan shall describe soil confirmation sampling and groundwater sampling to ensure that soils and groundwater remaining on site do not present an environmental or human health hazard. The site-specific Health and Safety Plan shall be prepared in accordance with federal, State and local standards governing the remediation of soil and groundwater containing hazardous waste.

Mitigation Measure HAZ-2a: Before issuing the grading or building permit for construction of the Heritage Square parking structure, the City shall confirm that the deed restriction allowing commercial development on the site has been prepared and agreed to by the property owner and the San Francisco Bay Regional Water Quality Control Board.

Mitigation Measure HAZ-2b: The project applicant shall submit final construction drawings that show maximum depths of excavation across the Heritage Square parking structure site that would be needed to accommodate the building's foundation. The City shall review the plans with respect to the residual concentrations in soil at the site as identified in the 2004 *Characterization and Remediation of Polychlorinated Biphenyl-impacted Soils Beneath the North and East Parking Lots at Heritage Square* prepared by SOMA Environmental Engineering. If excavation for the Heritage Square parking structure would extend into any areas of residual contamination then the applicant shall prepare a Site Management Plan and a Health and Safety Plan for excavation activities in areas where contaminants persist.

The Site Management Plan shall describe how contaminated materials will be excavated, handled, and segregated from the underlying soil, how contaminated materials will be disposed, and the maintenance requirements necessary to ensure that long-term soil management measures, such as capping of the soils, will remain effective during the site's use and occupancy period. The project applicant shall be responsible for ensuring that long-term soil management measures are implemented. The Site Management Plan shall describe soil confirmation sampling and groundwater sampling, if needed, to ensure that soils and groundwater remaining on site do not present an environmental or human health hazard. The site-specific Site Management Plan and the Health and Safety Plan shall be prepared in accordance with federal, State and local standards governing the remediation of soil and groundwater containing hazardous waste. The Health and Safety Plan shall describe air and dust monitoring procedures and corrective actions, as necessary, to ensure that workers and the public are not exposed to site-related contaminants in volatile air emissions or dust containing harmful concentrations of contaminants during construction.

The City shall verify that the Site Management Plan and Health and Safety Plan have been prepared and that the Site Management Plan has been conditionally approved with concurrence from the San Francisco Bay Regional Water Quality Control Board before issuing the grading or building permit.

Mitigation Measure HAZ-3: Implement Mitigation Measures HAZ-1, HAZ-2a and HAZ-2b.

## VIII. HYDROLOGY AND WATER QUALITY

Mitigation Measure HYD-1a: The project applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) for the post-remediation period of construction designed to reduce potential impacts to surface water quality. It is not required that the SWPPP be submitted to the Water Board, but must be maintained on site and made available to Water Board staff upon request. The SWPPP shall include specific and detailed Best Management Practices (BMPs) designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and shall include both dry and wet weather inspections. The City shall verify that the SWPPP has been prepared before issuing the grading or building permit for the project.

Mitigation Measure HYD-1b: The project applicant shall prepare a Storm Water Management Plan that is consistent with the *Stormwater Guidelines for Green, Dense Redevelopment: Stormwater Quality Solutions for the City of Emeryville*. The City shall verify that the Storm Water Management Plan has been prepared before issuing the building permit for the project.

Mitigation Measure HYD-2: Implement Mitigation Measure GEO-2.

Mitigation Measure HYD-3: Implement Mitigation Measures HYD-1a and HYD-1b.

## XI. NOISE

Mitigation Measure NOISE-1: The project contractor shall comply with the following measures:

*Hours.* Unless the City Council grants a waiver allowing different remediation and construction hours pursuant to Section 5-13.06 of the Emeryville Municipal Code, remediation and construction hours shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday. In an urgent situation, the City Manager, Planning and Building Director, or Public Works Director may approve weekend or night work pursuant to Section 5-13.05(e) of the Emeryville Municipal Code.

*Equipment.* All heavy remediation and 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 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.

*Noise Disturbance Coordinator.* The applicant shall designate a “Noise Disturbance Coordinator” who shall be responsible for responding to any complaints about remediation and 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. The 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.

Mitigation Measure NOISE-2: Implement Mitigation Measure NOISE-1.

Mitigation Measure NOISE-3: Implement Mitigation Measure NOISE-1.

