



CONDITIONS OF APPROVAL SUBDIV15-002

**Marketplace Redevelopment Planned Unit Development Project
SUBDIV15-002
Exhibit A. Conditions of Approval
October 22, 2015**

The following Conditions of Approval apply to SUBDIV15-002 in addition to conditions outlined below:

- Preliminary Development Plan (PDP) Conditions of Approval dated August 5, 2008 attached as an exhibit to Ordinance No. 08-004
- Final Development Plan for Parcel C (FDP 13-001)
- Final Development Plan for Parcel D (FDP 14-003)
- Final Development Plan for Parcel A (FDP 14-002)
- Final Development Plan for Park (FDP 14-001)

In the event of any inconsistencies between the Conditions of Approval of SUBDIV15-002 and the conditions of approval adopted for Ordinance No. 08-004, FDP 13-001, FDP 14-001, FDP 14-002 or FDP 14-003, then the Conditions of Approval for SUBDIV15-002 outlined below shall control.

I. COMPLIANCE WITH APPROVALS

- PROJECT APPROVALS.** A Tentative Map creating eight parcels (Parcel A, B, C, D, E, F, G and H) that includes realignment of Shellmound Street and creating 62nd Street, 63rd Street and Market Drive. The project involves a Tree Removal Permit to remove 19 street trees as part of this project.
- APPROVED PLANS.** The Tentative Map shall conform to the drawings prepared by BKF Engineers entitled Emeryville Public Market, Tentative Map, dated October 1, 2015, 2015, Sheets TM-01 to TM-26 and Sheets L-01 to L-28.
- APPROVAL EFFECTIVENESS AND DURATION.** This Tentative Map will expire 24 months after its approval or conditional approval, unless Final Maps have been recorded or the Tentative Map has been extended pursuant to Government Code Section 66452(e) and Municipal Code Section 9-6.209.

- 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.
- 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 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 approval.
- H. SUBSTANTIAL COMPLIANCE. Substantial compliance with the conditions of the Tentative Map shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Maps, unless a different time for compliance is stated. In the event that a clarification to these conditions is needed, the Planning Director may administratively clarify the intent of these conditions. The City Engineer has the authority to make minor modifications to these conditions to fulfill needed improvements.
- I. BAY SHELLMOUND ASSESSMENT. Prior to the approval of any and all Final Maps the applicant shall apply for the reapportionment of Bay Shellmound Assessment and pay all fees, costs and contingent assessments applicable thereto prior to the recording of the Final Map.

II. GENERAL CONDITIONS

- A. INDEMNIFICATION. Applicant, its assignees, and successors-in-interest shall defend, hold harmless, and indemnify the City of Emeryville, the Bay Cities Joint Powers Insurance Authority and their respective officials, officers, agents and employees (the Indemnified Parties) against all claims, demands, and judgments or other forms of legal and or equitable relief, which may or shall result from: 1) any legal challenge or referendum filed and prosecuted to overturn, set-aside, stay or otherwise rescind any or all final project or zoning approvals, analysis under the California Environmental Quality Act or granting of any permit issued in

accordance with the Project; or 2) Applicant's design, construction and/or maintenance of the public improvements set forth in the final building plans. Owner shall pay for all direct and indirect costs associated with any action herein. Direct and indirect costs as used herein shall mean but not be limited to attorney's fees, expert witness fees, and court costs including, without limitation, City Attorney time and overhead costs and other City Staff overhead costs and normal day-to-day business expenses incurred by the City including, but not limited to, any and all costs which may be incurred by the City in conducting an election as a result of a referendum filed to challenge the project approvals. The Indemnified Parties shall promptly notify Applicant, its assignees, and successors-in-interest of any claim, demand, or legal actions that may create a claim for indemnification under this section and shall fully cooperate with Applicant, its assignees and successors-in-interest. **[City Attorney]**

III. PUBLIC IMPROVEMENTS AND DEDICATIONS

A. PRIOR TO ISSUANCE OF FINAL MAPS.

1. **Multiple Final Maps.** Pursuant to Subdivision Map Action Section 66456.1 and Municipal Code Section 9-6.215, the Applicant may file multiple final maps. Each final map filed with the Planning and Building Director shall be prepared in accordance with Municipal Code Section 9-6.213 and shall be accompanied by data and reports as set forth in Municipal Code Section 9-6.214 and Section 66443 of the Subdivision Map Act and may include the installation of new City survey monuments at 63rd Street and Shellmound Street and 63rd Street and Christie Avenue as directed by the City Engineer. **[Public Works]**
2. **Final Map and Building Permit Processing.** Final maps for individual parcels may be processed in any order provided that the Tentative Map conditions of approval are satisfied for that parcel. Further, (i) Final Maps shall be accompanied by detailed public improvement plans and specifications for the improvements described in these conditions and as approved on the Tentative Map, (ii) Final Maps shall be accompanied by an improvement agreement that provides security for the completion of required public improvements and payment of City's costs of inspection thereof (or it shall be demonstrated that improvements are included in a prior executed improvement agreement) and (iii) Final Maps shall include all necessary dedications of public easements, right-of-way and fee title, as appropriate. **[City Attorney/Public Works]**
3. **Parcel C**
 - a. **Permit Processing.** The Final Map that creates Parcel C shall be approved and recorded prior to issuance of a building permit for construction of improvements on Parcel C. However, the

foundation permit for Parcel C may be processed prior to the recording of a Final Map for Parcel C.

- b. Public Improvements (to be included with Final Map). A Final Map that creates Parcel C shall also create Parcel D and Parcel E and shall be accompanied by improvement plans for the following public improvements as shown on the approved Tentative Map and as described below. This condition shall replace and supersede in its entirety Parcel C FDP13-001 Condition IV.A.1 Public Improvements and Parcel C FDP13-001 Condition IV.A.2 Site Grading and Storm Drainage.
- i. Applicant shall be responsible for the design, construction, installation, and dedication of the following Public Improvements described herein, to conform to all applicable federal, state or local laws, rules, orders, regulations, policies, standards, specifications or guidelines, including but not limited to, the City of Emeryville standards, the City of Emeryville Urban Forestry Ordinance, the Wastewater Collection System Ordinance, the Americans with Disabilities Act and implementing regulations, California accessibility regulations, and the requirements of the most current Municipal Regional Permit issued by the Regional Water Quality Control Board for Stormwater Runoff :
- a. Design, construct, and install, a new 30 inch inner diameter sanitary sewer main on 63rd Street from Shellmound Street to Christie Avenue and the abandonment in place of the existing 30 inch sanitary sewer main and manholes from Shellmound Street to Christie Avenue. The abandonment of the existing sanitary sewer main between Shellmound Street and Christie Avenue shall include filling the entire length of pipe with Class C grout to eliminate all air voids within the pipe to the satisfaction of the City Engineer.
- b. Design, construct, and install, the following new Public Streets:
- 62nd Street from new Market Drive to existing Shellmound Street including all underground public utilities (e.g. water, reclaimed water, gas, electrical, telecommunications (telephone, cable, fibre etc.)),

street lighting system, street trees, structural soil, curb, gutter, sidewalk, landscaping, irrigation system using reclaimed water, and C3 Stormwater treatment measures on both sides of the street.

