

<b>Location:</b>	786 46 <sup>th</sup> Avenue
<b>Assessors Parcel Numbers:</b>	034 -2293-002-02
<b>Proposal:</b>	To establish a Heavy Manufacturing activity on a vacant lot of greater than 1 acre in the IG Zone, and a Category II Creek Permit for work more than 100 feet from a creek.
<b>Applicant:</b>	Peter Clark -Clausen Structural Engineering, Inc.
<b>Owner:</b>	Learninr Investment Co.
<b>Planning Permits Required:</b>	Major Conditional Use Permit for a new Heavy Manufacturing activity, and a Category II Creek permit for work within 100 feet of a protected creek
<b>Case File Number</b>	PLN14097
<b>General Plan:</b>	General Industrial and Transportation
<b>Zoning:</b>	IG, general Industrial
<b>Environmental Determination:</b>	Exempt, Section 15332, State CEQA Guidelines, In-fill Development Project Exempt, Section 15183 of the State CEQA Guidelines: Projects consistent with a community plan, general plan or zoning
<b>Historic Status:</b>	Vacant lot
<b>Service Delivery District:</b>	5
<b>City Council District:</b>	5
<b>Finality of Decision</b>	Appealable to the City Council within 10 days
<b>Date Filed:</b>	April 17, 2014
<b>Staff recommendation:</b>	Decision based on staff report
<b>For further information:</b>	Contact case planner <b>Moe Hackett, 238-3973 or</b> <a href="mailto:mhackett@oaklandnet.com">mhackett@oaklandnet.com</a>