## **XV. TRANSPORTATION/TRAFFIC**

- Mitigation Measure TRANS-1: The project applicant shall be responsible to provide the City with funds to develop and implement timing plans that optimize the operations of the coordinated signals at the following four intersections during AM peak, mid-day, and PM peak hours:
  - Christie Avenue /Powell Street (Intersection #8)
  - I-80 EB Ramps /Powell Street (Intersection #9)
  - Frontage Road /Powell Street (Intersection #10)
  - Frontage Road /I-80 WB Ramps (Intersection #11)

Given that said intersections are also coordinated with the closely spaced intersections of Shellmound and Christie Avenue, Shellmound Way and Shellmound Street, Christie Avenue and Powell Street Plaza, and Shellmound Street and Christie Avenue, these intersections shall be included with signal timing optimization.

Mitigation Measure TRANS-2: The project applicant shall be responsible for designing and installing a traffic signal at the intersection of 62<sup>nd</sup> and Hollis Street. Said new traffic signal shall be interconnected and coordinated with the existing traffic signals on Hollis Street. The applicant shall also be responsible to provide the City with funds to develop and implement timing plans that optimize the operation of the new signal with five existing coordinated traffic signals on Hollis Street from Stanford Avenue to 65<sup>th</sup> Street during AM peak, mid-day and PM peak hours. The fee for signalizing the intersection and coordination with existing traffic signal shall be paid to the City of Emeryville prior to issuing the temporary occupancy permit for the EmeryStation West building.

Mitigation Measure TRANS-3: The project applicant shall prepare and submit detailed Traffic Management Plan (TMP) drawings for each phase of construction to the City of Emeryville for approval. This shall include preparation and implementation of a parking management plan for the existing parking uses on the Emery Station West site and the Heritage Square site. The project applicant shall consider the following items when preparing the detailed TMP drawings:

- Truck loading and unloading is strongly recommended to be conducted off-street during the remediation and post-remediation phases of construction. However, if this is determined infeasible and the applicant plans to load or unload on Horton Street, the following issues shall be considered:
  - The Horton Street roadway is approximately 30 feet wide and provides one traffic lane and an on-street bicycle lane in each direction. The project applicant shall determine whether two-way traffic could be maintained adjacent to the on-street loading area. It is desirable that two-way traffic would be maintained along this section of Horton Street and the roadway would

need to be re-striped to provide a 10-foot wide loading area and two 10-foot wide traffic lanes, which would require the temporary removal of the on-street bicycle lanes on Horton Street. Adequate signage shall be installed to warn motorists and bicyclists of the changed traffic conditions along this segment of Horton Street. It is also recommended that a reduced speed limit be temporarily established to highlight the changed traffic conditions and improve road safety for motorists and bicyclists.

- The installation of concrete K-rail barriers along the edge of any on-street loading area is recommended. The barriers would enable the area to be used safely for material loading and storage and for general construction parking. This proposal would necessitate closure of the abutting sidewalk. However, it is unknown whether the K-Rail barriers could be installed and two lanes of traffic still maintained.
- Because the width of the required loading zone has not been designed it is unknown whether the K-Rail barriers could be installed and one lane of traffic in each direction maintained. Should two-way traffic be unable to be maintained, the applicant shall implement either “two-way stop and hold contra-flow traffic” or a “local detour route for one direction of traffic.” On-site traffic controllers shall operate the two-way contra-flow traffic arrangement. The provision of safe bicycle access shall be considered for both of these potential options.
- Fencing shall be installed along the perimeter of the construction areas to restrict the public from entering the site.
- Safe and convenient pedestrian access shall be maintained along Horton Street. Should the sidewalk on one side of the street need to be closed, appropriate signage shall be installed and pedestrians directed to use the opposite side of the street.
- Truck traffic that occurs during the peak commute hours (7:00 to 9:00 a.m. and 4:00 to 6:00 p.m.) could result in degraded levels of service and increased delays at local intersections than during off-peak hours. Accordingly, truck trips to or from the site shall be restricted to off-peak periods, to the extent feasible.
- If construction work is proposed outside of normal allowed hours, the applicant shall obtain an out-of-hours permit from the City of Emeryville to undertake the proposed work.
- Lane detours for street improvements and utility connections may be required to undertake asphalt paving, sewer, water, phone, data, temporary power, gas and electrical works. The applicant shall provide specific and detailed TMP drawings to the City of Emeryville for these phases of construction.
- Adjacent property owners and City public safety personnel shall be notified regarding when major deliveries, detours, lane closures and out-of-hours work would occur.
- A process shall be developed for responding to and tracking complaints pertaining to construction activity, including identification of an on-site complaint manager. The manager shall determine the cause of each complaint and shall take prompt action to correct the problem. The Planning and Building Department shall be informed of the name and contact information for the complaint manager prior to the issuance of the first permit.

