HAYWARD CITY COUNCIL

RESOLUTION NO. 21-___

Introduced by Council Member _____

RESOLUTION OVERTURNING THE PLANNING COMMISSION DENIAL AND APPROVING SITE PLAN REVIEW AND HISTORIC DEMOLITION PERMIT APPLICATION NO. 201901039 AND CERTIFYING THE ENVIRONMENTAL IMPACT REPORT, ADOPTING A STATEMENT OF OVERRRIDING CONSIDERATION AND APPROVING A MITIGATION MONITORING AND REPORTING PROGRAM FOR A NEW 116,844 SQURE FOOT INDUSTRIAL BUILDING AND RELATED SITE IMPROVEMNTS FOR U-HAUL AT 4150 POINT EDEN WAY; JERRY OWEN ON BEHALF OF U-HAUL/AMERCO REAL ESTATE CO. (APPLICANT/OWNERS)

WHEREAS, on February 25, 2019, Levi Coulter on behalf of U-Haul submitted Application No. 20190039 requesting approval of Site Plan Review for two concrete tilt-up buildings to house the U-Haul Corporate Maintenance Facility and a speculative warehouse at 4150 Point Eden Way (Assessor Parcel Number 461-0085-020-02); and

WHEREAS, on April 1, 2019, the Council Economic Development Committee (CEDC) considered the initial U-Haul application and was not supportive of the building as designed and recommended significant upgrades to the site and building design to eliminate the maintenance yard; to increase the building design complexity along the Route 92 frontage by breaking up the building massing and incorporating a variety of building materials; and were generally not supportive of the proposed use as a warehouse and corporate facility for U-Haul. Overall, the CEDC expressed a desire to see a state-of-the-art gateway building on the site regardless of use; and

WHEREAS, on January 28, 2020, in response to the CEDC comments, the applicant resubmitted a significantly redesigned building and site to propose one approximately 116,000 square foot industrial building with a well-designed, glass fronted building with variety of building planes, textures and sculptural elements, a redesign site plan with employee amenity areas and a proposed realignment of the Bay Tail; and

WHEREAS, finding the application near complete, on November 10, 2020, the City released a Notice of Preparation (NOP) with an accompanying Initial Study (IS), which found less than significant impacts or no impact the areas of aesthetics, agriculture and forestry resources, air quality, energy, geology and soils, greenhouse gas emissions, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, tribal cultural resources, utilities and service systems, and wildfire.

The IS also found that the proposed project could potentially affect the environment in the areas of biological resources, cultural resources, hazards and hazardous materials, transportation and tribal cultural resources. The City held a scoping meeting on December 10, 2020 (held on Zoom), to receive additional public comments; and

WHEREAS, on April 9, 2021, a Notice of Availability (NOA) and Draft Environmental Impact Report (DEIR) were published, noticed and circulated for a 45-day public review period starting on April 9, 2021, and ending on May 24, 2021.

WHEREAS, the City received five comment letters. Those comments and responses to those comments are included in the Final EIR (FEIR) prepared for the project. A copy of the FEIR was provided to the commenters, posted to the website and noticed with the Planning Commission public hearing for the project; and

WHEREAS, on July 8, 2021, prior to the start of the duly noticed Planning Commission meeting, the City received late correspondence from Lozeau Drury on behalf of Shawn Smallwood, PhD, detailing concerns with the DEIR and FEIR's conclusions related to impacts to biological species due to loss of habitat; bird strikes related to construction of the building; and potential noise impacts from vehicle circulation related to the proposed use. The comment letter was provided to the Commission ahead of the meeting, reviewed by the CEQA consultant and consultant team who found that all potential impacts were mitigated by proposed mitigation measures included in the analysis already provided, and those conclusions were presented to the Planning Commission verbally in the public hearing; and

WHEREAS, on July 8, 2021, the Planning Commission held a duly noticed public hearing on the proposed project and voted 5:1:0 to deny the project on several grounds. Commissioners felt that the proposed project did not align with Council goals related to growing the high-tech, advanced manufacturing sector in the City's Industrial Districts; generation or desirable uses in the Industrial Districts; that the proposed regional warehouse use would not generate enough quality jobs or sales taxes to off-set the environmental impacts related to the project; that the site was not appropriate for the proposed development due to future sea level rise and destruction of habitat; that the trucks from the proposed development would further deteriorate surrounding roadways; and

WHEREAS, on July 14, 2021, the applicant filed an appeal of this denial on the grounds that the proposed building would not be impacted by sea level rise in that the build area would be located above the flood plain; that the use would not solely be a warehouse in that the building would also house the regional corporate offices for U-Haul and would employ 35-50 individuals to start and up to 75 once fully operational; that bird strikes would not be an issue due to the use of non-reflective glass; that the storage pods housed in the warehouse are utilized by Hayward residents and the use would generate tax revenue for the City; and

WHEREAS, on October 22, 2021, a Notice of the City Council Public Hearing related to the appeal was sent to commenters, property owners, residents, and businesses within 300-feet of the project site, people that requested such notice and was published in The Daily Review newspaper.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby adopts the following findings:

SITE PLAN REVIEW.