Prior to acceptance by City of the dedication of right of way and improvements to 62nd Street, the Applicant and City shall enter into and record in the Official Records of Alameda County a Maintenance Agreement, encumbering Parcel G, requiring the Applicant to be responsible for all costs and expense of maintenance and repair of the 62nd Street Roadway/Plaza between Market Drive and Shellmound Street.

- 63rd Street from Shellmound Street to Christie Avenue including all underground public utilities (e.g. water, reclaimed water, gas, electrical, telecommunications (telephone, cable, fibre etc.)), street lighting system, street trees, structural soil, curb, gutter, sidewalk, street furniture, landscaping, irrigation system using reclaimed water, and C3 Stormwater treatment measures except as follows:

Permanent curb, gutter, sidewalk, street furniture, C3 treatment areas, landscaping, streetlight poles with foundations, structural soil and street tree improvements along the 63rd Street frontage to Parcels C, D and E shall be installed with the development of each respective Parcel. Improvements fronting each parcel shall be completed prior to the issuance of the respective certificate of occupancy for Parcels C or D building improvements or completion of the park improvements to Parcel E.

A temporary asphalt concrete curb, sidewalk, and temporary storm drainage inlets along the 63rd Street frontage to Parcels C, D or E may be required, at the discretion of the Public Works Director, if prior to the issuance of a certificate of occupancy for Parcels C or D or completion of park improvements to Parcel E, building permits for the construction of improvements on Parcels C, D or E have not been issued.

In the event building permits for improvements on Parcels C, or D have not been issued within 24 months from the issuance of the first certificate of occupancy for Parcels C or D, the Public Works Director shall issue a Notice to Applicant to install all remaining permanent curb, gutter, sidewalk, street furniture, C3 treatment areas, landscaping, streetlight poles with foundations, structural soil and street tree improvements and said improvements shall be completed within 12 months from receipt of the Notice and prior to the release of the performance security on the project.

- Market Drive from 64th Street to 62nd Street including all underground public utilities (e.g. water, reclaimed water, gas, electrical, telecommunications (telephone, cable, fibre etc.)), street lighting, street trees, structural soil, curb, gutter, sidewalk, street furniture, landscaping, irrigation system using reclaimed water, and C3 Stormwater treatment measures except as follows:

Permanent curb, gutter, sidewalk, street furniture, C3 treatment areas, landscaping, streetlight poles with foundations, structural soil and street tree improvements along the Market Drive frontage to Parcels C, D and E shall be installed with the development of each respective Parcel. Improvements fronting each parcel shall be completed prior to the issuance of a certificate of occupancy for Parcels C or D building improvements or completion of the park improvements to Parcel E, respectively.

A temporary asphalt concrete curb, sidewalk, and temporary storm drainage inlets along the Market Drive frontage to Parcel C, D or E may be required at the discretion of the Public Works Director, if prior to the issuance of a certificate of occupancy for Parcels C or D, building permits for the construction of improvements on Parcels C, D or E have not been issued.

In the event building permits for improvements on Parcels C, D or E have not been issued within 24

months from the issuance of the first certificate of occupancy for Parcels C or D, the Public Works Director may issue a Notice to Applicant to install all remaining permanent curb, gutter, sidewalk, street furniture, C3 treatment areas, landscaping, streetlight poles with foundations, structural soil and street tree improvements and said improvements shall be completed within 12 months from receipt of the Notice and prior to the release of the performance security on the project.

- A new sidewalk bulb out with curb ramp at the east corner of the intersection of Market Drive and 64th Street and a new crosswalk on 64th Street including the construction a new curb ramp on the existing sidewalk on the north side of 64th Street.
 - A new raised crosswalk crossing 63rd Street at the south-west corner of Market Drive.
 - A new public sidewalk on the existing Shellmound Street adjacent to the north-east corner of Parcel C.
- c. The design of the new public asphalt concrete streets shall conform to the Caltrans method of flexible pavement design with a Traffic Index (TI) defined as follows:
- | | |
|--|-------|
| 63 rd Street | TI= 8 |
| Market Drive (from 64 th Street to 62 nd Street) | TI= 8 |
- d. Design, construct, and install, a new public domestic water pipeline and fire hydrants on 63rd Street from Christie Avenue to Shellmound Street, on Shellmound Street from 64th Street to 63rd Street, on Market Drive from 63rd Street to 62nd Street, and on 62nd Street from Market Drive to realigned Shellmound Street. The size of the public domestic water pipeline to be determined by EBMUD. The number and location of fire hydrants to be determined by the City's Fire Department.
- e. Design, construct, and install, a new public Storm Drain system surrounding Parcel C, including 62nd Street, Market Drive, 63rd Street, and on existing

Shellmound Street and the public right-of-way dedicated for the future realigned Shellmound Street, as shown on the Sheet TM-15 of the Tentative Map. Said Storm Drains shall be designed to drain to the Alameda County Flood Control District's storm drain on 64th Street and sized to meet the Flood Control District's design storm criteria. All existing private storm drains on-site shall be removed or grouted full as depicted on TM-03 of the Tentative Map.

- f. Design, construct, and install, the C3 stormwater treatment measures along both sides of 62nd Street from Market Drive to Shellmound Street, 63rd Street from Christie Avenue to Shellmound Street, and Market Drive from 64th Street to 62nd Street, and along the west side of Shellmound Street from 63rd Street to 62nd Street. The maintenance of the C3 measures, including all piping connecting to the public storm drain, shall be the responsibility of the Applicant. Prior to the acceptance of the Public Street Improvements by the City, Applicant shall enter into and record in the Official Records of Alameda County, a Stormwater Treatment Measures Operations and Maintenance Agreement encumbering Parcel G, for the C3 stormwater treatment measures on said public streets.
- g. If the Shellmound Street realignment is not approved (as evidenced by the City's approval for the abandonment and exchange existing Shellmound Street public right of way for the realigned Shellmound Street public right of way) prior to submittal of an application for approval of a Final Map for Parcel C, then Applicant shall (a) submit an application for a minor design review permit for the Parcel C plaza area concurrent with the application for approval of a Final Map for Parcel C, (b) secure said permit prior to issuance of building permits for construction of improvements on Parcel C, (c) and then design, construct and install the improvements to the Parcel C plaza area required by the minor design review permit, including any and all required C3 stormwater treatment measures.