Mitigation Measure TRANS-4: The City shall signalize the Doyle Street/Powell Street intersection when traffic conditions warrant. Because this impact can be attributed to existing traffic in the area, as well as traffic from approved, planned, and potential development in and around Emeryville, the

applicant shall pay a pro rata share of the cost of signalization based on the project's contribution to the total cumulative growth. In the Cumulative Plus Project scenario, project traffic represents 3.6 percent of the total cumulative growth at this intersection in the PM peak hour.

Mitigation Measure TRANS-5: Implement Mitigation Measure TRANS-2.

**PROJECT**

Emerystation West

**PRELIMINARY FEE CALCULATIONS**

Valuation

\$ 60,886,562.34

Print Date: February 5, 2010

SUMMARY OF ALL FEES	FEES	PAYMENT DATE	AMOUNT PAID	AMOUNT DUE	NOTES
Building Permit Fee	\$ 608,865.62			\$ 608,865.62	Assumed Multiple Permits           Not enough info to calc. Cat VI to VI - No Fees   See note(s) below
Plan Review Fee	\$ 395,762.66			\$ 395,762.66	
Energy Review Fee	\$ 76,108.20			\$ 76,108.20	
Electrical Permit Fee	\$ 121,773.12			\$ 121,773.12	
Plumbing Permit Fee	\$ 109,595.81			\$ 109,595.81	
Mechanical Permit Fee	\$ 103,507.16			\$ 103,507.16	
S.M.I.P.	\$ 12,786.18			\$ 12,786.18	
Microfiche	\$ 6,088.66			\$ 6,088.66	
Fire Department Fees	\$ 213,102.97			\$ 213,102.97	
Fire Suppression Fees	\$ 13,518.57			\$ 13,518.57	
Sewer Connection Fees	\$ -			\$ -	
Bay-Shell-Mound Contingent Fees	\$ -			\$ -	
Traffic Impact Fees	\$ 194,667.20			\$ 194,667.20	
School Fees	\$ 116,701.00			\$ 116,701.00	
Art In Public Places	\$ 608,865.62			\$ 608,865.62	
Technology Fee	\$ 60,886.56			\$ 60,886.56	
Building Standards Commision Fee	\$ 2,436.00			\$ 2,436.00	
General Plan Maintenance Fee	\$ 304,432.81			\$ 304,432.81	
<b>TOTAL:</b>	<b>\$ 2,949,098.14</b>		<b>\$ -</b>	<b>\$ 2,949,098.14</b>	<b>2,949,098.14</b>

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FEES TO BE PAID AT PLAN CHECK SUBMITTAL:					
Plan Review Fee	\$ 395,762.66		\$ -	\$ 395,762.66	
Energy Review Fee	\$ 76,108.20		\$ -	\$ 76,108.20	
Other Fees	**				
<b>Sub Total:</b>	<b>\$ 471,870.86</b>		<b>\$ -</b>	<b>\$ 471,870.86</b>	

FEES TO BE PAID AT PERMIT ISSUANCE:					
Building Permit Fee	\$ 608,865.62		\$ -	\$ 608,865.62	See note(s) below
Electrical Permit Fee	\$ 121,773.12		\$ -	\$ 121,773.12	
Plumbing Permit Fee	\$ 109,595.81		\$ -	\$ 109,595.81	
Mechanical Permit Fee	\$ 103,507.16		\$ -	\$ 103,507.16	
S.M.I.P.	\$ 12,786.18		\$ -	\$ 12,786.18	
Microfiche	\$ 6,088.66		\$ -	\$ 6,088.66	
Fire Department Fees	\$ 213,102.97		\$ -	\$ 213,102.97	
Fire Suppression Fees	\$ 13,518.57		\$ -	\$ 13,518.57	
Sewer Connection Fees	\$ -		\$ -	\$ -	
Bay-Shell-Mound Contingent Fees	\$ -		\$ -	\$ -	
School Fees	\$ 116,701.00		\$ -	\$ 116,701.00	
Art In Public Places	\$ 608,865.62		\$ -	\$ 608,865.62	
Technology Fee	\$ 60,886.56		\$ -	\$ 60,886.56	
Building Standards Commision Fee	\$ 2,436.00		\$ -	\$ 2,436.00	
General Plan Maintenance Fee	\$ 304,432.81		\$ -	\$ 304,432.81	
<b>Sub Total:</b>	<b>\$ 2,282,560.08</b>		<b>\$ -</b>	<b>\$ 2,282,560.08</b>	

Business License Fees	\$ 60,886.56				{Fees Calculated By Finance}
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FEES TO BE PAID PRIOR TO OCCUPANCY:					
Traffic Impact Fees	\$ 194,667.20		\$ -	\$ 194,667.20	{Final Fees Verified By Finance}
Business License Fees	**				
Other Fees	**				
<b>Sub Total:</b>	<b>\$ 194,667.20</b>		<b>\$ -</b>	<b>\$ 194,667.20</b>	

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).

