

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

**RESOLUTION NO. 2023-XXX**

**RESOLUTION OF THE CITY OF SAN LEANDRO CITY COUNCIL TO ADOPT A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING SITE PLAN REVIEW, CONDITIONAL USE PERMIT, AND ADMINISTRATIVE EXCEPTION (HEIGHT) FOR THE CONSTRUCTION AND OPERATION OF A SPECULATIVE WAREHOUSE DEVELOPMENT AT 14143-14273 WASHINGTON AVENUE (PLN21-0031)**

**WHEREAS**, Richard Poolis, on behalf of First Industrial Realty Trust ("Applicant" and "Property Owner") submitted an application, PLN21-0031 ("Project"), for a Zoning Map Amendment, Site Plan Review, Conditional Use Permit, and Administrative Exception (Height) to facilitate the construction of a one-story, 47 feet tall, approximately 52,269 square-foot speculative warehouse structure, with up to 5,000 square-feet of office space, and associated site improvements and landscaping, on a vacant 3.45-acre property located at 14143-14273 Washington Avenue (APNs: 77B-1222-3-3, -4-3, -5-3, and 77B-1222-6-15, -6-17, -6-18, and -6-19) ("Property"); and

**WHEREAS**, the City prepared an Initial Study and draft Mitigated Negative Declaration ("IS/MND") for the Project pursuant to the provisions of the California Environmental Quality Act, incorporated herein by reference, which reflected the independent judgment of the City as to the potential environmental effects of the Project; and

**WHEREAS**, the IS/MND concluded that the project would not result in any significant impacts with the incorporation of mitigation measures; and

**WHEREAS**, the City prepared and circulated a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) for the Project in accordance with the requirements of CEQA and provided a public review and comment period between October 6, 2023 and October 27, 2023; and

**WHEREAS**, the NOI was mailed to owners and occupants of real property adjacent to the project site and to individuals and/or organizations who had previously requested such notice, posted at the Alameda County Clerk's Office, and on-site at the Property, for the duration of the public review period; and

**WHEREAS**, the City prepared a Mitigation Monitoring and Reporting Program (MMRP) pursuant to the requirements of CEQA, incorporated herein by reference; and

**WHEREAS**, Zoning Code Sections 5.06.400 and 5.12.108 states that the Conditional Use Permit, Major Site Plan Review, and Administrative Exception (Height) shall be processed concurrently, and reviewed and decided on by the highest review authority designated for any of the approvals; and

**WHEREAS**, the highest review authority for the Project is the City Council; and

**WHEREAS**, a Planning Commission staff report dated November 2, 2023, and incorporated herein by reference, describes and analyses the proposed Project and IS/MND, and reflects the City's independent judgment and analysis of the Project; and

**WHEREAS**, on November 2, 2023, the Planning Commission reviewed the proposed Project and IS/MND at a duly noticed public hearing, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, on November 2, 2023, the Planning Commission, after consideration of all pertinent plans, documents, project application, IS/MND and MMRP, staff report, findings of fact, conditions of approval, public comments, and all other testimony and evidence presented at the public hearing, voted 4-2-1 to adopt Planning Commission Resolution No. 2023-010, incorporated herein by reference, to recommend City Council adoption of the IS/MND and MMRP, and approval of the Project based on the Recommended Findings of Fact and subject to the Recommended Conditions of Approval; and

**WHEREAS**, a City Council staff report dated November 20, 2023, and incorporated herein by reference, describes and analyses the proposed Project and IS/MND, and reflects the City's independent judgment and analysis of the Project; and

**WHEREAS**, on November 20, 2023, the City Council reviewed the proposed Project and IS/MND at a duly noticed public hearing, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, the City Council fully considered the Project application, IS/MND and MMRP, staff report, findings of fact, conditions of approval, public comments, and all other testimony and evidence presented at the public hearing; and

**WHEREAS**, the City Council finds that the staff report and standards for approval reflects the City's independent judgement and analysis of the Project; and

**WHEREAS**, the City Council finds that the Project, subject to the Recommended Conditions of Approval, does satisfy the requisite findings of fact necessary for approval, as further explained in the staff report and herein; and

**WHEREAS**, the City's General Plan and the Zoning Code are incorporated herein by reference and are available for review at City Hall during normal business hours and on the City's website.

**NOW, THEREFORE**, the City of San Leandro City Council does **RESOLVE** that the foregoing recitals are true and correct and made part of this resolution; and

**BE IT FURTHER RESOLVED THAT**, the City Council of the City of San Leandro does hereby adopt the Mitigated Negative Declaration (Exhibit A) and Mitigation Monitoring and Reporting Program (Exhibit B), based on the following findings and considering the staff report and the whole of the record related to the Project:

1. That the Mitigated Negative Declaration (MND) reflects the lead agency's independent judgment and analysis, that the document has been completed in compliance with the requirements of the California Environmental Quality Act and, on the basis of the whole record and when the mitigation measures are implemented, there is no substantial evidence that the project will have a significant effect on the environment; and

**BE IT FURTHER RESOLVED THAT**, the City Council of the City of San Leandro does hereby approve Site Plan Review, a Conditional Use Permit, and a Height Exception for the Project, consisting of the construction and operation of a one-story, 47 feet tall, approximately 52,269 square-foot speculative warehouse structure, with up to 5,000 square-feet of office space, and associated site improvements and landscaping, as shown on the submitted project plans, attached as Exhibit C and incorporated herein, based on the following findings, as required by Sections 5.16.116, 5.12.124, 5.08.12, and 2.12.312 of the City of San Leandro Zoning Code, and considering the staff report and the whole of the record related to the Project:

Site Plan Review

1. The Project is in compliance with the minimum requirements of the Zoning Code and are arranged as to achieve the intent of such requirements by providing a harmonious and orderly development that is compatible with its surroundings. Parking, loading, storage, and service areas are appropriately screened by building placement, orientation walls, and/or landscaping.
2. The building(s) has(have) adequate articulation, with appropriate window placement, use of detailing, and/or changes in building planes to provide visual interest. The exterior materials, finishes, detailing, and colors are compatible with those of surrounding structures. Visually incompatible elements, such as roof-mounted utilities, are fully screened from public view.
3. The landscaping complements the architectural design, with an appropriate balance of trees, shrubs, and living ground covers, and provides adequate screening and shading of parking lots and/or driveways.
4. Detail features, such as signs, fences, and lighting for buildings, parking lots, and/or driveways are visually consistent with the architectural and landscape design and minimize off-site glare.