Pursuant to Hayward Municipal Code (HMC) Section 10-1.3025, the approving authority may approve or conditionally approve an application for Site Plan Review when all of the following findings are made:

1. The development is compatible with on-site and surrounding structures and uses and is an attractive addition to the City.

The proposed development would include demolition of an extant structure associated with the historic Oliver Salt Brothers manufacturing and processing plant that was located on the site in order to develop a new, approximately 116,844 square foot industrial building to house the U-Haul regional corporate offices and U-Haul pods, trucks and related materials. The proposed development would include site landscaping, an employee amenity area, and related site improvements. The proposed development would also require realignment of the Bay Trail to run along the western edge of the site between the proposed development and the Bay. The proposed development would require removal of a designated historic structure; however, the structure is dilapidated, defaced with graffiti, and has been the cause of numerous community appearance complaints over the past several years. Redevelopment of the site with a well-designed, glass fronted building with variety of building planes, textures and sculptural elements would signal increased investment in the industrial area and in the City at a gateway entrance to Hayward along Route 92.

The proposed project, which is surrounded by other industrial developments and baylands, is compatible with those surrounding land uses in that it proposes realignment of the Bay Trail, installation of substantial landscaping and employee amenities along the project frontage, and inclusion of artistic building elements reflecting the surrounding wildlife and grasses. The proposed development would remain compatible with the adjacent bay lands during operations with a condition of approval to ensure that building and site lighting is minimized and contained to the site.

2. The development takes into consideration physical and environmental constraints.

The proposed development takes into consideration physical and environmental constraints in that the development pad is located on a small portion of the site thus minimizing potential impacts on adjacent wetlands and ecologically sensitive areas. Further, the proposed development includes realignment of the

Bay Trail to maximize visual and physical connection between trail users and the Bay and surrounding natural landscapes.

The Draft and Final EIR prepared for the proposed development found that the project would result in *less than significant* impacts or impacts that could be mitigated to a *less than significant* level in all impact areas except for Cultural Resources. Specifically, the proposed project would result in significant and unavoidable impacts related to removal of a structure listed on the California Register for Historic Resources and deemed eligible for listing on the National Register of Historic Resources. Proposed Mitigation Measures CUL-1a and CUL-1b would require archival documentation of the structures that will be kept at the Hayward Historic Society and City of Hayward, and installation of an interpretive display at the site to commemorate the history of the Oliver Brothers Salt Company on the site would minimize project impacts but are not capable of reducing the significance of demolition of the structures to a level of less than significant. Thus, this impact was deemed significant and unavoidable and requires adoption of a Statement of Overriding Consideration for the project.

See the related CEQA Findings below for a thorough description of impacts, mitigation measures, findings and a statement of overriding considerations related to removal of the identified Cultural Resources.

3. The development complies with the intent of City development policies and regulations.

The project site is in an area designated as Industrial Technology and Innovation Corridor (IC) in the *Hayward 2040 General Plan.* The Corridor is expected to grow as an economic and employment center and evolve to achieve a healthy balance of traditional manufacturing, warehousing and logistics as well as newer information- and technology-based uses. Allowable uses include professional offices, corporate campuses, research and development, warehousing and logistics, manufacturing, and biotechnology. The proposed development would meet the following *Hayward 2040 General Plan* goals and policies in that it would expand the economic and employment base in Hayward (Land Use Goal 6); enhance the visual character of the site with the removal of a dilapidated structure at the gateway entrance to the City (Land Use Policy-6.6); and, employ building and site design strategies and employee amenities to create a more attractive development (Land Use Policy-6.7 and 6.8).

Further, the proposed project is consistent with the intent and purpose of the IP (Industrial Park) District, where regional offices and warehouses are permitted uses; and is consistent with all applicable IP District regulations including setbacks,

FAR, parking, minimum landscaping and employee amenities as detailed in the accompanying staff report.