## PROJECT

Heritage Square Garage

## PRELIMINARY FEE CALCULATIONS

Valuation

\$ 17,857,109.22

Print Date: February 5, 2010

SUMMARY OF ALL FEES	FEES	PAYMENT DATE	AMOUNT PAID	AMOUNT DUE	NOTES
Building Permit Fee	\$ 178,571.09			\$ 178,571.09	Assumed Multiple Permits          Not enough info to calc.    See note(s) below
Plan Review Fee	\$ 116,071.21			\$ 116,071.21	
Energy Review Fee	\$ 22,321.39			\$ 22,321.39	
Electrical Permit Fee	\$ 35,714.22			\$ 35,714.22	
Plumbing Permit Fee	\$ 32,142.80			\$ 32,142.80	
Mechanical Permit Fee	\$ 30,357.09			\$ 30,357.09	
S.M.I.P.	\$ 3,749.99			\$ 3,749.99	
Microfiche	\$ 1,785.71			\$ 1,785.71	
Fire Department Fees	\$ 62,499.88			\$ 62,499.88	
Fire Suppression Fees	\$ 9,161.50			\$ 9,161.50	
Sewer Connection Fees	\$ -			\$ -	
Bay-Shell-Mound Contingent Fees	\$ -			\$ -	
Traffic Impact Fees	\$ -			\$ -	
School Fees	\$ -			\$ -	
Art In Public Places	\$ 178,571.09			\$ 178,571.09	
Technology Fee	\$ 17,857.11			\$ 17,857.11	
Building Standards Commision Fee	\$ 715.00			\$ 715.00	
General Plan Maintenance Fee	\$ 89,285.55			\$ 89,285.55	
<b>TOTAL:</b>	<b>\$ 778,803.63</b>		<b>\$ -</b>	<b>\$ 778,803.63</b>	<b>778,803.63</b>

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## FEES TO BE PAID AT PLAN CHECK SUBMITTAL:

Plan Review Fee	\$ 116,071.21		\$ -	\$ 116,071.21	
Energy Review Fee	\$ 22,321.39		\$ -	\$ 22,321.39	
Other Fees	**				
<b>Sub Total:</b>	<b>\$ 138,392.60</b>		<b>\$ -</b>	<b>\$ 138,392.60</b>	

## FEES TO BE PAID AT PERMIT ISSUANCE:

Building Permit Fee	\$ 178,571.09		\$ -	\$ 178,571.09	See note(s) below
Electrical Permit Fee	\$ 35,714.22		\$ -	\$ 35,714.22	
Plumbing Permit Fee	\$ 32,142.80		\$ -	\$ 32,142.80	
Mechanical Permit Fee	\$ 30,357.09		\$ -	\$ 30,357.09	
S.M.I.P.	\$ 3,749.99		\$ -	\$ 3,749.99	
Microfiche	\$ 1,785.71		\$ -	\$ 1,785.71	
Fire Department Fees	\$ 62,499.88		\$ -	\$ 62,499.88	
Fire Suppression Fees	\$ 9,161.50		\$ -	\$ 9,161.50	
Sewer Connection Fees	\$ -		\$ -	\$ -	
Bay-Shell-Mound Contingent Fees	\$ -		\$ -	\$ -	
School Fees	\$ -		\$ -	\$ -	
Art In Public Places	\$ 178,571.09		\$ -	\$ 178,571.09	
Technology Fee	\$ 17,857.11		\$ -	\$ 17,857.11	
Building Standards Commision Fee	\$ 715.00		\$ -	\$ 715.00	
General Plan Maintenance Fee	\$ 89,285.55		\$ -	\$ 89,285.55	
<b>Sub Total:</b>	<b>\$ 640,411.03</b>		<b>\$ -</b>	<b>\$ 640,411.03</b>	

Business License Fees \$ 17,857.11

{Fees Calculated By Finance}

## FEES TO BE PAID PRIOR TO OCCUPANCY:

Traffic Impact Fees	\$ -		\$ -	\$ -	{Final Fees Verified By Finance}
Business License Fees	**				
Other Fees	**				
<b>Sub Total:</b>	<b>\$ -</b>		<b>\$ -</b>	<b>\$ -</b>	

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).