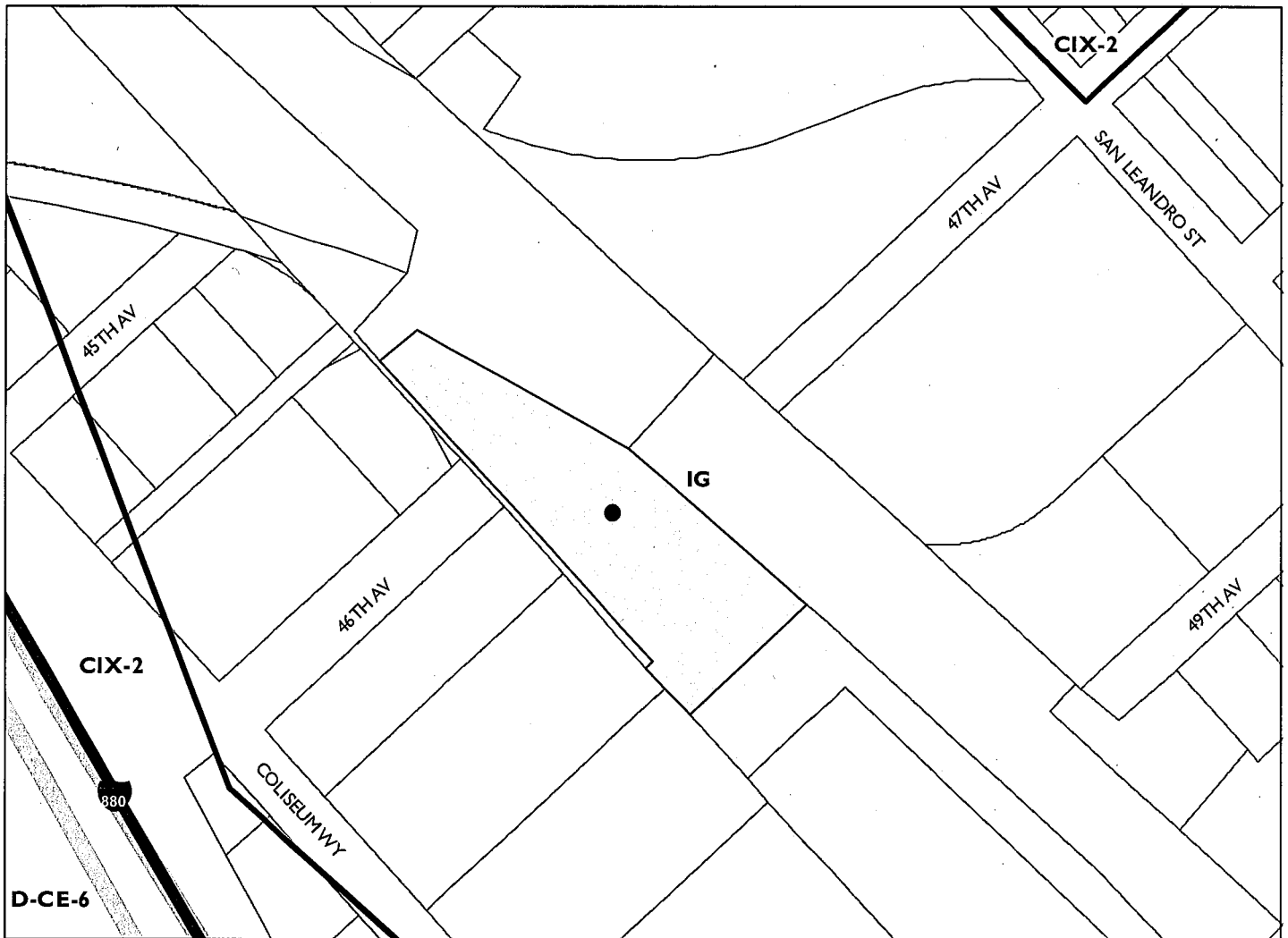
**SUMMARY**

Peter Clark -Clausen Structural Engineering, Inc. on behalf of Nor-Cal Rock LLC has submitted a Major Conditional Use Permit and associated creek permit for the establishment of a Heavy Manufacturing Activity that involves the processing of construction materials (commonly the crushing of concrete to create aggregate materials for constructions related uses). The proposal would take place on a 1.8 acre vacant lot in an industrial zone and would entail the movement of rubble (typically the delivery of larger concrete materials from off-site demolition projects), and pulverization of that material into a more basic aggregate material that is then removed from the site. The site would operate between the business hours of 6:00 am to 5:00 pm Mondays through Fridays, and would employ 4 full time employees

The raw materials and the final pulverized product will be moved on and off site by 18 wheel rig trucks which will access the site by way of 46th Avenue which connects to Coliseum Way approximately 400 feet away.

Staff recommends approval of the project subject to the plans and attached conditions.

# CITY OF OAKLAND PLANNING COMMISSION



0 125 250 500 750 1,000 Feet



Case File: PLN14097  
Applicant: Nor Cal Rock LLC./ Peter Clark  
(Clausen Structural Engineers, Inc.)  
Address: 768 46th Avenue  
Zone: IG

**PROJECT DESCRIPTION**

The applicant proposes to utilize the site for the processing of large items of debris including concrete, asphalt, and rock into aggregate materials. All materials would be trucked to the site and processed on site which functions as an open facility. The equipment on site would consist of (typically) a mobile crusher, conveyors, front loader(s), and excavator(s). The applicant proposes to include an office trailer, a haul away dumpster, large water tanks, and portable toilet(s). The site will also include a K-rail barrier located 100 feet from the western boundary of the lot to isolate the activities from, and to protect, the nearby Peralta Creek. Pursuant to Specific Conditions #27 and #28 the applicant / operators shall establish additional site improvement as they are required by the Bureau of Building and Bureau of Planning. Site improvement could include but are not limited to permanent sanitary facilities (sewer lines /laterals, electrical modifications, and fixed / permanent structures, and screening and landscaping.

This operation consists of a Heavy Manufacturing Activity as determined by a previous determination (DET10-038). Under Section 17.10.050C of the Planning Code. Staff has defined the crushing and/or pulverization of previously used concrete and/or rock into a smaller aggregate material as follows:

*"Industrial Activities shall be classified within the Heavy/ High Impact Manufacturing Activities type if they have any of its characteristics".*

The use most likely resembles concrete and asphalt manufacturing and as a result it is determined that the use is consistent with a Heavy /High Impact Industrial Manufacturing Activity. The project also includes a Creek protection Permit due to the Peralta Creek which abuts the property on its North West corner. As stated above the project has been designed to create a 100' reserve between the creek and any onsite activities. As such the Creek Permit has been determined to be a Category II Creek Permit.

**PROPERTY DESCRIPTION**

The existing site is a vacant lot of 1.8 acres at the north terminus of 46<sup>th</sup> Avenue (a dead end cul-de-sac), and is bound by the Peralta Creek at the west and the Union Pacific rail road corridor to the North. The site also abuts 4600, 4700, 4800 Coliseum Way, and 768 50<sup>th</sup> Street. The site is currently unpaved and has no permanent utilities. The property is located entirely within an industrial environment and is accessed via Coliseum way.