- c. *Improvement Agreement.* Prior to the approval of a Final Map that creates Parcels C, D and E, Applicant shall enter into a Public Improvement Agreement with the City of Emeryville to ensure the faithful performance of the design, construction, installation and inspection of all public improvements provided in **SUBDIV15-002** Condition III.A.3. secured by good and sufficient payment, performance, and one (1) year warranty bonds or cash deposit adequate to cover all of the costs, inspections and administrative expenses of completing such improvements in the event of a default. The value of the bonds or cash deposit shall include 100% of the cost of construction based on prevailing wage rates. The value of the warranty bond or cash deposit shall be equivalent to 10% of the value of the performance security. The Agreement shall provide for security to be released in portions as work is completed and accepted. The balance of the security shall be released upon the settlement of all claims and obligations for which the security was given. The Agreement may be approved by the City Manager as recommended by the City Engineer and approved as to form by the City Attorney pursuant to Municipal Code Section 9-6.603. Among other requirements, the Agreement shall require Applicant to make an initial deposit of \$25,000 with the City to cover actual costs of Public Works Plan Check on a cost recovery basis. The Agreement shall also require the Applicant to make an initial deposit of \$25,000 with the City to cover the actual cost of Public Works Inspections on a cost recovery basis. **[City Attorney/Public Works]**
- d. *Dedications.* A Final Map that creates Parcel C shall also create Parcels D and E and shall include all dedications of public easements and right-of-way as depicted on the approved Tentative Map, including the dedication of public rights-of-way for 62nd Street from Market Drive to the realigned Shellmound Street, for the proposed sidewalk area at existing Shellmound Street adjacent to the northeast corner of Parcel C, for 63rd Street from Shellmound Street to Christie Avenue, and for Market Drive from 64th Street to 62nd Street. A Final Map that creates Parcel E shall provide for dedication of Parcel E to the City in fee for public park purposes in accordance with Condition III.A.5.d. **[City Attorney/Public Works]**
- e. *Compliance with Stormwater Measures.* At the time of submittal of Public Improvement project plans and specifications for review by the Public Works Department, the Applicant shall provide a separate C3 Stormwater Permit Packet and application to the Public Works Department for review and comment. Said

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

- f. Construction Completion Timing. Except as may otherwise be provided (specifically in Condition III.A.3.b.i.b) above, all public improvements required to be designed, constructed, installed, and dedicated by Applicant to City in connection with Parcels C and D as set forth in Condition III.A.3 above, shall be completed by Applicant and ready for acceptance by City prior to the first to occur of issuance of a certificate of occupancy for Parcels C or D building improvements. All public improvements required to be designed, constructed, installed, and dedicated by Applicant to City in connection with Parcel E as set forth in Condition III.A.3 above, shall be completed by Applicant and ready for acceptance by City in accordance with Condition III.A.5.e. **[Public Works]**

4. Parcel D

- a. Permit Processing. Notwithstanding Parcel D FDP 14-003 Condition II.B.1 a Final Map that creates Parcel D shall be approved and recorded prior to the issuance of building permit for construction of improvements on Parcel D. However, the foundation permit for Parcel D may be processed prior to approval and recording of a Final Map for Parcel D.
- b. Public Improvements (to be included with Final Map). A Final Map that creates Parcel D shall also create Parcel E and be accompanied by improvement plans for the following public improvements as shown on the approved Tentative Map and as described below. This condition shall replace and supersede in its entirety Parcel D FDP 14-003 Condition IV.A.1 Public Improvements, Parcel D FDP 14-003 Condition IV.A.2 Site Grading and Storm Drainage, and Parcel D FDP 14-003 Condition IV.A.3 Sanitary Sewer.
 - i. Applicant shall be responsible for the design, construction, installation, and dedication of the following Public Improvements described herein, to conform to all

applicable federal, state or local laws, rules, orders, regulations, policies, standards, specifications or guidelines, including but not limited to the City of Emeryville standards, the City of Emeryville Urban Forestry Ordinance, the Wastewater Collection System Ordinance, the Americans with Disabilities Act and implementing regulations, California accessibility regulations, and the requirements of the most current Municipal Regional Permit issued by the Regional Water Quality Control Board for Stormwater Runoff :

- a. Design, construct, and install, the following public streets:
 - 63rd Street from Shellmound Street to Christie Avenue including all underground public utilities (e.g. water, reclaimed water, gas, electrical, telecommunications (telephone, cable, fibre etc.)), street lighting system, street trees, structural soil, curb, gutter, sidewalk, street furniture, landscaping , irrigation system using reclaimed water, and C3 Stormwater treatment measures except as follows:

Permanent curb, gutter, sidewalk, street furniture, C3 treatment areas, landscaping, streetlight poles with foundations, structural soil and street tree improvements along the 63rd Street frontage to Parcels D, E and remainder of Parcel 2 of PM 9938 (which would become Parcel C once a Final Map is recorded for that parcel) shall be installed concurrent with the development of each respective Parcel. Improvements fronting each parcel shall be completed prior to the issuance of either a certificate of occupancy for Parcel D building improvements or completion of the park improvements to Parcel E, respectively.

A temporary asphalt concrete curb, sidewalk, and temporary storm drainage inlets along the 63rd Street frontage to the remainder of Parcel 2 of PM 9938 (which would become Parcel C once a Final Map is recorded) may be required at, the discretion of the Public Works Director, if building permits for the construction of improvements on Parcel C

has not been issued at the time of the certificate of occupancy for Parcel D.

In the event building permits for improvements on Parcel C have not been issued within 24 months from the issuance of the certificate of occupancy for Parcel D, the Public Works Director may issue a Notice to Applicant to install all remaining permanent curb, gutter, sidewalk, street furniture, C3 treatment areas, landscaping, streetlight poles with foundations, structural soil and street tree improvements and said improvements shall be completed within 12 months from receipt of the Notice and prior to the release of the performance security on the project.

Further, access to the existing surface parking lot on Parcel G (existing) along the south side of 63rd Street shall be limited to one driveway from 63rd Street at a location to be approved by the City Engineer.