**Emeryville Fire Department**

**Fire Prevention Bureau**

**Conditions of  
Approval  
Page 1 of 2**

**Project Name:** Emery Station West

**Project Address:** 59<sup>th</sup> & Horton Street

**Attention:** Miroo Desai

**Date:** Sept. 9, 2009

**By:** G. Warren

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(Check all that apply)

Fire Department Access

- ✓ Provide minimum 20' wide fire lanes or access roadways.
- ✓ Provide minimum 15' vertical clearance for all fire lanes or access roadways.
- ✓ Provide rolled curbs, painted red, clearly marked Fire Lane.
- ✓ Minimum turning radius of 55' at all required vehicle turns (35' inside radius).
- ✓ Provide all weather surface roadways, capable of supporting 65,000 pounds GVW.
- ✓ Provide at least one (1) elevator, sized to accommodate standard ambulance gurney in the horizontal position and three (3) personnel, to serve all occupied floors.
- ✓ Provide a minimum of **three (3)** key boxes and **one (1)** key switch. (Knox Box). Type, size and location dependent on final building plans. Mounting height (center of box) at 6'-0" above grade.
- ✓ Provide a detailed site plan for emergency fire / medical access during construction, including an all weather surface roadway. Plan shall be submitted for EFD approval prior to implementation.
- ✓ Premises Identification
- ✓ Provide numbers in contrast with their background, minimum 6" height and 1" stroke. Numbers shall be clearly visible from the street.

Water Supply & Fire Hydrants

- ✓ Provide new fire hydrants: number and locations dependent on final site plans.
- ✓ All private hydrants shall be included in the regular Fire Department testing program.
- ✓ Fire hydrant(s) shall provide the required fire flow of 2,000 gpm flowing from 2 hydrants for a period of 2 hours.
- ✓ Fire hydrants shall comply with current EBMUD requirements.
- ✓ Fire hydrants shall not exceed 250' spacing.
- ✓ Fire hydrant(s) to be located not more than 45' from any fire department connection.
- ✓ Fire Protection Systems & Equipment
- ✓ Provide fire extinguishers. Field verification required for proper placement, mounting, type and size of extinguishers.
- ✓ Provide an automatic fire sprinkler system; system design shall comply with EFD requirements for the particular project. Sprinkler system shall be monitored by a UL listed central station.

## Emeryville Fire Department

### Fire Prevention Bureau

## Conditions of Approval Page 2 of 2

**Project Name:** Emery Station West  
**Project Address:** 59<sup>th</sup> & Horton Streets  
**Attention:** Miroo Desai

**Date:** Sept. 9, 2009  
**By:** G. Warren

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### Fire Protection Systems & Equipment (cont.)

- ✓ Provide one or more fire department connection(s) as specified by EFD.
- ✓ Provide Class I manual wet standpipe system in all stairwells and throughout the building so that all portions of the building are within 120' of hose lines. At least one outlet shall be provided on the roof. Standpipe shall be combined with building fire sprinkler system, with a minimum of 65 psi at the top most outlet.
- ✓ Provide an approved fire alarm / smoke detection system with central station monitoring.
- ✓ Provide an approved automatic fire extinguishing system (Wet-chemical, UL 300, FM-200, etc) for specialized uses / equipment.
- ✓ Provide approved Excess Flow Valves (EFV) for any new or reconnected gas service.
- ✓ Provide a storage room for fire fighting equipment, with a minimum area of 64 square feet, (8' X 8'), keyed for fire department access only, location as per EFD. For high-rise buildings, the room shall comply with Section 403.6 of the California Building Code.
- ✓ Provide specialized fire fighting / medical equipment, as specified by EFD. (Separate document, attached).
- ✓ Provide a mechanical smoke control / exhaust system with automatic control. Control panel shall be located as specified by EFD.

### Exiting & Emergency Illumination

- ✓ Provide EXIT sign graphics and lettering with **Red** color. Exit signs shall be visible from all points in the building and from any direction of approach. Field verification required for final occupancy approval. Exit signs shall be internally illuminated, unless approved otherwise. Maximum spacing between Exit signs shall not exceed 100'.
- ✓ Approved exit plans shall be posted when required by the Fire Chief.
- ✓ Provide emergency lighting units for exit path illumination, as well as dispersal points and refuge areas.
  - Minimum of 1 foot-candle at the floor
  - 90-minute duration.
- ✓ Provide an on-site standby power system conforming to NEC Article 700 and EFD Standard No. 01-013.
- ✓ Provide approved stairway identification signs at each floor level in all stairwells.
- ✓ Provide a minimum of one stairwell serving all occupied floors, including the roof.