4. The development will be operated in a manner determined to be acceptable and compatible with surrounding development.

The proposed development will operate in a manner that is consistent with surrounding industrial development in that it will house U-Haul corporate offices and provide storage of U-Haul pods, trucks and related equipment. Conditions of approval requiring that building and site lighting be minimized and contained to the site and requiring the 32-acre western component of the project site be preserved and maintained in perpetuity via recordation of a deed restriction will ensure compatibility with the adjacent bay lands and natural setting.

HISTORICAL RESOURCE DEMOLITION PERMIT.

Pursuant to HMC Section 10-11.070, no person shall demolish, remove or relocate a historic resource without first obtaining an historic resources demolition permit by the City Council. The City Council has reviewed the application proposal and the related environmental analysis and hereby issues the historical demolition permit subject to the related Site Plan Review and CEQA findings contained herein.

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS.

I. Introduction

The City of Hayward (City) prepared a Final Environmental Impact Report (EIR) for the proposed 4150 Point Eden Way Industrial Development Project (project).

The Final EIR, which is comprised of the Draft EIR; Responses to Public Comments; and appendices and supporting technical studies and reports, addresses the potential environmental effects associated with the development of the project site, including the construction of a new industrial building, preservation of an open space/wetland preserve, and land swap and realignment of a segment of the San Francisco Bay Trail.

The Findings and Statement of Overriding Considerations (Findings) set forth below are presented for adoption by the City Council, as the City' s findings under the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) relating to the project. The Findings provide the written analysis and conclusions of this City Council regarding the project's environmental impacts, mitigation measures, alternatives to the project, and the overriding considerations, which in this Council's view, justify approval of the proposed project, despite significant and unavoidable environmental effects.

II. General Findings and Overview

A. Relationship to the City of Hayward General Plan

The project site consists of western and eastern components. The western component of the project site is designated *Baylands* in the Hayward General Plan, and most of the eastern component of the project site is designated *Industrial Technology and Innovation Corridor* in the Hayward General Plan. The westernmost corner of the eastern component of the project site is designated *Baylands* in the Hayward General Plan. The General Plan notes that within the *Industrial Technology and Innovation Corridor* land use designation, typical building types include warehouses, office buildings, research and development facilities, manufacturing plants, business parks, and corporate campus buildings. The General Plan notes that the *Baylands* land use designation generally applies to the open space resources located along the Hayward shoreline, and activities are expected to include continued restoration of saltwater and freshwater marshes and upland habitat. The proposed warehouse with office space is consistent with the described building types for the *Industrial Technology and Innovation Corridor* land use designation for the eastern component of the project site. The proposed wetland preserve on the western component on the project site is consistent with the activities specified for the *Baylands* land use designation.

The western component of the project site is zoned Floodplain District, while the eastern component is zoned Industrial Park District. The purpose of the Floodplain District is to protect persons and property from the hazards of development in areas subject to tidal or flood water inundation. The purpose of the Industrial Park District is to provide areas for high technology, research and development, and industrial activities in an industrial park or campus-like atmosphere. Warehousing and distribution uses are allowed, provided buildings and site development are designed with an office appearance from right-of-way. The proposed warehouse building on the eastern component of the project site would have an office that faces the rights-of-way of all adjacent or nearly adjacent roadways, including Point Eden Way and State Route 92. The wetland preserve on the western component of the project site would effectively protect or prevent development from flood inundation because establishment of the preserve would preclude development. Therefore, the proposed project would be consistent with the Industrial Park and Floodplain District zoning districts applicable to the project site.

B. Procedural Background

The City started the environmental review process following submittal of the development application on February 25, 2019. The City prepared an Initial Study to evaluate potential impacts of the proposed project. Following preparation of the Initial Study, the City determined the potential for the proposed project to result in potentially significant impacts. The City prepared a

Notice of Preparation (NOP) on November 10, 2020, stating that an EIR for the project would be prepared, and provided notice for a Scoping Meeting on December 10, 2020 (held on Zoom). This NOP, along with the accompanying Initial Study was circulated to the public, local, state, and federal agencies, and other interested parties to solicit comments on the project. Concerns raised in response to the NOP and at the Scoping Meeting were considered during preparation of the Draft Environmental Impact Report (Draft EIR). On April 9, 2021, the Notice of Availability (NOA) for the Draft EIR and the Draft EIR was published for public review and comment and filed with the California Office of Planning and Research under State Clearinghouse No. 2020110180. The review period for the Draft EIR ended on May 24, 2021.