Conditional Use Permit

1. The proposed location of the use is in accord with the objectives of this Code and the purposes of the district in which the site is located.
2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing, or working in, or adjacent to, the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City.
3. The proposed use will comply with the provisions of this Code, including any specific condition required for the proposed use in the district in which it would be located.
4. The proposed use will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities, which cannot be mitigated.

Administrative Exception (Height)

1. The proposal would not be detrimental to public health, safety or welfare and would not cause undue damage, hardship, nuisance or other detriment to persons or property in the vicinity.

**BE IT FURTHER RESOLVED THAT,** the City Council's approval of the Project is subject to the following conditions of approval:

## **MITIGATION MEASURES**

1. AQ-1: BAAQMD Basic Construction Mitigation Measures - The project applicant shall require all construction contractors to implement the basic construction mitigation measures recommended by BAAQMD to reduce fugitive dust emissions. Emission reduction measures will include, at a minimum, the following measures:
  - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping shall be prohibited.
  - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - f. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
  - g. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
  - h. Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch compacted layer of wood chips, mulch, or gravel.
  - i. Publicly visible signs shall be posted with the telephone number and name of the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's General Air Pollution Complaints number shall also be visible to ensure compliance with applicable regulations.
2. BIO-1: Nesting Bird Avoidance and Minimization Measures - The following avoidance and minimization measures shall be implemented during project construction activities:
  - Initial site disturbance should occur outside the general avian nesting season (February 1 through September 15), if feasible.
  - If initial site disturbance occurs in a work area within the general avian nesting season indicated above, a qualified biologist shall conduct a pre-construction nesting bird survey no more than 14 days prior to initial disturbances in the work area. The survey shall include the entire area of disturbance area plus a 50-foot buffer (relevant to non-raptor species) and 300-foot buffer (relevant to raptors) around the site. If active nests are located, all construction work shall be conducted outside a buffer zone from the nest to be determined by the qualified biologist. The buffer should be a minimum of 50 feet for non-raptor bird species and at least 300 feet for raptor species. Larger buffers may be required and/or smaller buffers may be established depending upon the species, status of the nest, and construction activities occurring in the vicinity of the nest. The buffer area(s) shall be closed to all construction personnel and equipment until the adults and young are no longer reliant on the nest site. A qualified biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the buffer.
  - If construction activities in a given work area cease for more than 14 days, additional surveys shall be conducted for the work area. If active nests are located, the aforementioned buffer zone measures shall be implemented.

3. BIO-2: A qualified biologist shall survey trees, vegetation, and existing structures with features capable of supporting roosting bats (both maternity and wintering or hibernation roosts) prior to their removal or demolition. Vegetation and existing structures shall be surveyed for bat roosts or evidence of bat roosting (e.g., guano, urine staining and scent, dead bats) no more than 14 days before the start of disturbance, including vegetation removal. If active roosts are discovered, a protection zone of no less than 50 feet around the active roost shall be established by the qualified biologist. Disturbance may occur within the once active roosting ceases, as determined by the qualified biologist.
4. CUL-1: Unanticipated Discovery of Cultural Resources - In the event that archaeological resources are unexpectedly encountered during ground-disturbing activities, work within 50 feet of the find shall halt and an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology (National Park Service 1983) shall be contacted immediately to evaluate the find. If the resource is determined by the qualified archaeologist to be prehistoric, then a Native American representative shall also be contacted to participate in the evaluation of the resource. If the qualified archaeologist and/or Native American representative determines it to be appropriate, archaeological testing for CRHR eligibility shall be completed. If the resource proves to be eligible for the CRHR and impacts to the resource cannot be avoided via project redesign, a qualified archaeologist shall prepare a data recovery plan tailored to the physical nature and characteristics of the resource, per the requirements of CCR Guidelines Section 15126.4(b)(3)(C). The data recovery plan shall identify data recovery excavation methods, measurable objectives, and data thresholds to reduce any significant impacts to cultural resources related to the resource. Pursuant to the data recovery plan, the qualified archaeologist and Native American representative, as appropriate, shall recover and document the scientifically consequential information that justifies the resource's significance. The City shall review and approve the treatment plan and archaeological testing as appropriate, and the resulting documentation shall be submitted to the regional repository of the CHRIS, per CCR Guidelines Section 15126.4(b)(3)(C).
5. GEO-1: Unanticipated Fossil Discovery - Paleontological Worker Environmental Awareness Program. Prior to the start of construction, a Qualified Professional Paleontologist, as defined by SVP (2010), or their designee shall conduct a paleontological Worker Environmental Awareness Program (WEAP) training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction personnel.

Unanticipated Discovery of Paleontological Resources. The project developer shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. If a potential fossil is discovered during project construction, construction activity within 50 feet of the find shall cease until the discovery is examined by a Qualified Professional Paleontologist. If the find is determined to be significant, the Qualified Professional Paleontologist shall direct all mitigation measures related to paleontological resources consistent with the SVP (2010) standards.