- Market Drive from 64th Street to 63rd Street including all public utilities (e.g. water, reclaimed water, gas, electrical, telecommunications (telephone, cable, fiber etc.)), street lighting system, street trees, structural soil, curb, gutter, sidewalk, street furniture, landscaping, irrigation system using reclaimed water, and C3 Stormwater treatment measures.
 - A new sidewalk bulb-out with curb ramp at the east corner of the intersection of Market Drive and 64th Street and a new crosswalk on 64th Street including the construction a new curb ramp on the existing sidewalk on the north side of 64th Street.
 - A new raised crosswalk crossing 63rd Street at the south-west corner of Market Drive.
- b. The design of the new public asphalt concrete streets shall conform to the Caltrans method of flexible pavement design with a Traffic Index (TI) as defined below:

63rd Street TI=8
Market Drive (from 64th Street to 62nd Street) TI=8

- c. Design, construct, and install the C3 stormwater treatment measures along both sides of 63rd Street from Christie Avenue to Shellmound Street, and Market Drive from 64th Street to 63rd Street. The maintenance of the C3 measures, including all piping connecting to the public storm drain, shall be the responsibility of the Applicant. Prior to the acceptance of the Public Street Improvements by the City, Applicant shall enter into and record in the Official Records of Alameda County, a Stormwater Treatment Measures Operations and Maintenance Agreement encumbering Parcel G, for the C3 stormwater treatment measures on said public streets.
 - d. Design, construct, and install a new public domestic water pipeline and fire hydrants on 63rd Street from Christie Avenue to Shellmound Street, and on Shellmound Street from 64th Street to 63rd Street. The size of the public domestic water pipeline to be determined by EBMUD. The number and location of fire hydrants to be determined by the City's Fire Department.
 - e. Design, construct, and install a new public Storm Drain system on Market Drive from 64th Street to 63rd Street, and on 63rd Street from Christie Avenue to Shellmound Street, as depicted on the Sheet TM-15 of the Tentative Map. Said Storm Drains shall be designed to drain to the Alameda County Flood Control District's storm drain on 64th Street and sized to meet the Flood Control District's design storm criteria. All existing private storm drains on-site shall be removed as depicted on TM-03 of the Tentative Map.
- ii. The private sewer lateral serving Parcel D shall be connected to the new 30" City sewer main on 63rd Street and the existing 24" sewer main in Shellmound Street. All existing sewer laterals from Parcel D connected to the public sewer main on 64th Street shall be abandoned up to the connection to the City sanitary sewer main as directed

by the Public Works Director. Applicant shall be responsible to conform to the requirements of the City's Wastewater Collection System Ordinance and to the East Bay Municipal Utility Districts (EBMUD) Private Sewer Lateral Ordinance. Any new private sanitary sewer lateral to be installed shall pass a verification test witnessed by the City of Emeryville and EBMUD inspectors prior to occupancy. All work performed on sanitary sewer laterals shall require a Sanitary Sewer Lateral Permit and said work is not covered under the Building Permit. **[Public Works]**

- c. *Improvement Agreement.* Prior to the approval of a Final Map that creates Parcel D and E, Applicant shall enter into a Public Improvement Agreement with the City of Emeryville to ensure the faithful performance of the design, construction, installation and inspection of all public improvements provided in **SUBDIV15-002** Condition III.A.4. secured by good and sufficient payment, performance, and one (1) year warranty bonds or cash deposit adequate to cover all of the costs, inspections and administrative expenses of completing such improvements in the event of a default. The value of the bonds or cash deposit shall include 100% of the cost of construction based on prevailing wage rates. The value of the warranty bond or cash deposit shall be equivalent to 10% of the value of the performance security. The agreement shall provide for security to be released in portions as work is completed and accepted. The balance of the security shall be released upon the settlement of all claims and obligations for which the security was given. The agreement may be approved by the City Manager as recommended by the City Engineer and approved as to form by the City Attorney pursuant to Municipal Code Section 9-6.603. Among other requirements, the agreement shall require Applicant to make an initial deposit of \$25,000 with the City to cover actual costs of Public Works Plan Check on a cost recovery basis. The Agreement shall also require the Applicant to make an initial deposit of \$25,000 with the City to cover the actual cost of Public Works Inspections on a cost recovery basis. **[City Attorney/Public Works]**
- d. *Dedications.* A Final Map that creates Parcel D shall also create Parcel E and shall include all dedications of public easements and right-of-way depicted on the approved Tentative Map, including the dedication of public rights-of-way for 63rd Street from Shellmound Street to Christie Avenue, and Market Drive from 64th Street to 63rd Street. A Final Map that creates Parcel E shall provide for dedication of Parcel E to the City in fee for public park

purposes in accordance with Condition III.A.5.d. **[City Attorney/Public Works]**

- e. Compliance with Stormwater Measures. At time of submittal of Public Improvement project plans and specifications for review by the Public Works Department, the Applicant shall provide a separate C3 Stormwater Permit Packet and application to the Public Works Department for review and comment. Said Stormwater Permit shall be approved by the City prior to the issuance of an encroachment permit to construct the improvements. The project shall comply with the attached Stormwater Measures, in particular with the provision C.3 requirements (or new development section) of the City's NPDES Stormwater Permit and with plans and calculations showing how the project meets the numeric hydraulic sizing requirements as described in Section A of the attached Stormwater Measures. **[Public Works]**
- e. Construction Completion Timing. Except as may otherwise be provided (specifically in Condition III.A.4.b.i.a.) above, all public improvements required to be designed, constructed, installed and dedicated by Applicant to City in connection with Parcel D as set forth in Condition III.A.4 above, shall be completed by Applicant and ready for acceptance by City prior to the issuance of a certificate of occupancy for Parcel D building improvements. All public improvements required to be designed, constructed, installed, and dedicated by Applicant to City in connection with Parcel E as set forth in Condition III.A.4 above, shall be completed by Applicant and ready for acceptance by City in accordance with Condition III.A.5.e. **[Public Works]**

5. Parcel E

- a. Permit Processing. The Final Map that creates Parcel E shall be approved and recorded prior to issuance of permits for construction of improvements on Parcel E.
- b. Public Improvements (to be included with Final Map). A Final Map that creates Parcel E shall be accompanied by improvement plans for the following public improvements as shown on the approved Tentative Map and as described below. This condition shall replace and supersede Park FDP 14-001 Condition IV.A.1 Street Improvements and Park FDP 14-001 Condition V.A2 63rd Street Trunk Sanitary Sewer Main Relocation.