**GENERAL PLAN ANALYSIS**

The subject property is located within the General Industrial General Plan Land Use classification. The General Industrial land use classification is intended to recognize, preserve, and enhance areas for a wide variety of businesses and related establishments that may have potential to create off-site impacts such as noise, light/ glare, truck traffic, and odor. Heavy industrial and manufacturing are included in the list of desired uses in this zone. The General Plan's General Industrial Objective and Policy (I/C4.2) which seeks to minimize the potential for new or existing industrial or commercial uses to create nuisance impacts on surrounding residential land makes this proposed activity an excellent fit for this location.

The site also provides for expansion (potential rail access), easy access to an important commercial industrial corridor and truck route and is compatible with the surrounding uses, and vast separation from sensitive or residential uses. With regard to possible impacts to abutting properties, the 1.8 acre size of the site will allow for the implementation of mitigations methods for things such as dust control.

**ZONING ANALYSIS**

The subject property is located within the IG, General Industrial Zone. The intent of the IG or General Industrial Zones is to preserve, and enhance areas of the City that are appropriate for a wide variety of businesses and related commercial and industrial establishments that may have the potential to generate off-site impacts such as noise, light /glare, odor, and traffic. This zone allows for heavy industrial and manufacturing uses, transportation facilities, warehousing and distribution, and similar and related supporting uses.

**Required Permits**

The proposed use as a "rock, asphalt, and concrete crushing open facility" is classified as a Heavy / High Impact Manufacturing Activity (17.10.580), which is permitted in the IG Zone upon the granting of a Major Conditional Use Permit. The proposed project also requires a Category II Creek Protection Permit (Oakland Municipal Code Chapter 13.16) for exterior work that does not include earthwork and is located more than 100 feet from the centerline of the Creek.

**Parking**

Per Zoning Code Section 17.116.09 the prescribed number of parking spaces for this use (Industrial Activities) shall be one space for each 1,500 square feet of floor area or for each three employees whichever is greater. The office trailer requested is 30' X 10' and the total number of employees is planned to be 3 to 4. The site is plans identify enough unplanned area to meet the minimum amount of parking (1 parking space), however, the large open 1.8 acre site would be able to accommodate far more parking than required by the Planning Code if needed.

**ENVIRONMENTAL DETERMINATION**

For purposes of environmental review under the California Environmental Quality Act (CEQA), the project meets the criteria for a Categorical Exemption under Section 15332 of the CEQA Guidelines (In-fill Exemption Projects), and Section 15183 of the CEQA Guidelines (conformity to a community plan, general plan or zoning). The subject property at present is not in use and the proposal does not purpose to significantly alter the site amenities or infrastructure, and does not contain any historic resources and is not a hazardous materials site listed on the Cortes List, which are exceptions to the above exemption 15332.

**KEY ISSUES AND IMPACTS****Building Design**

The proposed site is vacant with very few if any utilities and site amenities. The applicant has demonstrated to staff that it is possible to operate such a facility without utility hook ups such as water and sanitary sewage lines (through operational examples in other jurisdictions). However, Staff has advised the applicants that this site and the entitlements that this general use permit would allow would establish a permanent facility. As such site improvements are both prudent and may be imposed by the Bureau of Building. For this reason the Bureau of Planning Staff has deferred the final determination for the requirement of additional site amenities (including, but not limited to power, water, and sewage, as well as permanent structures) to the Bureau of Building's Building Official (see **Specific Condition # 27**). Staff has also included conditions (**Specific Condition # 28**) which requires additional screening for the adjacent rail corridor. This provision is designed to help lessen the visual harshness that such an operation presents to rail passengers who travel through the city.

The project site is adjacent to an open creek, but is designed to establish a barrier made of K-rail that will create a 100-foot separation between the on-site operations and the creek. (**Specific Condition # 31**)

Dust created by on-site activities will be mitigated by spraying a water on the aggregate and processing area (**Specific Condition # 30**), but not to the extent of allowing run off water to flow into the creek (**Specific Condition # 31**).

Truck traffic and noise are to be expected in this zone and are within the ability of the General Industrial Zones infrastructure to handle the additional heavy manufacturing requirements. (**Specific Condition # 32**)

## CONCLUSION

The proposed rock and concrete pulverizing operation is an acceptable use in this area, and will present very few impacts to the surrounding uses which are similarly zoned. The facility would benefit the neighborhood, the community, and the City with the continuation of an industrial use in a location that is ideally suited and zoned for such activities. Staff recommends approval of the project subject to the plans and attached conditions.

## RECOMMENDATIONS:

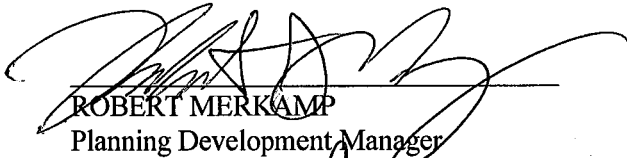
1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit and Creek Protection Permit subject to the attached Findings and Conditions of Approval.