Construction Sign - Minimum 3" letters

3 feet

**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**

4 feet

**STORMWATER POLLUTION PREVENTION AND SOURCE CONTROL MEASURES**  
**City of Emeryville, California**  
**Revised 3/8/06**

The numbers in Parentheses, e.g. “(I.A.)” refer to the specific measures in the “Alameda Countywide Clean Water Program Source Control Measures Model List” approved by the ACCWP on July 27<sup>th</sup>, 2004.

There are four sections in this document:

- A. Grading and Drainage – pages 1-4.
- B. Site Plan and Source Control Measures – pages 5-10
- C. Construction Practices – page 11
- D. Post-Occupancy Maintenance and Operational BMPs – pages 12-13

**A. Grading and Drainage**

1. All projects 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) preservation of quality open space, (d) maintaining and/or restoring riparian areas and wetlands and establishing vegetated buffer areas to minimize pollutants in stormwater runoff or minimize peak runoff. The following is a list of possible drainage systems: a vegetated roof, supported turf or permeable pavement, dry-wells or cisterns to catch roof runoff, and/or grassy swales. The City has adopted “Stormwater Treatment Guidelines for Green Dense Redevelopment” and a treatment sizing worksheet, available on the City’s website at: <http://www.ci.emeryville.ca.us/planning/> Plans shall include stormwater pollution prevention and control features to limit to the maximum extent practicable the entry of pollutants into stormwater runoff, and as required by the City’s current NPDES permit.

2. Numeric Sizing Criteria for Pollutant Removal Treatment Systems:  
The City of Emeryville requires that treatment BMPs be constructed for applicable projects, as defined in section C.3.c. of the City’s NPDES permit. These BMPs must incorporate, at a minimum, the following hydraulic sizing design criteria to treat stormwater runoff. As appropriate for each criterion, the projects shall use, or appropriately analyze, local rainfall data to be used for that criterion.

- A. Volume Hydraulic Design Basis: Treatment BMPs whose primary mode of action depends on volume capacity, such as detention/retention units or infiltration structures, shall be designed to treat stormwater runoff equal to:
  - 1. The maximized stormwater quality capture volume for the area, based on historical rainfall records, determined using the formula and volume capture coefficients set forth in Urban Runoff Quality Management, WEF Manual of Practice No.23/ASCE Manual of Practice No. 87, (1998), pages 175-178 (e.g., approximately the 85th percentile 24-hour storm runoff event); or
  - 2. The volume of annual runoff required to achieve 80 percent or more capture, determined in accordance with the methodology set forth in Appendix D of the

California Stormwater Best Management Practices Handbook, (1993), using local rainfall data.

- B. Flow Hydraulic Design Basis: Treatment BMPs whose primary mode of action depends on flow capacity, such as swales, sand filters, or wetlands, shall be sized to treat:
1. 10% of the 50-year peak flow rate; or
  2. The flow runoff produced by a rain event equal to at least two times the 85<sup>th</sup> percentile hourly rainfall intensity for the applicable area, based on historical records of hourly rainfall depths; or
  3. The flow of runoff resulting from a rain event equal to at least 0.2 inches per hour intensity. (per the Alameda Countywide Clean Water Program on 3/8/2004)

3. The City of Emeryville adopted stormwater treatment guidelines on December 6<sup>th</sup>, 2005. The guidelines serve as one part of the City of Emeryville's compliance with the requirements associated with the joint NPDES permit. The City prefers vegetative design solutions such as those described in the guidelines rather than mechanical solutions. This is because vegetative solutions treat stormwater more effectively, involve easier maintenance and inspection, improve air quality and provide green aesthetics. Therefore, the City desires to see vegetative solutions whenever possible. Developers of projects subject to hydraulic sizing criteria for treatment requirements shall be required to retain either a firm that is listed by the Bay Area Stormwater Management Agencies Association ("BASMAA") as qualified in stormwater treatment design ([www.basmaa.org/documents](http://www.basmaa.org/documents), Qualified Post-Construction Consultants List), or a firm that demonstrates similar qualifications to those on the BASMAA List, to design on-site stormwater treatment measures. The stormwater treatment design consultant shall make a good faith effort to meet the entire treatment requirement using vegetative solutions. If the stormwater treatment design consultant concludes that vegetative solutions are not feasible due to site characteristics, building uses or other legitimate reasons, and the City concurs, the City will consider allowing on-site mechanical solutions. In some cases, upon recommendation of the stormwater treatment design consultant, a combination of vegetative and mechanical solutions may be allowed. If mechanical solutions are utilized, the mechanism must be approved by the City, and Developer must demonstrate that the mechanical design will remove fine sediments and dissolved metals as well as trash and oil. If stormwater treatment is required the applicant shall also provide, before the Planning Commission hearing, calculations showing the percentage of on-site stormwater treatment through mechanical means and percentage of on-site treatment through vegetative means.