6. HAZ-1: Preparation of a Soil Management Plan - The project applicant shall retain a qualified environmental consultant (Professional Geologist [PG] or Professional Engineer [PE]), to prepare a Soil Management Plan (SMP) prior to construction. The SMP or equivalent document shall be prepared to address onsite handling and management of impacted soils or other impacted wastes, and to reduce hazards to construction workers and offsite receptors during construction. The plans shall establish remedial measures and/or soil management practices to ensure construction worker safety, the health of future workers and visitors, and

the off-site migration of contaminants from the site. These measures and practices may include, but are not limited to:

- Stockpile management including stormwater pollution prevention and the installation of BMPs
  - Proper disposal procedures of contaminated materials
  - Monitoring and reporting
  - A health and safety plan for contractors working at the site that addresses the safety and health hazards of each phase of site construction activities with the requirements and procedures for employee protection.
  - The City shall review and approve the development site plans for prior to ground disturbing or construction activities. Recommendations listed within the SMP shall be implemented as indicated prior to (preparation of the SMP) and during (adherence to the SMP) construction of the proposed project.
7. TCR-1: Unanticipated Discovery of Tribal Cultural Resources - In the event that cultural resources of Native American origin are identified during project construction, all earth-disturbing work within 50 feet of the find shall be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find as a cultural resource and an appropriate local Native American representative is consulted. If the City, in consultation with local Native American tribes, determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with local Native American group(s). The plan shall include avoidance of the resource or, if avoidance of the resource is infeasible, the plan shall outline the appropriate treatment of the resource in coordination with the appropriate local Native American tribal representative and, if applicable, a qualified archaeologist. The plan shall include measures to ensure the find is treated in a manner that respectfully retains, to the degree feasible, the qualities that render the resource of significance to the local Native American group(s). Examples of appropriate mitigation for tribal cultural resources include, but are not limited to, protecting the cultural character and integrity of the resource, protecting traditional use of the resource, protecting the confidentiality of the resource, or heritage recovery.
8. Mitigation Monitoring and Reporting Program. All mitigation measures identified in the adopted Mitigated Negative Declaration shall be included and are hereby incorporated as Conditions of Approval. Said mitigation measures are listed in the Mitigation Monitoring and Reporting Program and the developer shall comply with and implement all provisions of said Mitigation Monitoring and Reporting Program. The applicant shall provide a copy of the Mitigation Monitoring and Reporting Program to all construction contractors prior to commencement with demolition of the property. The developer shall be responsible for compensating the City of San Leandro for costs associated with the enforcement and monitoring of the required mitigation measures prior to issuance of a Certificate of Occupancy.

## **PLANNING DIVISION REQUIREMENTS**

9. Compliance with Approved Plans. The Project shall comply with Exhibit C, Project Plan, except as hereinafter modified. Exhibits are on file at the City of San Leandro, Community Development Department located at 835 East 14th Street, San Leandro, California, 94577.
10. Successors in Interest. The Applicant and/or Property Owner shall be responsible for assuring that any successor in interest who assumes responsibility for this approval is informed of its terms and conditions.



11. Scope of Work. The approval of the Zoning Map Amendment is for the rezoning of the 3.45-acre project site located at 14143-14273 Washington Avenue from CC(AU) to IG. The approval of Site Plan Review and a Height Exception allows for the construction and operation of a one-story, 47 feet tall, approximately 52,269 square-foot industrial warehouse development which includes up to 5,000 square feet of office space and associated site, circulation, parking, and landscaping improvements. The approval of a Conditional Use Permit allows for the operation of a warehouse use, as defined in the Zoning Code.
12. This Conditional Use Permit authorizes “Warehouse—Storage Facilities” and/or “Warehouse—Wholesale/Retail Distribution Facilities” uses as currently defined in Chapter 1.12.108 of the Zoning Code, throughout the project site, which are conditionally permitted in the IG Zoning District. Use intensities authorized by this Conditional Use Permit shall not exceed the relevant thresholds of significance identified in the attached MND with regards to VMT, Noise, and Air Quality analyses, at the determination of the Zoning Enforcement Official. If use intensities exceed the significance thresholds identified in the three analyses referenced above, a modification of this use permit and additional environmental review may be required.
13. Substantial Compliance. The Project shall remain in substantial compliance with the approved Plans, Exhibits, and Conditions of Approval. Building elevations, site plan, and landscaping shall be consistent with the approved plans for the site. Proposed changes to the project shall be made in writing to the Zoning Enforcement Official. The Zoning Enforcement Official may approve changes to approved exhibits or Conditions of Approval without a public hearing upon determining that the changes are minor and are consistent with the intent of the original approval.
14. Compliance with Zoning Code. The Project shall comply with all requirements of the San Leandro Zoning Code.
15. Effective Date. The Project approval shall become effective on the effective date of the City Council Ordinance to amend the zoning of the property from CC(AU) to IG.
16. Expiration. The Project approval shall lapse two years after the date of approval of PLN21-0031, unless a grading permit or building permit has been issued, coupled with diligent progress evidencing good faith intention to commence the intended use, an occupancy permit has been issued, or the approval is granted a one-year extension by the Zoning Enforcement Official upon receipt of a written application with the required fee prior to the expiration of the approval.
17. Access to Conditions of Approval. These Conditions of Approval shall be available and accessible to all tenants, employees and vendors on the property.
18. Fees. Any outstanding Planning, Engineering or Building deposit fees or balances shall be paid prior to permit issuance. The Applicant/Property Owner shall pay all applicable development, permitting, and plan checking fees in accordance with the fee schedules in effect at the time of the Building Permit approval.
19. Demonstration of Compliance. Prior to permit issuance, the Applicant/Property Owner shall demonstrate that the Project complies with applicable minimum objective standards and criteria of the San Leandro Zoning Code, the General Plan, and all other applicable objective standards and criteria.