Prepared by:

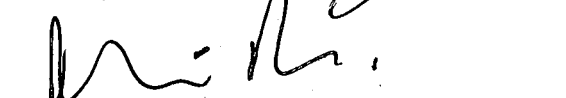


MOE HACKETT  
Planner II

Approved by:



ROBERT MERKAMP  
Planning Development Manager



DARIN RANELLETTI, DEPUTY DIRECTOR  
Department of Planning and Building

## ATTACHMENTS:

- A. Findings
- B. Conditions of Approval
- C. Project Plans

**ATTACHMENT A**

**FINDINGS FOR APPROVAL**

This proposal meets the required findings under Sections 17.134.050 General Use Permit Criteria, and Section 17.136.050(B) Non-Residential Design Review Findings, as set forth below. Required findings are shown in **bold type**; explanations as to why these findings can be made are in normal type.

**Section 17.134.050 (General Use Permit Criteria):**

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

The proposed Heavy and High Impact Manufacturing activity will be located on a 1.8 acre undeveloped / vacant lot located in an area with zoning which allows for high impact manufacturing activities such as these. The lot is accessed by way of 46<sup>th</sup> Avenue and Coliseum Way. The scope and scale of this operation in in keeping with the intent of the zoning, the lot and the surrounding infrastructure, and should not cause in unacceptable impact beyond that which would be expected from a use of this nature. The current site has no current utilities and with the provisions of **Specific Condition #27** the applicant shall be required to develop the site to the standards prescribed by the City Of Oakland Building Code, and Fire Code, at the discretion of the Building Official (or designee).

- B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

The activity will provide a convenient and functional industrial environment for high impact manufacturing activities in a facility that is separated from sites and operations that feature less intense commercial or residential activities. The proposed design represents a continuation of open facility uses on a vast scale. If required by **Specific Condition #27**, improvement to the existing open facility will add increased functionality and future utility to the location and setting.

- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

The proposed activity will allow for a desired level of impactive activity within the existing context of the General Industrial Zone. Reuse and reprocessing of construction materials provides an essential service to the community and the region by avoiding placing these materials in land fills.

- D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.050.**

The site is in an existing un-developed portion of the Coliseum Way corridor and industrial East Oakland. The addition of heavy and high impact manufacturing activity at this location will create a

***CONDITIONS OF APPROVAL***

positive use that is intended within this area, and will allow for a minimum visual impact to areas with lighter commercial uses and recreational or residential uses. Specific Condition # 28 will address the momentary view of the site that is created by passenger rail service along the adjacent rail corridor.

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

The proposal conforms to the General Industrial General Plan classification as that designation seeks to recognize, preserve, and enhance areas for a wide variety of businesses and related establishments that may have potential to create off-site impacts such as noise. This ongoing use of an existing open facility will allow for an ideal expansion of industrial activities use within Industrial East Oakland.

**ENVIRONMENTAL DETERMINATION**

For purposes of environmental review under the California Environmental Quality Act (CEQA), the project meets the criteria for a Categorical Exemption under Section 15332 of the CEQA Guidelines. The criteria for a Categorical Exemption under Section 15332 of the CEQA guidelines are as follows:

- 1) The project is consistent with the applicable general plan designation and all general plan policies as well as with applicable zoning designation and regulations.**

The Zoning Manager had made a General Plan Determination that the subject proposal for a Heavy Manufacturing activity is consistent with the General Industrial General Plan Land Use classification, and as such applied a desired use of IG. By meeting the required findings for the Conditional Use permit the proposal is consistent with the Zoning.

- 2) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.**

The development site is located within the Oakland City limits, is less than five acres and is completely surrounded by commercial or industrial uses.

- 3) The project site has no value as habitat for endangered, rare, or threatened species.**

The project site is undeveloped as an industrial lot with other such industrial and commercial activities (open facilities and enclosed alike) and does not contain any habitat for endangered, rare, or threatened species.

- 4) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.**

The proposal is within the capacity of the surrounding area to accommodate vehicle access, and levels of traffic trip generation. The proposal will not create significant additions to trip generation beyond the levels of like commercial / industrial activities. With implementation of standard and specific conditions of approval related to ongoing performance standards of the project would not result in any significant impacts on, noise, air quality, or water quality.

- 5) The site can be adequately served by all required utilities and public services.**

All required utilities are readily accessible on the surrounding streets, and although the operation is capable of functioning with a minimum of actual utilities. The site can be adequately served by public services in the area.