- i. The Applicant shall be responsible for the design, construction, installation, and dedication of the following Public Improvements described herein, to conform to all applicable federal, state or local laws, rules, orders, regulations, policies, standards, specifications or guidelines, including but not limited to the City of Emeryville Standards, the City of Emeryville Urban Forestry Ordinance, the Wastewater Collection System Ordinance, the Americans with Disabilities Act and implementing regulations, the California accessibility regulations, and the requirements of the most current Municipal Regional Permit issued by the Regional Water Quality Control Board for Stormwater Runoff :
 - a. Design, construct, and install Christie Avenue Park on Parcel E pursuant to the Christie Avenue Park Expansion and Redesign Final Development Plan (FDP14-001) Conditions of Approval and as modified by this Condition of Approval III. A.5
 - b. Design, construct, and install new curb, gutter and sidewalk along the entire Christie Avenue frontage of Parcel E. The new curb and gutter shall be Caltrans Standard type A2-6. The installation of the new curb and gutter shall include saw cutting, removing and replacing the asphalt concrete pavement 2 feet from the lip of gutter. The new sidewalk adjacent to the berm with the existing trees to remain shall match the existing alignment for the back of sidewalk.
 - c. Design, construct, and install a sidewalk bulb-out at the southeast corner of the intersection of 63rd Street and Christie Avenue including the design, reconstruction, and installation of the 63rd Street and Christie Avenue roadway intersection to meet ADA Standards including the existing bulb-out at the northeast corner of the intersection of 63rd Street and Christie Avenue.
 - d. Prior to the start of work on Parcel E, an inventory of existing site furnishings, i.e. trash cans, benches, bollards, tree grates, etc., shall be provided to the Public Works Department so that it may indicate

which items are to be salvaged to the City Corporation Yard and which items are to be discarded.

- e. A tree protection plan for the trees on Parcel E and existing Christie Avenue Park to be preserved shall be submitted as part of the grading/building permit.

- ii. The Applicant shall construct the segment of 30 inch diameter sewer main beneath the Park site as shown on the Tentative Map prior to the construction of the Park Improvements. The placement of trees shall not be permitted within five feet of the centerline of the relocated sewer main. The placement of trees within five feet of the outside diameter of the relocated sewer main shall require approval by the Public Works Director. **[Public Works]**

- c. Improvement Agreement. Prior to the earlier of (i) issuance of a temporary certificate of occupancy for the grocery store on Parcel C (ii) issuance of a building permit for construction of residential improvements on Parcel C, excluding a foundation permit, or (iii) issuance of a building permit for construction of residential improvements on Parcel D, excluding a foundation permit, Applicant shall enter into an Improvement Agreement with the City of Emeryville to ensure the faithful performance of the design, construction, installation, inspection and dedication of all public improvements provided in **SUBDIV15-002** Condition III.A.5 secured by good and sufficient payment, performance, and one (1) year warranty bonds or cash deposit adequate to cover all of the costs, inspections and administrative expenses of completing such improvements in the event of a default. The Public Improvement Agreement shall obligate Applicant to provide security for Parcel E public improvements prior to issuance of a final certificate of occupancy for the (x) grocery store on Parcel C (y) the residential building on Parcel C or (z) residential building on Parcel D if said improvements have not already been completed by Applicant and accepted by City. The value of the bonds or cash deposit shall include 100% of the cost of construction based on prevailing wage rates. The value of the warranty bond or cash deposit shall be equivalent to 10% of the value of the performance security. The agreement shall provide for security to be released in portions as work is completed and accepted. The balance of the security shall be released upon the settlement of all claims and obligations for which the security was given. The agreement shall be approved by the City Council and approved as to form by the

City Attorney pursuant to Municipal Code Section 9-5.1913. Among other requirements, the agreement shall require Applicant to make an initial deposit of \$25,000 with the City to cover actual costs of Public Works Plan Check on a cost recovery basis. The Agreement shall also require the Applicant to make an initial deposit of \$25,000 with the City to cover the actual cost of Public Works Inspections on a cost recovery basis. If the Applicant has made good faith efforts to negotiate and execute the Improvement Agreement, but the City Council has not approved the Agreement prior to issuance of the temporary certificate of occupancy for the grocery store on Parcel C, the building permit for the residential development on Parcel C or building permit for the residential development on Parcel D, such temporary certificate of occupancy and building permit shall be issued provided that the Applicant posts security as stipulated in this condition. Posting security would also satisfy the condition for issuance of the final certificates of occupancy for grocery store on Parcel C, the residential building on Parcel C, and the residential building on Parcel D pursuant to this condition. **[City Attorney/Public Works]**

- d. *Dedications.* A Final Map that creates Parcel E shall provide for dedication of Parcel E to the City as described below. This condition shall replace and supersede in its entirety Park FDP14-001 Condition IV.A.4 *Dedication of Land for Public Park Use.*

A Final Map that creates Parcel E shall provide for an irrevocable offer to dedicate Parcel E to the City in fee for public park purposes, which City may accept upon the final completion of the required public improvements. The Public Improvement Agreement for the land to be dedicated to the City (i.e. Parcel E) shall require excavation of four (4) feet below existing ground surface and backfill with clean backfill on Parcel E (“Excavation and Fill Work”). The Excavation and Fill Work shall meet final grades as provided in the Park FDP and improvement plans. Further, the applicant shall thereafter defend, indemnify, and hold the City harmless from all demands, claims, orders, costs, expenses, fees, penalties, and causes of action related to hazardous substances, waste or materials, as defined by State or Federal law, including petroleum, crude oil or and fraction thereof, located on or emanating from Parcel E. **[City Attorney/Public Works]**

- e. *Construction Completion Timing.* This condition shall replace and supersede in its entirety Parcel C FDP 13-001 Condition I.G.2 *Phasing.* Except as may otherwise be provided above, all

public improvements required to be designed, constructed, installed, and dedicated by Applicant to City in connection with Parcel E as set forth in this Condition III.A.5 , shall be completed by Applicant and ready for acceptance by City upon the earlier of (i) twelve (12) months after issuance of a temporary certificate of occupancy for Parcel C residential building improvements, (ii) twelve (12) months after issuance of a temporary certificate of occupancy for Parcel D residential building improvements, or (iii) twelve (12) months after issuance of a final certificate of occupancy for the Parcel C grocery store improvements. **[Public Works]**

6. Parcel B

- a. Permit Processing. The Final Map that creates Parcel B shall be approved and recorded prior to issuance of building permits for construction of improvements on Parcel B.
- b. Public Improvements (to be included with Final Map). A Final Map that creates Parcel B shall also create Parcel A and shall be accompanied by improvement plans for the following public improvements as shown on the approved Tentative Map and as described below. **[Public Works]**
 - i. Public Improvements. The Applicant shall be responsible for the design, construction, and installation, and dedication of the following Public Improvements described herein, to conform to all applicable federal, state or local laws, rules, orders, regulations, policies, standards, specifications or guidelines, including but not limited to the City of Emeryville Standards, the City of Emeryville Urban Forestry Ordinance, the Wastewater Collection System Ordinance, the Americans with Disabilities Act and implementing regulations, the California accessibility regulations, and the requirements of the most current Municipal Regional Permit issued by the Regional Water Quality Control Board for Stormwater Runoff :
 - a. Design, construct, and install the realigned Shellmound Street and the existing portion of Shellmound Street fronting Parcels A and G including all public utilities (e.g. water, reclaimed water, gas, electrical, telecommunications (telephone, cable, fibre etc.)), curb, gutter, sidewalk, street furniture, street lighting system, street trees,

structural soil, landscaping, irrigation system using reclaimed water, C3 Stormwater treatment measures, and transit improvements per the requirements of the approved Tentative Map.