20. Revocation. The City shall maintain the ability to revoke this Conditional Use Permit and set a new public hearing date in order to impose additional conditions to correct problems that may arise such as property maintenance and related Code violations and excessive nuisance related responses from code enforcement.
21. Notations to Conditions of Approval. Prior to permit issuance, the Applicant/Property Owner shall include notations to the conditions of approval and clearly indicate how all conditions of approval will be or have been complied with, A reference shall be provided to specific plan sheets that demonstrate compliance. Construction plans shall not be accepted without the annotated final conditions of approval document.
22. Signage. All signage shall conform to the regulations in Chapter 4.12 of the Zoning Code for the development. Neon signs and flashing signs are prohibited, including those placed in windows. All signs shall be well maintained at all times. Any damaged signs shall be promptly repaired or replaced. Window signs, whether painted or adhered to the glass or within eight feet of the window excluding merchandise display, shall be no larger than twenty-five percent of the window in which they are located. No temporary or unauthorized signs including but not limited to including but not limited to banners, balloons, streamers, and pennants, shall be placed on the property, unless approved by the City under a Temporary Sign Permit or Special Event Permit. The use of spotlights, feather signs, animated or inflatable signs, balloons, and lasers shall be prohibited at all times.
23. Screened Mechanical Equipment. All exterior mechanical equipment such as air conditioning/heating units, emergency generators, wireless antennas and exhaust systems shall be located such that they will not be visible from any public-rights-of-way. Alternatively, they shall be screened or enclosed from view so as not to be visible from any public-rights-of-way. Screening shall be to the satisfaction of the Zoning Enforcement Official.
24. Screened Utilities. All electrical, gas, and water meters shall be located such that they will not be visible from any public-rights-of-way. Alternatively, they shall be screened or enclosed from view so as not to be visible from any public-rights-of-way. Screening shall be to the satisfaction of the Zoning Enforcement Official.
25. Screened Appurtenances. The Applicant/Property Owner shall subsurface all new transformers, switching boxes, and similar appurtenances, or shall screen them by locating them in an enclosure with walls matching the material and color of the nearest building. The enclosures shall include gates of heavy gauge corrugated steel and shall be surrounded by trees, shrubs and climbing vines. The Applicant/Property Owner shall arrange the location and treatment of the appurtenances with the gas, electric and communication providers prior to the approval of building permit(s) for vertical construction. A detail of the transformer screening shall be included on the improvement plans submitted for review and approval by the City.
26. Backflow Prevention Devices. Backflow prevention devices shall be installed on all new and existing domestic, commercial, irrigation, and fire water services and as required by the East Bay Municipal Utility District (EBMUD). The location of water service and backflow devices shall be subject to review and approval by EBMUD and the City. Devices shall be screened from public view by landscaping or other approved methods in the area in which the device is located. Landscaping shall blend with surrounding



landscaping and, if necessary, landscaping shall be added in other areas, as required for symmetry. The final landscape package shall include landscape screening of any backflow prevention devices.

27. Utility Undergrounding. New and existing electrical, telephone, CATV, and similar distribution lines providing direct service to the site, shall be installed underground within the site. The transmission pole adjacent to the site shall be undergrounded as part of the development or an in lieu fee shall be paid to the City at the time of building permit issuance.
28. Noise of Equipment. All mechanical equipment shall be designed and maintained to comply with City noise standards and noise from any mechanical equipment, elevators or generators shall be minimized and insulated from adjacent residential units.
29. Wireless Telecommunications Facilities. Any future wireless telecommunications facilities proposed on the subject property shall be considered through a separate permit, and subject to lease approval and conditions, as applicable. Such facilities shall be fully screened and incorporated wholly within the building's architecture. All service equipment and conduit shall be accommodated within the building's interior. No conduit, panels or equipment shall be permitted to be mounted on the building's exterior walls. No conduit, panels or mechanical equipment may be mounted in a visible location or manner on the sides of the building.
30. Fences. All fencing, gates and walls on the project site shall be structurally sound, graffiti-free and well maintained at all times. Fences, walls and hedges shall comply with Zoning Code Section 4.04.364 (Fences, Walls, and Hedges). The installation of barbed wire, razor, cyclone and electrified fencing are prohibited.
31. Site Maintenance. The property owner, occupants, and tenants shall maintain the Project site and ensure that it is free of litter, weeds, and other debris in accordance with San Leandro Municipal Code §3-15-215.
32. Graffiti. Any graffiti shall be promptly removed from the property. Any graffiti shall be promptly removed from building walls. The developer and its successors in interest shall comply with the rules and regulations of the City's graffiti removal program and shall grant a license and right of entry as requested to enforce the terms of such program.
33. Sidewalks. Sidewalk areas shall be kept free of obstruction and available for their designated use at all times. Building egress and accessible paths of travel shall remain unobstructed.
34. Landscape Maintenance. All landscaping improvements shall be maintained in a healthy, growing, and weed-free condition at all times. Any missing, dead, or damaged plant and groundcover material shall be promptly replaced with a material similar in type and comparable in size to the plant(s) or groundcover being removed. Street trees and tree wells shall be maintained to provide shade cover and a healthy canopy. All trees shall be planted so that at maturity they are located far enough away from the sidewalk so that their branches are at least eight (8) feet above the sidewalk area and 14 feet above the roadway/vehicle traveled way. Pruning and tree trimming shall be avoided during nesting season.
35. Noise Regulations. All uses and activities shall comply with the provisions of the San Leandro Noise Regulations (Title IV, Chapter 1 of the Municipal Code). Tenants and vendors shall take proactive measures to avoid and reduce noise generated by forklift and delivery vehicles' audible reverse back-up signals and

to ensure that loading and delivery activities are in compliance during the City's established quiet hours and do not pose a public nuisance during other times. The use of a spotter, rear cameras and/or radar is recommended over audible signals for all service and delivery vehicles.

- 36. Vibrations. No use, activity, or process shall produce vibrations that are perceptible without instruments by a reasonable person at the property lines of a site.
- 37. Dust. No use, process, or activity shall produce dust that is perceptible without instruments by a reasonable person at the property lines of a site.

Indemnification

- 38. The Applicant/Property Owner hereby agrees to defend, indemnify, and hold harmless the City of San Leandro, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of San Leandro, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.
- 39. In the event that any person should bring an action to attack, set aside, void or annul the City's approval of this Project, the Applicant/Property Owner shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action, or proceeding against the City and/or its agents, officers and employees with counsel selected by the Applicant/Property Owner (which shall be the same counsel used by Applicant/Property Owner) and reasonably approved by the City. Applicant/Property Owner's obligation to defend, indemnify and hold harmless the City and/or its agents, officers and employees shall be subject to the City's compliance with Government Code Section 66474.9.