***CONDITIONS OF APPROVAL***



**ATTACHMENT B**

**CONDITIONS OF APPROVAL**

**STANDARD CONDITIONS:**

**1. Approved Use**

***Ongoing***

- a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, and staff report, and the plans dated **April 22, 2014**, and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall require prior written approval from the Director of City Planning or designee.
- b) This action by the **City Planning Commission** ("this Approval") includes the approvals set forth below. This Approval includes: **Major Conditional Use Permit for the establishment of a Heavy and High Impact Manufacturing activity on a 1.8 acre site, and The application complies with the Creek Protection Permit criteria (Section 13.16) as set forth in the Oakland Municipal Code.**

**2. Effective Date, Expiration, Extensions and Extinguishment**

***Ongoing***

Unless a different termination date is prescribed, this Approval shall expire **two years** from the approval date, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit for this project may invalidate this Approval if the said extension period has also expired.

**3. Scope of This Approval; Major and Minor Changes**

***Ongoing***

The project is approved pursuant to Sections 17.134.050 and 17.136.070(b) of the City Planning Code only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

**4. Conformance with other Requirements**

***Prior to issuance of a demolition, grading, P-job, or other construction related permit***

- a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval 3.

**CONDITIONS OF APPROVAL**

- b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

**5. Conformance to Approved Plans; Modification of Conditions or Revocation**

***Ongoing***

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, Conditions or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

**6. Signed Copy of the Conditions**

***With submittal of a demolition, grading, and building permit***

A copy of the approval letter and Conditions shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

**7. Indemnification**

***Ongoing***

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b) Within ten (10) calendar days of the filing of any Action as specified in subsection A above, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of

Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

**8. Compliance with Conditions of Approval**

***Ongoing***

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

**9. Severability**

***Ongoing***

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions, and if one or more of such conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions consistent with achieving the same purpose and intent of such Approval.

**10. Job Site Plans**

***Ongoing throughout demolition, grading, and/or construction***

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval, shall be available for review at the job site at all times.

**11. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management(if required)**

***Prior to issuance of a demolition, grading, and/or construction permit***

The project applicant may be required to pay for on-call third-party special inspector(s)/inspections as needed during the times of extensive or specialized plancheck review or construction. The project applicant may also be required to cover the full costs of independent technical review and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

**12. Improvements in the Public Right-of-Way (General) (if required)**

***Approved prior to the issuance of a P-job or building permit***

- a) The project applicant shall submit Public Improvement Plans to Building Services Division for adjacent public rights-of-way (ROW) showing all proposed improvements and compliance with the conditions and City requirements including but not limited to curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design specifications and locations of facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking and accessibility improvements compliant with applicable standards and any other improvements or requirements for the project as provided for in this Approval. Encroachment permits shall be obtained as necessary for any applicable improvements- located within the public ROW.
- b) Review and confirmation of the street trees by the City's Tree Services Division is required as part of this condition.

- c) The Planning and Zoning Division and the Public Works Agency will review and approve designs and specifications for the improvements. Improvements shall be completed prior to the issuance of the final building permit.
- d) The Fire Services Division will review and approve fire crew and apparatus access, water supply availability and distribution to current codes and standards.

**13. Payment for Public Improvements (if required)**

*Prior to issuance of a final inspection of the building permit.*

The project applicant shall pay for and install public improvements made necessary by the project including damage caused by construction activity.

**14. Compliance Matrix**

*Prior to issuance of a demolition, grading, or building permit (if required)*

The project applicant shall submit to the Planning and Zoning Division and the Building Services Division a Conditions compliance matrix that lists each condition of approval, the City agency or division responsible for review, and how/when the project applicant has met or intends to meet the conditions. The applicant will sign the Conditions of Approval attached to the approval letter and submit that with the compliance matrix for review and approval. The compliance matrix shall be organized per step in the plancheck/construction process unless another format is acceptable to the Planning and Zoning Division and the Building Services Division. The project applicant shall update the compliance matrix and provide it with each item submittal.

**15. Construction Management Plan (if required)**

*Prior to issuance of a demolition, grading, or building permit*

The project applicant shall submit to the Planning and Zoning Division and the Building Services Division for review and approval a construction management plan that identifies the conditions of approval related to construction impacts of the project and explains how the project applicant will comply with these construction-related conditions of approval.