Permanent curb, gutter, sidewalk, street furniture, C3 treatment areas, landscaping, streetlight poles with foundations, structural soil, street tree, and transit improvements fronting Parcels B and A shall be installed with the development of each respective Parcel. Improvements fronting each parcel shall be completed prior to the issuance of a certificate of occupancy for Parcels B or A building improvements.

A temporary asphalt concrete curb and sidewalk, and temporary storm drainage inlets along the Shellmound Street frontage to Parcel A may be required, at the discretion of the Public Works Director, if building permits for the construction of improvements on Parcel A has not been issued at the time of the certificate of occupancy for Parcel B.

In the event building permits for improvements on Parcel A have not been issued within 24 months from the issuance of the certificate of occupancy for Parcel B, the Public Works Director may issue a Notice to Applicant to install all remaining permanent curb, gutter, sidewalk, street furniture, C3 treatment areas, landscaping, streetlight poles with foundations, structural soil, street tree, and transit improvements and said improvements shall be completed within 12 months from receipt of the Notice and prior to the release of the performance security on the project.

The design of the asphalt concrete street shall conform to the Caltrans method of flexible pavement design with a Traffic Index (TI) of 11.

- b. Design, construct, and install a new public domestic water main and fire hydrants on Shellmound Street from Powell Street to 64th Street, to the extent the water main has not already been installed in certain portions of Shellmound Street. The size of the

public domestic water main to be determined by EBMUD. The number and location of fire hydrants to be determined by the City's Fire Department.

- c. Design, construct, and install a new public storm drain on Shellmound Street from Powell Street to the Parcel B frontage as depicted on sheets TM-16 and TM17 of the Tentative Map. The storm drain shall be designed to meet the design storm requirements of the Alameda County Flood Control District.
 - d. Design, construct, and install the C3 stormwater treatment measures along the realigned Shellmound Street on both sides of the street adjacent to Parcel B and Parcel A. The maintenance of the C3 measures including all piping connecting to the public storm drain shall be the responsibility of the Applicant. Prior to the acceptance of the Public Street Improvements by the City, Applicant shall enter into and record in the Official Records of Alameda County, a Stormwater Treatment Measures Operations and Maintenance Agreement encumbering Parcel G, for the C3 stormwater treatment measures on Shellmound Street.
 - e. Design and construct the removal of the median island, including two street trees on Shellmound Street near Shellmound Way, and restriping of Shellmound Street to include bike lanes as shown on sheet TM-08 of the Tentative Map.
- ii. Site Grading and Storm Drainage. The Public Works Director shall confirm that the Public Improvement Plans include grading plans for Parcel B which direct stormwater runoff to the new storm drain on Shellmound Street to be constructed as part of the Shellmound Street realignment as depicted on the approved Tentative Map.
- c. Improvement Agreement. Prior to the approval of a Final Map that creates Parcel B, Applicant shall enter into a Public Improvement Agreement with the City of Emeryville to ensure the faithful performance of the design, construction, installation and inspection of all public improvements provided in **SUBDIV15-002** Condition III.A.6., or as approved as part of an FDP for Parcel B, secured by

good and sufficient payment, performance, and one (1) year warranty bonds or cash deposit adequate to cover all of the costs, inspections and administrative expenses of completing such improvements in the event of a default. The value of the bonds or cash deposit shall include 100% of the cost of construction based on prevailing wage rates. The value of the warranty bond or cash deposit shall be equivalent to 10% of the value of the performance security. The agreement shall provide for security to be released in portions as work is completed and accepted. The balance of the security shall be released upon the settlement of all claims and obligations for which the security was given. The agreement may be approved by the City Manager as recommended by the City Engineer and approved as to form by the City Attorney pursuant to Municipal Code Section 9-6.603. Among other requirements, the agreement shall require Applicant to make an initial deposit of \$25,000 with the City to cover actual costs of Public Works Plan Check on a cost recovery basis. The Agreement shall also require the Applicant to make an initial deposit of \$25,000 with the City to cover the actual cost of Public Works Inspections on a cost recovery basis. **[City Attorney/Public Works]**

- d. *Dedications.* A Final Map that creates Parcel B shall also create Parcel A and shall include all dedications of public easements and/or right-of-way depicted on the approved Tentative Map, including the dedication of right-of-way along the realigned Shellmound Street and public right-of-way abutting the existing Shellmound Street fronting Parcel A, the portion of Parcel G across from Parcel A, and Parcel F. **[City Attorney/Public Works]**
- e. *Shellmound Street Abandonment.* Prior to the approval of a Final Map that creates Parcel B, the Applicant shall be required to obtain the approval of the Emeryville City Council for the abandonment and exchange of the existing Shellmound Street public right of way for the realigned Shellmound Street as shown on the approved Tentative Map.
- f. *Compliance with Stormwater Measures.* At time of submittal of Public Improvement project plans and specifications for review by the Public Works Department, the Applicant shall provide a separate C3 Stormwater Permit Packet and application to the Public Works Department for review and comment. Said Stormwater Permit shall be approved by the City prior to the issuance of an encroachment permit to construct improvements on Parcel B. The construction of improvements on Parcel B shall

comply with the attached Stormwater Measures, in particular with the provision C.3 requirements (or new development section) of the City's NPDES Stormwater Permit and with plans and calculations showing how the construction of improvements on Parcel B meets the numeric hydraulic sizing requirements as described in Section A of the attached Stormwater Measures.

[Public Works]

- g. *Construction Completion Timing.* Except as may otherwise be provided (specifically in Condition III.A.6.b.i.a) above, all public improvements required to be designed, constructed, installed and dedicated by Applicant to City in connection with Parcels B and A as set forth in Condition III.A.6 above, shall be completed by Applicant and ready for acceptance by City prior to the first to occur of issuance of a certificate of occupancy for Parcels B or A building improvements.