Additional Submittals

- 40. Final Landscape and Irrigation Plans. Prior to issuance of building permits, the Applicant/Property Owner shall submit Final Landscape and Irrigation Plans for the review and approval of the Community Development Director. The plans shall document compliance with applicable Zoning Code requirements, including minimum soil depths, and shall include details such as: 1) tree size, species and location; 2) shrubs and groundcover size, species, and location; 3) installation specifications, including tree staking; 4) irrigation details; 5) water conservation techniques; and 6) maintenance programs. Final landscape and irrigation plans shall be prepared and certified by a California licensed landscape architect and shall conform to the Model Water Efficient Landscape Ordinance (MWELO) as updated by the State of California Department of Water Resources. At the discretion of the City, the landscape plan may be reviewed by a consulting landscape architect, the cost of which shall be the responsibility of the Applicant/Property Owner.
  - a. A minimum of one 24-inch box size or greater tree shall be planted per 25 linear feet of landscape area. Tree grates shall be used for trees located in hardscape areas.
  - b. Shrubs shall be a container size of five gallons or greater at planting and planted at spacing distances appropriate for the plant species.

- c. Landscaped areas that are not planted with trees or shrubs shall be planted with groundcover plants. Mulch (as a ground cover) shall be confined to areas underneath plants and is not a substitute for ground cover plants.
  - d. Groundcover plants other than grasses shall be four-inch pot size or greater and planted at spacing distances appropriate for the plant species.
  - e. Groundcover plants shall be planted at a density that will cover the entire area within two years.
  - f. Street trees proposed in the Public Rights-of-Way shall be from the approved street tree list published by the City of San Leandro Public Works Department, subject to the approval of the Public Works Director. The Applicant/Property owner shall provide irrigation to the street trees.
41. Lighting. Prior to issuance of building permits, the Applicant/Property Owner shall submit final plans and details for site lighting, including submittal of a photometric study, for the review and approval of the Community Development Director and City Engineer
- a. All on-site lighting shall conform to the Code requirements in effect at the time of building permit submittal.
  - b. The plans and details shall show location, height, decorative features, and construction details showing materials and finishes to be used for construction.
  - c. Fixtures on buildings shall be attached only to walls or eaves, and the top of the fixture shall not exceed the height of the parapet or roof or eave of roof.
42. Lot Merger. Prior to the issuance of building permits, the Applicant/Property owner shall apply for a Lot Line Adjustment to merge the seven parcels into one parcel and record the map of the merger.
43. Materials and Colors. The applicant/property owner shall submit a final materials and colors board at the time of building permit submittal for the review and approval of the Community Development Director.
44. Improvements Installed Prior to Certificate of Occupancy. Prior to the issuance of any Certificate of Occupancy on the property, the improvements outlined above shall be completely installed to the satisfaction of the Community Development Director and the City Engineer.

#### Parking Lot Management

45. Parking Lot Maintenance. The Property Owner or building manager shall regularly maintain the parking areas and shall be responsible for the prompt clean up and removal of litter, oil stains and spilled vehicle fluids. Parking areas shall be well maintained and kept free of litter and debris at all times. Any parking lifts shall be regularly maintained and in operable condition to ensure optimal vehicle capacity.
46. Loading and Unloading. Loading areas shall be identified on all plans submitted for building permit issuance and shall be subject to review and approval by the Community Development Director and the City Engineer.
47. Delivery and Moving Trucks. Deliveries and moving trucks shall not load or unload from the public right-of-way without prior approval of an encroachment permit. Loading and unloading shall not obstruct the flow of traffic on surrounding streets.

## Construction Provisions

48. Secure Construction Site. The property shall be secured during construction with a temporary six (6) foot high chain link fence with green screening and any other security measures in accordance with recommendation of the San Leandro Police Department. Alternative temporary fencing is subject to prior approval from the Zoning Enforcement Official. Temporary fencing shall be maintained and kept free of graffiti.
49. Removal of Street Trees. Prior to the removal of any street trees, the Applicant/Property Owner shall obtain the necessary approval from the Public Works Director as required by San Leandro Municipal Code Section 5-2-215, and any necessary encroachment permits from the Engineering and Transportation Department to remove the street trees at the Owner's expense.
50. Construction Hours and Noise. Construction on the project site shall not commence prior to 7:00 a.m. and shall cease by 7:00 p.m., Monday through Friday, and shall not commence prior to 8 a.m. and shall cease by 7 p.m. Saturday and Sunday, unless otherwise approved by the Chief Building Official. There shall be no construction on Federal holidays. As provided in this City of San Leandro's Noise Ordinance (ORDINANCE NO. 2003-005), "construction" shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or on any private property, public or private right-of-way, streets, structures, utilities, facilities, or other similar property. Construction activities carried on in violation of this Article may be enforced as provided in Section 4-1-1130, and may also be enforced by issuance of a stop work order and/or revocation of any or all permits issued for such construction activity. Prior to the start of construction activities, the construction contractor shall:
- Maintain and tune all proposed equipment in accordance with the manufacturer's recommendations to minimize noise emission.
  - Inspect all proposed equipment and fit all equipment with properly operating mufflers, air intake silencers, and engine shrouds that are no less effective than as originally equipped by the manufacturer.
  - Post a sign, clearly visible at the site, with a contact name and telephone number of the construction manager.
  - Place stationary construction equipment and material delivery in loading and unloading areas as far as practicable from the residences.
  - Limit unnecessary engine idling to the extent feasible.
  - Use smart back-up alarms, which automatically adjust the alarm level based on the background noise level, or switch off back-up alarms and replace with human spotters.
  - Use low-noise emission equipment.
  - Limit use of public address systems.
  - Minimize grade surface irregularities on construction sites.
51. Construction Activity. Construction activity shall not create dust, noise or safety hazards for adjacent businesses and properties. Dirt and mud shall not be tracked onto public streets from the project site during construction. Standard construction dust control procedures, such as wetting, daily road washing and other maintenance functions to control emissions, shall be implemented at all times during outdoor construction. Dust generating activities such as grading, excavation, paving, etc. shall be scheduled the early morning and other hours when wind speeds are low. All construction activities entailing soil disturbance shall cease when winds exceed 30 miles per hour as an hourly average.