4. The design of any stormwater quality treatment measures incorporated in the project must incorporate the treatment control design guidance for vector control included in the Alameda Countywide Clean Water Program's Vector Control Plan.

Some of main issues are access:

- Design stormwater treatment devices to be easily and safely accessible without the need for special requirements (e.g., OSHA requirements for "confined space").
- If utilizing covers, include in the design spring-loaded or light-weight access hatches that can be opened easily for inspection.

- Provide all-weather road access (with provisions for turning a full-size work vehicle) along at least one side of large above-ground structures that are less than 25 feet wide. For structures that have shoreline-to-shoreline distances in excess of 25 feet, a perimeter road is required for access to all sides.

And dry system design principles that prevent mosquito breeding:

- Structures should be designed so they do not hold standing water for more than 72 hours.
- Incorporate features that prevent or reduce the possibility of clogged discharge orifices (e.g., debris screens). The use of weep holes is not recommended due to rapid clogging.
- Pipes should be designed and constructed for a rate of flow that flushes the system of sediment and prevents water backing up in the pipe. Storm drains should be constructed so that the invert out is at the same elevation as the interior bottom to prevent standing water.
- Use the hydraulic grade line of the site to select a treatment system that allows water to flow by gravity through the structure. Pumps are not recommended because they are subject to failure and often require sumps that hold water.
- Design distribution piping and containment basins with adequate slopes to drain fully and prevent standing water. The design slope should take into consideration buildup of sediment between maintenance periods. Compaction during grading may also be needed to avoid slumping and settling.
- Avoid the use of loose riprap or concrete depressions that may hold standing water.
- Avoid barriers, diversions, or flow spreaders that may retain standing water.
- Use mosquito net to cover sand media filter pump sumps.
- Use aluminum “smoke proof” covers for any vault sedimentation basins.

5. Stormwater treatment measures that function primarily as infiltration devices (such as infiltration basins or trenches) shall, where practical, protect groundwater from pollutants that may be present in urban runoff. The vertical distance from the base of any infiltration device to the seasonal high groundwater mark shall be at least ten feet (10'), and in areas characterized by highly porous soils or high ground water tables, additional analysis may be required by the City. Infiltration devices will not be recommended as treatment measures for areas of industrial or light industrial activity, automotive repair shops, car washes, fleet storage areas, nurseries, and areas subject to high vehicular traffic (25,000 or greater average daily traffic [ADT] on main roadway or 15,000 or more ADT on any intersecting roadway). Infiltration devices shall be located a minimum of 100 feet horizontally from any water supply well.

6. If the project includes one or more permanent stormwater quality treatment control measure(s), a Stormwater Treatment Measures Maintenance Agreement (Agreement) shall be executed between the Project Owner and the City and recorded with the County Recorder's Office of the County of Alameda. The Agreement must be executed before the Certificate of Occupancy is issued. The property owner shall prepare, to the City's satisfaction, and submit four required Exhibits to the Agreement: (1) a legible, recordable, reduced-scale (8.5"x11") copy of the Site Plan indicating the treatment measure(s) location(s) and site drainage patterns; (2) a maintenance plan, including specific long-term maintenance tasks and a schedule, and

incorporating the treatment control operation and maintenance guidance for mosquito control from the Alameda Countywide Clean Water Program's Vector Control Plan; (3) a standard Treatment Measure Operation and Maintenance Inspection Report form (template to be provided by the City); and (4) checklists appropriate to the type of treatment measure(s) that will be used on the property (to be provided by the City).

7. Vegetated areas designed to treat stormwater shall be constructed and maintained using non-chemical practices in order to avoid discharging pollutants of concern into the City stormdrain system. Compost, vermicastings and similar products shall be used as fertilizers instead of NPK chemical fertilizers. Pest control practices using insecticidal soaps and bio-degradable plant oils shall be used to control pests instead of chemical products containing, for example, glyphosate and synthetic pyrethroids.

8. All on-site storm drain inlets shall be stenciled or labeled "No Dumping! Flows to Bay" or equivalent, using methods approved by the City. **(I.A.)**

9. Construction access routes shall be limited to those approved by the City Engineer and shall be shown on the approved grading plan.

10. 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 to the City: (a) a copy of the project's Storm Water Pollution Prevention Plan (SWPPP) and (b) evidence to the City that a Notice of Intent (NOI) has been submitted to the (California) State Water Resources Control Board. 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. The plan and BMPs should be checked daily, especially around storm events, and updated as necessary. A daily log should be kept stating that BMPs have been checked are effective.