7. Parcel A

- a. *Permit Processing.* The Final Map that creates Parcel A shall be approved and recorded prior to issuance of building permits for construction of improvements on Parcel A.
- b. *Public Improvements (to be included with Final Map).* A Final Map that creates Parcel A shall also create Parcel B and shall be accompanied by improvement plans for the following public improvements as shown on the approved Tentative Map and as described below. This condition shall replace and supersede in its entirety Parcel A FDP 14-002 Condition IV.A.1 Public Improvements and Parcel A FDP14-002 Condition IV.A.2 Site Grading and Storm Drainage.
 - i. Applicant shall be responsible for the design, constructions, installation, and dedication of the following Public Improvements described herein, to conform to all applicable federal, state or local laws, rules, orders, regulations, policies, standards, specifications or guidelines, including but not limited to, the City of Emeryville Standards, the City of Emeryville Urban Forestry Ordinance, the Wastewater Collection System Ordinance, the Americans with Disabilities Act and implementing regulations, and California accessibility regulations, and the requirements of the most current Municipal Regional Permit issued by the Regional Water Quality Control Board for Stormwater Runoff:

- a. Design, construct, and install the realigned Shellmound Street including all public utilities (e.g. water, reclaimed water, gas, electrical, telecommunications (telephone, cable, fibre, etc.)), curb, gutter, sidewalk, street furniture, street lighting system, street trees, structural soil, landscaping, irrigation system using reclaimed water, C3 Stormwater treatment measures on both sides of Shellmound Street, and transit improvements per the requirements of the approved Tentative Map.

Permanent curb, gutter, sidewalk, street furniture, C3 treatment areas, landscaping, streetlight poles with foundations, structural soil, street tree, and transit improvements along the realigned Shellmound Street fronting Parcels A and B shall be installed with the development of each respective Parcel. Improvements fronting each parcel shall be completed prior to the issuance of a certificate of occupancy for Parcels B or A building improvements.

A temporary asphalt concrete curb and sidewalk, and temporary storm drainage inlets along the Shellmound Street frontage to Parcel B may be required at the discretion of the Public Works Director, if building permits for the construction of improvements on Parcel B has not been issued at the time of the certificate of occupancy for Parcel A.

In the event building permits for improvements on Parcel B have not been issued within 24 months from the issuance of the certificate of occupancy for Parcel A, the Public Works Director may issue a Notice to Applicant to install all remaining permanent curb, gutter, sidewalk, street furniture, C3 treatment areas, landscaping, streetlight poles with foundations, structural soil, street tree, and transit improvements and said improvements shall be completed within 12 months from receipt of the Notice and prior to the release of the performance security on the project.

The design of the asphalt concrete street shall conform to the Caltrans method of flexible pavement design with a Traffic Index (TI) of 11.

- b. Design, construct, and install a new public domestic water main and fire hydrants on Shellmound Street from Powell Street to 64th Street. The size of the public domestic water main to be determined by EBMUD. The number and location of fire hydrants to be determined by the City's Fire Department
- c. Design, construct, and install a new public storm drain on Shellmound Street from Powell Street to the Parcel B frontage as depicted on sheets TM-16 and TM17 of the Tentative Map. The storm drain shall be designed to meet the design storm requirements of the Alameda County Flood Control District.
- d. Design, construct, and install C3 stormwater treatment measures along the realigned Shellmound Street on both sides of the street adjacent to Parcels A and B. The maintenance of the C3 measures including all piping connecting to the public storm drain shall be the responsibility of the Applicant. Prior to the acceptance of the Public Street Improvements by the City, Applicant shall enter into and record in the Official Records of Alameda County, a Stormwater Treatment Measures Operations and Maintenance Agreement encumbering Parcel G, for the C3 stormwater treatment measures on Shellmound Street.
- e. Design, construct, and install a new 8 inch private sanitary sewer lateral to serve Parcel A connecting at the existing manhole for the existing 14 inch public sanitary sewer main on Shellmound Street near Shellmound Way adjacent to the Hyatt Hotel. All manholes for the private sanitary sewer lateral shall include manhole lids with the wording "Private Sanitary Sewer".
- f. Design and construct the removal of the median island, including two street trees on Shellmound Street near Shellmound Way, and restriping of

Shellmound Street to include bike lanes as shown on sheet TM-08 of the Tentative Map.

- ii. *Site Grading and Storm Drainage:* The Public Works Director shall confirm that the Public Improvement Plans for Parcel A include grading plans which direct stormwater runoff to the new storm drain on Shellmound Street to be constructed as part of the Shellmound Street realignment as depicted on the Tentative Map referenced above. **[Public Works]**
- c. *Improvement Agreement.* Prior to the approval of a Final Map that creates Parcels A and B, Applicant shall enter into a Public Improvement Agreement with the City of Emeryville to ensure the faithful performance of the design, construction, installation and inspection of all public improvements provided in **SUBDIV15-002** Condition III.A.7 secured by good and sufficient payment, performance, and one (1) year warranty bonds or cash deposit adequate to cover all of the costs, inspections and administrative expenses of completing such improvements in the event of a default. The value of the bonds or cash deposit shall include 100% of the cost of construction based on prevailing wage rates. The value of the warranty bond or cash deposit shall be equivalent to 10% of the value of the performance security. The agreement shall provide for security to be released in portions as work is completed and accepted. The balance of the security shall be released upon the settlement of all claims and obligations for which the security was given. The agreement may be approved by the City Manager as recommended by the City Engineer and approved as to form by the City Attorney pursuant to Municipal Code Section 9-6.603. Among other requirements, the agreement shall require Applicant to make an initial deposit of \$25,000 with the City to cover actual costs of Public Works Plan Check on a cost recovery basis. The Agreement shall also require the Applicant to make an initial deposit of \$25,000 with the City to cover the actual cost of Public Works Inspections on a cost recovery basis. **[City Attorney/Public Works]**
- d. *Dedications.* A Final Map that creates Parcel A shall also create Parcel B and shall include all dedications of public easements and/or right-of-way depicted on the approved Tentative Map, including the dedication of the realigned Shellmound Street right of way, and public right-of-way abutting the existing Shellmound Street fronting Parcel A , portion of Parcel G that is across from Parcel A, and Parcel F. **[City Attorney/Public Works]**

- e. *Amtrak Pedestrian Bridge* Prior to the approval of a Final Map that creates Parcel A, the Applicant shall obtain the approval of the Emeryville City Council for the adjustment of the property line surrounding the Amtrak Pedestrian Bridge Tower and for the approval of the relocation of the existing public pedestrian access easement on Parcel A. The Applicant shall be required to grant to the City public access over Parcel A for maintenance of the existing bridge structure. Said easements for relocation of the existing public pedestrian access easement and for access over Parcel A for purposes of facilitating maintenance of the existing bridge structure shall be created by separate instruments from the Final Map for Parcel A and recorded concurrently with the Final Map for Parcel A.
- f. *Compliance with Stormwater Measures*. At time of submittal of Public Improvement plans and specifications for review by the Public Works Department, the Applicant shall provide a separate C3 Stormwater Permit Packet and application to the Public Works Department for review and comment. Said Stormwater Permit shall be approved by the City prior to the issuance of an encroachment permit to construct the improvements. The project shall comply with the attached Stormwater Measures, in particular with the provision C.3 requirements (or new development section) of the City's NPDES Stormwater Permit and with plans and calculations showing how the project meets the numeric hydraulic sizing requirements as described in Section A of the attached Stormwater Measures. **[Public Works]**
- g. *Subdivision Approval* Approval and recording of a Final Map that creates Parcel A shall be required prior to the issuance of a building permit on Parcel A. The recording of a Parcel Map or a lot line adjustment that adjusts the property line adjacent to the tower for the Amtrak Pedestrian Bridge in lieu of a Final Map will not be permitted as stated in FDP 14-002 Condition II B.1.
- h. *Construction Completion Timing*. Except as may otherwise be provided (specifically in Condition III.A.7.b.i.a.) above, all public improvements required to be designed, constructed, installed and dedicated by Applicant to City in connection with Parcels A and B as set forth in Condition III.A.7 above, shall be completed by Applicant and ready for acceptance by City prior to the first to occur of issuance of a certificate of occupancy for Parcels A or B building improvements.