**16. Dust Control**

*Prior to issuance of a demolition, grading or building permit*

During construction, the project applicant shall require the construction contractor to implement the following measures required as part of Bay Area Air Quality Management District's (BAAQMD) basic and enhanced dust control procedures required for construction sites. These include:

- a) Water all active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
- b) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c) 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.
- d) Sweep daily (with water sweepers using reclaimed water if possible) all paved access roads, parking areas and staging areas at construction sites.
- e) Sweep streets (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.
- f) Limit the amount of the disturbed area at any one time, where feasible.
- g) Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.

- h) Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
- i) Replant vegetation in disturbed areas as quickly as feasible.
- j) Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- k) Limit traffic speeds on unpaved roads to 15 miles per hour.
- l) Clean off the tires or tracks of all trucks and equipment leaving any unpaved construction areas.
- m) All "Basic" controls listed above, plus:
- n) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- o) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more).
- p) Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the BAAQMD prior to the start of construction as well as posted on-site over the duration of construction.
- q) Install appropriate wind breaks at the construction site to minimize wind blown dust.

**17. Construction Emissions (if required)**

***Prior to issuance of a demolition, grading or building permit***

To minimize construction equipment emissions during construction, the project applicant shall require the construction contractor to:

- a) Demonstrate compliance with Bay Area Air Quality Management District (BAAQMD) Regulation 2, Rule 1 (General Requirements) for all portable construction equipment subject to that rule. BAAQMD Regulation 2, Rule 1 provides the issuance of authorities to construct and permits to operate certain types of portable equipment used for construction purposes (e.g., gasoline or diesel-powered engines used in conjunction with power generation, pumps, compressors, and cranes) unless such equipment complies with all applicable requirements of the "CAPCOA" Portable Equipment Registration Rule" or with all applicable requirements of the Statewide Portable Equipment Registration Program. This exemption is provided in BAAQMD Rule 2-1-105.
- b) Perform low- NOx tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) shall be performed for such equipment used continuously during the construction period.

**18. Days/Hours of Construction Operation**

***Ongoing throughout demolition, grading, and/or construction***

The project applicant shall require construction contractors to limit standard construction activities as follows:

- a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday.
- b) Any construction activity proposed to occur outside of the standard hours of 7:00 am to 7:00 pm Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is

shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.

- c) Construction activity shall not occur on Saturdays, with the following possible exceptions:
  - i. Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.
  - ii. After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.
- d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.
- e) No construction activity shall take place on Sundays or Federal holidays.
- f) Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.
- g) Applicant shall use temporary power poles instead of generators where feasible.

#### 19. Noise Control

##### *Ongoing throughout demolition, grading, and/or construction*

To reduce noise impacts due to construction, the project applicant shall require construction contractors to implement a site-specific noise reduction program, subject to the Planning and Zoning Division and the Building Services Division review and approval, which includes the following measures:

- a) Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).
- b) Except as provided herein, Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.
- c) Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- d) The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

## ***CONDITIONS OF APPROVAL***

**20. Noise Complaint Procedures*****Ongoing throughout demolition, grading, and/or construction***

Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the Building Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

- a) A procedure and phone numbers for notifying the Building Services Division staff and Oakland Police Department; (during regular construction hours and off-hours);
- b) A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);
- c) The designation of an on-site construction complaint and enforcement manager for the project;
- d) Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and
- e) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

**21. Interior Noise(if required)*****Prior to issuance of a building permit and Certificate of Occupancy***

If necessary to comply with the interior noise requirements of the City of Oakland's General Plan Noise Element and achieve an acceptable interior noise level, noise reduction in the form of sound-rated assemblies (i.e., windows, exterior doors, and walls), and/or other appropriate features/measures, shall be incorporated into project building design, based upon recommendations of a qualified acoustical engineer and submitted to the Building Services Division for review and approval prior to issuance of building permit. Final recommendations for sound-rated assemblies, and/or other appropriate features/measures, will depend on the specific building designs and layout of buildings on the site and shall be determined during the design phases. Written confirmation by the acoustical consultant, HVAC or HERS specialist, shall be submitted for City review and approval, prior to Certificate of Occupancy (or equivalent) that:

- (a) Quality control was exercised during construction to ensure all air-gaps and penetrations of the building shell are controlled and sealed; and
- (b) Demonstrates compliance with interior noise standards based upon performance testing of a sample unit.
- (c) Inclusion of a Statement of Disclosure Notice in the CC&R's on the lease or title to all new tenants or owners of the units acknowledging the noise generating activity and the single event noise occurrences. Potential features/measures to reduce interior noise could include, but are not limited to, the following:
  - i. Installation of an alternative form of ventilation in all units identified in the acoustical analysis as not being able to meet the interior noise requirements due to adjacency to a noise generating activity, filtration of ambient make-up air in each unit and analysis of ventilation noise if ventilation is included in the recommendations by the acoustical analysis.
  - ii. Prohibition of Z-duct construction.