11. 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. Pervious Surfaces:**

To the maximum extent practicable projects shall limit impervious surface areas, especially impervious areas directly connected to the storm drain system such as the historical standard design for roof drains. Roof drains shall discharge and drain away from the building foundation to an unpaved area wherever practicable.

### **2. Refuse and Recycling Areas: (I.G.)**

a. New or redevelopment projects such as food service facilities, recycling facilities and/or multi-family residential complexes or similar facilities shall provide a roofed and enclosed area for dumpsters and recycling 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. Runoff from food service areas, trash enclosures, recycling areas, and/or food compactor enclosures or similar facilities shall not discharge to the storm drain system. Trash enclosure areas shall be designed to avoid run-on to the trash enclosure area. 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.

### **3. Vehicle/Equipment and Commercial/Industrial Cleaning: (I.J.)**

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:**

**(I.M.)**

- 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 drained to the sanitary sewer, or diverted and collected for ultimate discharge to the sanitary sewer. [Or – Stormwater runoff from loading dock areas shall be connected to a post-construction stormwater treatment measure(s) prior to discharge to the storm drain system]. The applicant shall contact the local permitting authority [and/or sanitary district with jurisdiction] 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:**

**(I.F.)**

- a. Food service facilities (including restaurants and grocery stores) shall have a sink or other floor mat, container, and equipment cleaning area, 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; both areas 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:**

**(I.H.)**

(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:**

**(I.L.)**

- 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: (I.D.)**

a. 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. Landscape designs should utilize Integrated Pesticide Management practices such as those detailed in the "Bay Friendly Landscaping Guidelines" available at [www.StopWaste.Org](http://www.StopWaste.Org).

b. 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.

c. 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:

1. Where feasible, landscaping shall be designed and operated to treat stormwater runoff by incorporating elements that collect, detain, and infiltrate runoff. In areas that provide detention of water, plants that are tolerant of saturated soil conditions and prolonged exposure to water shall be specified.
2. 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.
3. Existing native trees, shrubs, and ground cover shall be retained and incorporated into the landscape plan to the maximum extent practicable.
4. Proper maintenance of landscaping, with minimal pesticide use, shall be the responsibility of the property owner.
5. 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.

d. Landscaping shall comply with City of Emeryville’s water efficient landscape requirements which requires compost as a soil amendment for new landscapes, for example.

**9. Interior Floor Drains: (I.B.)**

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: (I.C.)**

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. (I.C.)

**11. Pool, Spa, and Fountain Discharges: (I.E.)**

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 projects have been added to the water.

d. 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: (I.I.)**

- 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: (I.K.)**

- 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: (I.N.)**

Fire sprinkler test water shall be drained to the sanitary sewer system, with approval from the City and EBMUD, 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:**

**(I.O.)**

- 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 or into systems designed for stormwater treatment adjacent to the building with impervious sub-barriers as needed.
- d. Roof top equipment, other than that producing air conditioning condensate, shall drain to the sanitary sewer. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.
- e. 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 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 or capture all leaked fluids.

## **D. Post-Occupancy Maintenance and Operational BMPs**

For projects installing post-construction stormwater treatment systems, as required by provision C.3 of the City NPDES permit, a Stormwater Treatment Measures Operation and Maintenance (O&M) Agreement must be signed by the property owner before the issuance of the building permit (see A.6 above in this document.)

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

For commercial and industrial projects and residential projects with ten units or more, before the City issues the Certificate of Occupancy, the applicant must submit evidence of a lease agreement, purchase and sale agreement, or a set of covenants, conditions and restrictions (CC&Rs) that includes the following practices and specifies who will perform them and who will monitor the performance.

### **1. Paved Sidewalks and Parking Lots: (II.A.)**

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.

### **2. Private Streets, Utilities and Common Areas: (II.B.)**

a. The owner of private streets and storm drains shall prepare and implement a plan for street sweeping of paved private roads 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. CC&Rs creating the association shall be reviewed and approved by the City Attorney prior to the recordation of the Final Map and recorded prior to the sale of the first residential unit. The CC&Rs or special assessment district shall describe how the stormwater BMPs associated with privately owned improvements and landscaping shall be maintained by the association or the special assessment district.

**3. On-site Storm Drains: (II.F.)**

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.

**4. Vehicle/Equipment Repair and Maintenance: (II.C.)**

- 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 parts 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.

**5. Fueling Areas: (II.D.)**

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).

**6. Loading Docks: (II.E.)**

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.

**7. Outdoor Storage Areas:**

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