8. Parcel F

- a. A Final Map that creates Parcel F shall be approved in conjunction with an FDP for Parcel F. **[Public Works]**

9. Parcel G (Existing Public Market Place Parcel)

- a. A Final Map that creates any new Parcel shown on the Tentative Map shall require the following improvements on Parcel G. **[Public Works]**

(i) Building Sewer Lateral Prior to the approval of any Final Map, Applicant shall provide a valid Certificate of Compliance from East Bay Municipal Utility District (EBMUD) indicating that the existing building sewer laterals comply with the requirements of the EBMUD Regional PSL Ordinance. All manholes for the existing private sanitary sewer laterals shall include manhole lids with the wording “Private Sanitary Sewer”.

(ii) Private Fire Water The abandonment of the existing private fire water service / hydrants as depicted on the Tentative Map. Said abandonment can be performed in phases along with the multiple Final Maps as approved by the City Engineer.

(iii) Trash Capture Devices All storm drain inlets on the existing parking area on the west side of the existing Market Place Building shall be equipped with Full Trash Capture Devices as approved by the City Engineer.

- b. Compliance with Stormwater C3 Provisions. The Applicant shall be required to make improvements to Parcel G as needed and as provided in Condition IV.B.1[Stormwater Improvements for Parcel G] to comply with the requirements of Municipal Regional Permit of the Regional Water Quality Control Board Stormwater Treatment Requirements for New Developments. **[Public Works]**
- c. Dedications. A Final Map that creates any new Parcel shown on the Tentative Map shall include the dedication to the City of the Emergency Vehicle Access Easement on Parcel G from 62nd Street to Shellmound Street. **[City Attorney/Public Works]**

10. Parcel H

- a. A Final Map that includes Parcel H shall be prepared in accordance with Municipal Code Section 9-6.213 and shall be

accompanied by data and reports as set forth in Section 9-6.214 and Section 66443 of the Subdivision Map Act. [**Public Works**]

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

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

C. LANDSCAPING AND STREET TREE STANDARDS

1. Landscaping Plans. The Public Improvement Plans required by these conditions of approval shall include detailed public improvement landscaping and irrigation plans for the approval of the Public Works Director. The plans shall conform to Title 9 Section 4.602 "Water Efficient and Bay Friendly Landscaping" of the Emeryville Municipal Code, including guidelines from StopWaste.org, the Alameda Countywide Clean Water Program C3 Stormwater Technical Guidance, and EBMUD requirements for reclaimed water.

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

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

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

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

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

D. ONGOING

2. Damage to Public Facilities. Applicant shall be deemed responsible for any damage to public improvements that occurs during construction and that is caused by construction and shall repair such damage at its expense and to the satisfaction of the Public Works Director, including but not limited to sidewalk repair, street slurry seal or street reconstruction. **[Public Works]**
3. Maintenance of Street Trees, Stormwater C3 plantings, and other vegetation in the Public Right of Way: Applicant, its successors and assigns, shall maintain all landscaping improvements in the public areas fronting the property, in a healthy, growing condition at all times according to Bay Friendly Landscaping Practices as described by StopWaste.org's Bay Friendly Landscaping program. The landscaped areas shall be irrigated by an automatic system designed to reduce water usage. Applicant shall replace all landscaping that dies with the exact living species, or substitutes approved by the Public Works Director after obtaining an encroachment permit from the City. Landscaping work shall comply with the provisions of Chapter 10 of Title 7 of the Emeryville Municipal Code. **[Public Works]**

IV. STORMWATER

A. GENERAL.

1. Design, Construction, Operation, and Maintenance. The public improvements 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”). **[Public Works]**

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. Stormwater Improvements for Parcel G. Compliance with the Municipal Regional Stormwater Permit for Parcel G shall be demonstrated prior to issuance of a building permit for construction of improvements to a parcel (including Parcels A, B, C, D, F or G) where redevelopment of such parcel would, when considered with previously redeveloped parcels, cumulatively result in an alteration of more than 50 percent of the impervious surface of the Tentative Map boundaries. *For purposes of illustration only, if the parcels are developed in the following order, compliance with the Municipal Regional Stormwater Permit for Parcel G shall be demonstrated prior to issuance of a building permit for Parcel B.*

Parcel	Acreage
Parcel C (with improvements to 63 rd St., 62 nd St. and Market Drive	3.40
Parcel D	1.79
Parcel E	-- (acreage not included since park is pervious)
Parcel B (with Shellmound St. realignment)	2.81
Parcel A	1.88
Parcel F	0.20
Parcel G	4.04
Parcel H	0.38

Total	14.5 (not including pervious park acreage)
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Compliance may be demonstrated through utilization of “Special Project” credits, exemptions, demonstration of infeasibility or other means, as approved by the City Engineer, in consultation with the Regional Water Quality Control Board if such consultation is deemed necessary. If the Applicant has made good faith efforts to demonstrate compliance with the Municipal Regional Stormwater Permit, but the City and/or the RWQCB have not concluded their compliance review, building permits for parcels resulting in an alteration of more than 50 percent of the impervious surface of the Tentative Map boundaries may be issued at the discretion of the City Engineer provided that the Applicant posts security for the completion of stormwater improvements as determined by the City Engineer to be necessary for compliance. Once the methodology for determining compliance is determined (including applicability of Special Project credits, exemptions, and infeasibility or in-lieu projects) or improvements are constructed, security shall be released. Notwithstanding the foregoing, prior to issuance of a certificate of occupancy for any parcel for which a building permit was issued subject to the City and/or the RWQCB completing conclusive compliance review, the final method for achieving compliance shall have been determined including a determination of an exemption or infeasibility or compliance through payment of in-lieu fees. In the event that improvements are required, said improvements shall have been constructed or Applicant shall have entered into and executed a contract for construction for the completion of said improvements and posted security with City for the completion of said improvements. **[Public Works]**