52. Construction Truck Route. The Applicant/Property Owner shall prepare a construction truck route plan that would restrict trucks to arterial streets that have a sufficient pavement section to bear heavy truck traffic, thereby minimizing noise and traffic impacts to the community. The construction truck route plan shall be reviewed and approved by the City Engineer prior to receipt of the grading permit.
53. Noise. Procedures with the highest noise potential shall be scheduled for daylight hours, when ambient noise levels are highest.
54. Construction Contract. All construction contracts shall include the following requirements:
- a. Unpaved construction sites shall be sprinkled with water at least twice per day;
  - b. Trucks hauling construction materials shall be covered with tarpaulins or other effective covers;
  - c. Streets surrounding demolition and construction sites shall be swept at least once per day; and
  - d. Paving and planting shall be done as soon as possible. The City shall charge the Applicant/Property Owner, and the Applicant/Property Owner shall pay, for all costs of sweeping city streets in the vicinity of the project as necessary to control dust and spillage.
55. Pest and Vermin Control. Pest and vermin control shall be instituted prior to the demolition and construction of the project.
56. Construction Facilities. Potable water and temporary sanitary facilities shall be provided to workers during construction activities. Temporary sanitary facilities shall be kept in a clean and odorless condition, secured, and located away from nearby businesses.
57. Property Maintenance. The project site and public right-of-way shall be well maintained and shall be kept free of litter, debris and weeds at all times. Post construction, the project site and public right of way shall be well maintained and shall be kept free of litter, debris and weeds. The Property Owner shall be responsible for the maintenance of the project site and adjacent public right-of-way.
58. Signage. No temporary or unauthorized signs including but not limited to banners, streamers and pennants shall be placed on the property, unless approved by the City under a Temporary Sign Permit or Special Event Permit. The use of spotlights, feather signs, animated or inflatable signs, balloons, and lasers shall be prohibited at all times.
59. Enforcement. Construction activities carried on in violation of these Conditions may be enforced as provided in the San Leandro Municipal Code and may be enforced by issuance of a stop work order and/or revocation of any or all permits issued for such construction activity.

#### **BUILDING DIVISION REQUIREMENTS**

60. The applicant or designee shall provide a design level geotechnical report from a qualified geotechnical engineer or other qualified professional for review and approval by the City. Review and approval of a design level geotechnical report shall be at the applicant's or designee's expense. The final City approved design level geotechnical report shall constitute the "Final Geotechnical Report."
61. Prior to building permit approval, the applicant or designee shall submit construction plans to the City that demonstrate conformance with the Final Geotechnical Report for the project. The construction plans shall

include a geotechnical structural plan review approval letter from a qualified geotechnical engineer or other qualified individual.

62. Prior to issuance of demolition or grading permit, the applicant or designee shall submit a PCB (polychlorinated biphenyls) Report prepared by a qualified professional for review and approval by the City of San Leandro Building Official and/or their designee.
63. In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos containing materials (ACMs) and/or lead based paint and materials (LBP). The applicant and/or designee shall provide a report prepared by a qualified professional of the inspection/pre-demolition survey, and/or sampling findings to the City of San Leandro Building Official or their designee for review and approval.
64. During demolition activities, all building materials containing LBP shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing LBP or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
65. All potentially friable ACMs shall be removed in accordance with National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
66. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
67. Materials containing more than one-percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
68. Prior to issuance of demolition or grading permit, whichever is first, the applicant or designee shall provide to the City of San Leandro Building Official or their designee, approval from the Bay Area Air Quality Management District (BAAQMD) for the demolition of existing structures. The BAAQMD approval shall include a BAAQMD J# for the demolition of structures onsite.
69. The Applicant/Property Owner shall demonstrate the following on plans submitted for permit issuance:
  - a. All submittals shall include required Mechanical, Electrical, and Plumbing (MEP) plans. No deferred MEP's is allowed.
  - b. The Project shall meet the requirements of Title 24 for all new equipment and any new or upgraded mechanical, electrical, and plumbing equipment.
  - c. All demolition and construction shall adhere to the requirements of CALGreen.
  - d. The project shall meet the requirements in CALGreen's Non-Residential Mandatory Measures Checklist.
  - e. The Project shall provide van and standard accessible parking stalls, with signage and stripping.



- f. Project plans shall demonstrate accessible paths of travel from public right of way and accessible parking to offices, employee work, restrooms, and employee break rooms.
- g. The Project shall provide accessible clearances for all accessible spaces.
- h. All exterior walking surfaces shall be ADA compliant.
- i. All revision clouds and deltas added during Planning approval must be removed prior to submitting to Building for permit.
- j. Information provided on civil plans such as accessible path of travel, accessible parking, utilities, and exterior lighting locations shall be shown on architectural site plan.

**PUBLIC WORKS DEPARTMENT: SOLID WASTE AND RECYCLING REQUIREMENTS**

- 70. Maintenance - The property owner, occupant and tenants shall maintain the trash enclosure free of litter and other debris in accordance with San Leandro Municipal Code §3-15-215.
- 71. Per San Leandro Municipal Code §3-1-200, storage of solid waste, recycling, and other materials outside of the enclosure that is visible from the street is always prohibited.
- 72. Recycling Requirements - Applicant is subject to Alameda County Mandatory Recycling Ordinance. For more information, visit [www.RecyclingRulesAC.org](http://www.RecyclingRulesAC.org).