**22. Operational Noise-General*****Ongoing.***

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

**23. Construction Traffic and Parking(if required)*****Prior to the issuance of a demolition, grading or building permit***

The project applicant and construction contractor shall meet with appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of this project and other nearby projects that could be simultaneously under construction. The project applicant shall develop a construction management plan for review and approval by the Planning and Zoning Division, the Building Services Division, and the Transportation Services Division. The plan shall include at least the following items and requirements:

- a) A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.
- b) Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.
- c) Location of construction staging areas for materials, equipment, and vehicles at an approved location.
- d) A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. Planning and Zoning shall be informed who the Manager is prior to the issuance of the first permit issued by Building Services.
- e) Provision for accommodation of pedestrian flow.

**Major Project Cases:**

- f) Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces on **83rd Avenue**.
- g) Any damage to the street caused by heavy equipment, or as a result of this construction, shall be repaired, at the applicant's expense, within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to issuance of a final inspection of the building permit. All damage that is a threat to public health or safety shall be repaired immediately. The street shall be restored to its condition prior to the new construction as established by the City Building Inspector and/or photo documentation, at the applicant's expense, before the issuance of a Certificate of Occupancy.
- h) Any heavy equipment brought to the construction site shall be transported by truck, where feasible.
- i) No materials or equipment shall be stored on the traveled roadway at any time.
- j) Prior to construction, a portable toilet facility and a debris box shall be installed on the site, and properly maintained through project completion.
- k) All equipment shall be equipped with mufflers.



- l) Prior to the end of each work day during construction, the contractor or contractors shall pick up and properly dispose of all litter resulting from or related to the project, whether located on the property, within the public rights-of-way, or properties of adjacent or nearby neighbors.

**24. Hazards Best Management Practices**

***Prior to commencement of demolition, grading, or construction***

The project applicant and construction contractor shall ensure that construction of Best Management Practices (BMPs) are implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following:

- a) Follow manufacture's recommendations on use, storage, and disposal of chemical products used in construction;
- b) Avoid overtopping construction equipment fuel gas tanks;
- c) During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d) Properly dispose of discarded containers of fuels and other chemicals.
- e) Ensure that construction would not have a significant impact on the environment or pose a substantial health risk to construction workers and the occupants of the proposed development. Soil sampling and chemical analyses of samples shall be performed to determine the extent of potential contamination beneath all UST's, elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition, or construction activities would potentially affect a particular development or building.
- f) If soil, groundwater or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notification of regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

**25. Waste Reduction and Recycling**

The project applicant will submit a Construction & Demolition Waste Reduction and Recycling Plan (WRRP) and an Operational Diversion Plan (ODP) for review and approval by the Public Works Agency.

***Prior to issuance of demolition, grading, or building permit***

Chapter 15.34 of the Oakland Municipal Code outlines requirements for reducing waste and optimizing construction and demolition (C&D) recycling. Affected projects include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3), and all demolition (including soft demo). The WRRP must specify the methods by which the development will divert C&D debris waste generated by the proposed project from landfill disposal in accordance with current City requirements. Current standards, FAQs, and forms are available at [www.oaklandpw.com/Page39.aspx](http://www.oaklandpw.com/Page39.aspx) or in the Green Building Resource Center. After approval of the plan, the project applicant shall implement the plan.

***Ongoing***

The ODP will identify how the project complies with the Recycling Space Allocation Ordinance, (Chapter 17.118 of the Oakland Municipal Code), including capacity calculations, and specify the

methods by which the development will meet the current diversion of solid waste generated by operation of the proposed project from landfill disposal in accordance with current City requirements. The proposed program shall be implemented and maintained for the duration of the proposed activity or facility. Changes to the plan may be re-submitted to the Environmental Services Division of the Public Works Agency for review and approval. Any incentive programs shall remain fully operational as long as residents and businesses exist at the project site.

**26. Lighting Plan**

***Prior to the issuance of an electrical or building permit***

The proposed lighting fixtures shall be adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. Plans shall be submitted to the Planning and Zoning Division and the Electrical Services Division of the Public Works Agency for review and approval. All lighting shall be architecturally integrated into the site.

**PROJECT SPECIFIC CONDITIONS**

**27. Permanent Site Improvements and Ongoing Operations.**

***a. Prior to start of operations, issuance of a building permit /Ongoing***

At the discretion of the Deputy Director Building Official (or her or his designee), the applicant, owner, or operator of this site and facility shall be required to develop the site to the standards prescribed by the City Of Oakland building code, and Fire Code. These Site improvement include, but are not limited to, permanent sanitary facilities (sewer lines /laterals, restroom facilities, electrical modifications, fixed / permanent structures, and screening and landscaping As approved the activity on the site shall at a minimum provide an office trailer onsite, a portable toilet facility (in lieu of permanent restroom facilities. Portable toilets shall be maintained and serviced regularly and in good condition), two permanent onsite water tanks of 5,000 and 2,500 gallons each (to mitigate dust and operate processing equipment), and truck wheel screens (to mitigate the transporting of material to the surrounding streets). This condition shall be open to amendment at the discretion of the Zoning Manager, Oakland Fire Department, or Deputy Director Building Official as deemed necessary for public health and safety.

**28. Site Screening and Landscaping and Creek Protection Measures**

***a. Prior to start of operations /Ongoing***

Prior to the start of operation applicant, owner, or operator of this site and facility shall submit detailed fence, K-rail, and landscaping plans to be approved by the Zoning Manager. These plans shall detail the location of new or replacement fencing and K-Rail at the north property line (along the rail road right of way). These plans shall be approved for plant species and irrigation method. All approved fencing and planting (landscaping) shall be maintained in good condition, and plantings shall be replaced or fully replanted as needed, or at the Zoning Managers discretion. All K-rail placements shall maintain a 100-foot separation to the edge of the creek bank as indicated on plans. No activity shall take place beyond this barrier. No water shall introduce to or removed from the creek as part of this operation and facility.

**29. Parking for Staff**

***a. Prior to start of operations /Ongoing***

A minimum of 4 parking spaces shall be maintain on site at all times for employee or visitor parking. A safe automation maneuvering path shall be provided.

**30. Operational Dust Control**  
***Ongoing***

The applicant shall implement the following dust control measures for the site on an ongoing basis:

- a) Water all areas containing construction debris or aggregate daily to a level sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
- b) Cover all trucks hauling loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c) 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.
- d) Sweep any paved access roads or streets at the end of each day if visible material is carried onto adjacent paved roads.
- e) Limit traffic speeds on unpaved roads to 15 miles per hour.
- f) Clean off the tires or tracks of all trucks and equipment leaving any unpaved area of the project site.

**31. Creek Protection**

***a. Prior to start of operations /Ongoing***

The applicant shall implement the following dust control measures for the site during the establishment of the operation and then on an ongoing basis:

- **Silt Fence Extension and Straw Waddles**

***Prior to any permit issuance***

Straw waddles and silt fencing shall be placed and maintained on interior / operations side of the K-rail, and shall extend 50 feet along the north fence line starting at the K-rail. The location and number of Straw waddles and silt fencing along the property line(s) shall be increased as needed to prevent debris and sediment flow into creek or neighboring properties. If necessary, rock bags shall also be included.

- **Creek protection during Construction**

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

All recommended measures set forth by the City of Oakland Water Shed Management and/or the Public Works Agency shall be incorporated in the project area for work associated with the establishment or decommissioning of this operation. Specifically, prior to the placement or removal of the K-rails temporary silt fencing and temporary barriers shall put in place to prevent any activity from taking place within 100 feet of the edge of the creek bank.

- **Watering and Dust Control.**

***Ongoing***

As water is used to maintain dust control, irrigate landscaping, or cleaning and maintenance of equipment or facilities, all care shall be taken to prevent water from draining into the creek area reserve (i.e. the 100 feet separation from the creek). If water is seen to be collecting or draining towards the west end of the site, the water run-off generating activities shall be stopped until the flow of water has stopped.

- **Site Maintenance and Inspection.**

***Ongoing.***

At any time the site shall be opened and made available to City of Oakland staff (all Departments Agencies, and Bureaus) for inspection. If deemed necessary, additional creek protection measures or alterations to operational procedures shall be implemented by the operators of this facility. All creek protection facilities shall be maintained in good condition and partly or completely replaced as needed.

**32. Traffic Flow**

***Ongoing***

The applicant shall ensure that traffic is not disrupted on 46<sup>th</sup> Avenue or the intersection at Coliseum Way. No trucks or other vehicles shall be parking or stopped in front of immediately adjacent property in such a way as to cause any significant access obstructions. Trucks shall be parked and "queued" on the subject property only.

**APPROVED BY:**

City Planning Commission: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)

City Council: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)

***CONDITIONS OF APPROVAL***