**ALAMEDA COUNTY FIRE DEPARTMENT REQUIREMENTS**

- 73. A Deferred Submittal is required for the installation of a fire protection system.
- 74. A Deferred Submittal is required for the installation of a fire alarm monitoring system.
- 75. A Deferred Submittal is required for the installation of an underground fire line.
- 76. The Applicant/Property Owner shall demonstrate the following on plans submitted for permit issuance:
  - a. Private hydrants will be required based on the type of the building construction and square footage per appendix B and C of the California Fire Code.
  - b. A Fire pump may be required based on available water supply and activity within the building.
  - c. Automatic smoke and heat vents may be required based on the activity inside the building and the fire protection system.
  - d. Fire lanes are required and shall be posted to ensure access to the building.
  - e. Aerial access routes shall be provided per Appendix D of the California Fire Code
  - f. Fire extinguishers shall be provided per the code.
  - g. Emergency lighting shall be provided with an average of 1-foot candle at the floor along the means of egress route.
  - h. Illuminated exit signs shall be provided indicating the means of egress route.
  - i. An address shall be provided that can be seen from the street and have a contrasting background.
  - j. A Knox box shall be provided for fire department access to the building and through gates.
  - k. A pedestrian access gate shall be provided from the loading dock area to the public way.

**ENGINEERING AND TRANSPORTATION DEPARTMENT REQUIREMENTS**

77. Pursuant to Government Code Section 66020, including Section 66020 (d) (1), the City HEREBY NOTIFIES the applicant for this Project that the 90-day approval period (in which the applicant may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) will begin on the date of the conditional approval of this Project. If you fail to file a protest within this 90-day period, complying with all the requirements of Government Code Section 66020, you will be legally barred from later challenging any such fees, dedications, reservations or other exactions.
78. The proposed development shall comply with City ordinances, policies, and regulations. All improvements shall be in accordance with the City's Design Standards, Specifications and Standard Plans unless otherwise specifically approved by the City Engineer.
79. The applicant shall pay design review fees, permit fees, inspection fees, sewer connection fees, and any other fees charged by the City or other reviewing agencies for the review, approval, permitting and inspection of the public and/or private improvements.
80. The applicant shall have site improvements designed and stamped by a civil engineer registered to practice within the State of California. Applicant shall obtain approval of the City Engineer for all on and off-site improvements prior to the issuance of Building Permits for the project.
81. If the design of any site improvement requires encroachments onto neighboring properties during construction, the applicant shall submit written agreements with that property owner to the City Engineer, for review and approval, prior to approval of the building permit.
82. The applicant shall remove any unused driveways or damaged driveways, sidewalk, and curb and gutter along the full property frontage and shall construct new City standard driveway, sidewalk, curb, and gutter in place of the removed items.
83. A Grading Permit is necessary for this project. The requirements for said permit are indicated in San Leandro Municipal Code §7-12. The Grading Permit can be processed prior to or concurrent with the Building Permit(s).
84. The applicant shall comply with the regulations and provisions contained in the City's Grading Ordinance, the City's Storm Water Pollution Prevention Permit, and the National Pollutant Discharge Elimination System (NPDES), to the satisfaction of the City Engineer. More information may be found at [www.cleanwaterprogram.org](http://www.cleanwaterprogram.org). Storm water runoff from this site will need to be treated before it enters the storm drain system.
85. The applicant shall comply with the following high standards for sanitation during construction of improvements: Garbage cans, construction dumpsters, and debris piles shall be removed on a minimum weekly basis. All food related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in closed containers only and shall be regularly removed from the site. Inspections, conducted as part of the regular construction compliance, will be conducted to ensure compliance of the Applicant and contractors with this requirement.
86. All outdoor storage of parts and equipment shall be raised and covered.

87. Interior floor drains shall be plumbed to the sanitary sewer system and shall not be connected to storm drains.
88. Wastewater from vehicle and equipment washing operations shall not be discharged into the storm drain system.
89. Commercial/industrial facilities having vehicle/equipment cleaning needs shall either provide a roofed, bermed area for washing activities or discourage vehicle/equipment washing by removing hose bibs (faucets) and installing signs prohibiting such uses. Vehicle/equipment washing areas shall be paved, designed to prevent run-on to or runoff from the area, and plumbed to drain to the sanitary sewer. A sign shall be posted indicating the location and allowed uses in the designated wash area. The applicant shall contact the contact City of San Leandro Wastewater Pollution Control Plant for specific connection and discharge requirements.
90. Secondary containment shall be provided for exterior work areas where motor oil, brake fluid, gasoline, diesel fuel, radiator fluid, acid-containing batteries or other hazardous materials or hazardous wastes are used or stored. Drains shall not be installed within the secondary containment areas.
91. Tanks, containers, or sinks used for parts cleaning and rinsing shall not be connected to the storm drain system. Tanks, containers, or sinks used for such purposed may only be connected to the sanitary sewer system if allowed by an industrial waste discharge permit. The applicant shall contact City of San Leandro Wastewater Pollution Control Plant for specific connection and discharge requirements.
92. Install RWQCB approved trash inserts at the proposed storm drain connections to the existing storm drain line. See the most recent approved list located here.  
[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/trash\\_implementation/certified\\_fcsdevicelist\\_16Feb2021.pdf](https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/trash_implementation/certified_fcsdevicelist_16Feb2021.pdf)
93. The applicant shall submit a detailed Operations and Maintenance (O&M) agreement in accordance with MRP Section C.3.h. The O&M agreement shall be required prior to Grading Permit issuance.
94. The applicant shall reduce storm water pollution by implementing the following pollution source control measures:
- Structures shall be designed to discourage the occurrence and entry of pests into buildings, thus minimizing the need for pesticides. The trash area shall be separated from the rest of the building by concrete or masonry walls so that pests that gain access to the area are less likely to access the rest of the building.
  - All storm drains shall be marked "NO DUMPING, DRAINS TO BAY".
  - All on-site storm drains shall be inspected and, if necessary, cleaned at least twice a year immediately prior to the rainy season.
  - Sidewalks and parking lots shall be swept regularly to minimize the accumulation of litter and debris. Steam cleaning or low volume pressure washing may be performed only after pre-cleaning using dry methods, spot cleaning and recovery in stained areas and removal of all mobile pollutants. Debris resulting from pressure washing shall be trapped and collected to prevent entry into the storm drain system. Wash water containing any soap, cleaning agent or degreaser shall not be discharged to the storm drain.

- e. Interior floor drains (if any) shall not be connected to the storm drain system.
  - f. The property shall be swept regularly to minimize the accumulation of litter and debris. Loaded trucks entering or exiting the site must have their loads covered with tarps to prevent debris from escaping.
  - g. Air conditioning condensate shall be directed to landscaped areas. Any air conditioning condensate that discharges to land without flowing to a storm drain may be subject to the requirements of the State Water Resources Control Board's (SWRCB) Statewide General Waste Discharge Requirements (WDRs) for Discharges to Land with a Low Threat to Water Quality.
  - h. Landscaping shall be designed to minimize irrigation and runoff, promote surface infiltration where appropriate, and minimize the use of fertilizers and pesticides that can contribute to storm water pollution.
  - i. Where feasible, landscaping shall be designed and operated to treat storm water runoff by incorporating elements that collect, detain, and infiltrate runoff. In areas that provide detention of water, plants that are tolerant of saturated soil conditions and prolonged exposure to water shall be specified.
  - j. Plant materials selected shall be appropriate to site specific characteristics such as soil type, topography, climate, amount and timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment.
  - k. Selection of the plants that will require minimal pesticide use.
  - l. Irrigation shall be appropriate to the water requirements of the selected plants.
  - m. The applicant shall select pest and disease resistant plants.
  - n. The applicant shall plant a diversity of species to prevent a potential pest infestation from affecting the entire landscaping plan.
  - o. The applicant shall plan insectary plants in the landscaping to attract and keep beneficial insects.
95. The applicant shall submit a Geotechnical Investigation Report and shall incorporate all recommendations into the design. The City reserves the right to offer additional comments once the final investigation is submitted. Said geotechnical investigation shall be submitted for review before Conditions of Approval are drafted for the project.
96. The applicant shall submit photometric site plan.
97. The City's traffic impact fee program is called "Development Fee for Street Improvements" (DFSI). According to the adopted 2021-22 Fee Schedule, the rate for "General Industrial" is \$1.40 per gross building square foot with an equivalent credit offered for the prior use. Assuming 52,269 SF of proposed building square footage and 7,758 SF of existing building "General Industrial" use in 14273 Washington Avenue (from tax assessor records), the net square footage will be 44,511 SF. Credit for the existing 2 units in 14143 and 14173 Washington Avenue for "General Residential" is \$3,135.12. Thus, the DFSI fee will be \$59,180.28 which is due prior to issuance of the building permit. This fee is subject to change each fiscal year.
98. Washington Avenue is in the City's adopted Underground Utility District Master Plan, as such an in-lieu fee is required in the amount of \$207,617.58 which is calculated at \$411.12 per linear foot frontage (505 LF project frontage length per assessor's map 77B). This undergrounding overhead utility conversion fee is due at the time of Building Permit issuance. This fee is subject to change at the beginning of each fiscal year.

99. The project is within the Marina Boulevard/Interstate 880 Interchange Traffic Impact Fee Zone. According to the adopted 2021-2022 Fee Schedule, the rate for "General Industrial" land use is \$1.03 per square foot for the proposed 52,269 SF building. Credit for existing "General Residential" land use is \$788.46 per existing unit in 14143 and 14173 Washington Avenue plus credit for the existing "General Industrial" land use is \$1.03 per square foot at 14273 Washington Avenue (7,758 SF) results in a total credit of \$9,567.66. Thus, the Marina Boulevard/Interstate 880 Interchange Traffic Impact Fee will be \$44,269.41 which is due prior to issuance of the building permit. This fee is subject to change each fiscal year.

## **ENVIRONMENTAL SERVICES**

100. The storage of hazardous materials in quantities equal to or greater than 55 gallons, 200 cubic feet or 500 pounds and generation of any amount of hazardous waste requires submittal of a Hazardous Materials Business Plan (HMBP). HMBP submittal shall be completed via the California Environmental Protection Agency (Cal EPA) California Environmental Reporting System (CERS) online database. An HMBP shall be submitted prior to issuance of a Certificate of Occupancy for the Building Permit or placement of the registerable quantities of hazardous materials on the site, whichever occurs first. The plan is subject to the review and approval of Environmental Services Division of the Public Works Department.
101. All fees and charges related to Environmental Services programs shall be paid promptly in full. Failure to keep accounts current shall be grounds for revocation of the conditional use permit.
102. All hazardous waste used on site shall be handled and disposed of pursuant to applicable local, state and federal laws. Generators of hazardous waste must register with the City's Environmental Services (local CUPA) through the online California Environmental Reporting System (CERS).
103. Discharge of anything other than rainwater to the stormwater collection system, which includes area drains, sidewalks, parking areas, street curb and gutter, shall be strictly prohibited.
104. Containerized management of trash, solid waste, and recyclables shall be required to prevent exposure to or contamination of rainwater runoff.
105. The elimination of exposure of materials, processes or equipment to the maximum extent practicable is necessary to prevent contamination of rainwater. Exposures that cannot be eliminated require use of Best Management Practices (BMPs), both engineered and administrative, to prevent remaining exposures from impacting rainwater runoff.
106. In the event the facility stores petroleum products, including mixtures with any concentration of petroleum, in a quantity equal to or greater than 1,320 gallons as an aggregate of all individual aboveground "tanks" equal to or greater than 55 gallons capacity (including drums, tanks, containers, totes, oil-filled electrical equipment, oil-filled manufacturing equipment and oil-filled operational equipment), the facility shall comply with the requirements of the California (CA) Aboveground Petroleum Storage Act (APSA) as required in Chapter 6.67 of the CA Health & Safety Code and implement a Spill Prevention Control and Countermeasure Plan (SPCC) in conformance with 40 CFR 112.

Introduced by \_\_\_\_\_ and passed and adopted this 20<sup>th</sup> day of November 2023, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

\_\_\_\_\_  
Kelly B. Clancy, CMC  
City Clerk

DRAFT