The City prepared written responses to the comments received during the comment period and included these responses in a separate volume entitled 4150 Point Eden Way Industrial Development Project Final Environmental Impact Report. The Final EIR includes a list of those who commented on the Draft EIR, copies of written comments (coded for reference), written responses to comments regarding the environmental review, and errata with minor text changes made to the Draft EIR as a result of comments. The Final EIR was made available for public review on June 25, 2021.

The City finds, accordingly, that the Final EIR was published, circulated and reviewed in accordance with the requirements of CEQA, the State CEQA Guidelines, and constitutes an accurate, objective, and complete Final EIR.

C. Consideration of the Environmental Impact Report

In adopting these Findings, the City Council finds that the Final EIR was presented to the decision-making body of the lead agency, which reviewed and considered the information in the Final EIR prior to approving the proposed project. By these Findings, the Council ratifies, adopts, and incorporates the analysis, explanations, findings, responses to comments, and conclusions of the Final EIR. The City Council finds that the Final EIR was completed in compliance with the California Environmental Quality Act. The Final EIR represents the independent judgment and analysis of the City.

D. Severability

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the proposed project, shall continue in frill force and effect unless amended or modified by the City.

E. Summary of Environmental Findings

The City Council has determined that based on all of the evidence presented, including but not limited to the EIR, written and oral testimony given at

meetings and hearings, and submission of comments from the public, organizations, and regulatory agencies, and the responses prepared to the public comments, the following environmental impacts associated with the project are:

1. **Potentially Significant Impacts that Cannot be Avoided or Reduced to a Less Than Significant Level**

   Indirect and Direct. As discussed in the Final EIR in Section 4.2, *Cultural Resources*, significant project-related impacts were found related to the demolition of existing features on the project site that contribute to the significance of historical resource.

   Cumulative. As discussion in the Final EIR in Section 4.2, *Cultural Resources*, significant cumulative impacts were found related to the demolition of existing features on the project site that contribute to the significance of historical resource.

2. **Potentially Significant Impacts that can be Avoided or Reduced to a Less Than Significant Level Through Implementation of Mitigation Measures**

   Indirect and Direct. As discussed in the Initial Study, project-related impacts in the areas of geology and soils and tribal cultural resources could be mitigated to level of less than significant with mitigation. As discussed in the Final EIR in Section 4.1, *Biological Resources*, Section 4.2, *Cultural Resources*, Section 4.3, *Hazards and Hazardous Materials*, and Section 4.4, *Transportation*, project-related impacts in the areas of biological resources, cultural resources, hazards and hazardous materials, and transportation could be mitigated to level of less than significant with mitigation.

   Cumulative. To the extent impacts in the foregoing environmental topical areas have the capability of cumulating, the Initial Study and Final EIR Section 4.1 through Section 4.4, incorporated herein by this reference, demonstrate that either the Project would not make a considerable contribution to an impact or would not, in combination with other existing and reasonably foreseeable projects, combine to have significant cumulative impacts.

3. **Less Than Significant and No Impacts That Do Not Require Mitigation**

   Indirect and Direct. As discussed in the Initial Study and in the Final EIR in Section 1, *Introduction*, project-related impacts that do not require mitigation were found in the areas of Aesthetics; Agricultural and Forest Resources; Air Quality; Biological Resources; Cultural Resources; Energy, Geology and Soils; Greenhouse Gas Emissions; Hazards and Hazardous Materials; Hydrology and Water Quality; Land Use and Planning; Mineral Resources; Noise; Population and Housing; Public Services; Recreation; Transportation, Utilities and Service Systems; and, Wildfire.

Cumulative. As discussed in the Initial Study and Final EIR Sections 4.1 through 4.4 (incorporated herein by this reference), cumulative impacts in the areas of Aesthetics; Agricultural and Forest Resources; Biological Resources; Energy; Geology and Soils; Greenhouse Gas Emissions; Hazards and Hazardous Materials; Hydrology and Water Quality; Land Use and Planning; Mineral Resources; Noise; Population and Housing; Public Services; Recreation; Transportation; Utilities and Service Systems; and, Wildfire were found less than significant.

III. Findings and Recommendations Regarding Significant and Unavoidable and Cumulatively Considerable Impacts

A. Cultural Resources

1. Demolition of the Oliver Brothers Salt Company processing plant and filling of portions of the associated salt evaporation ponds on the eastern component of the project site would adversely impact features that contribute to the significance of a historical resource. Impacts would be significant and unavoidable. (EIR Impact CUL-1)

a) **Potential Impact.** Construction of the proposed project would require demolition of the Oliver Brothers Salt Company processing plant and filling of portions of the associated salt evaporation ponds on the eastern component of the project site. The Oliver Brothers Salt Company has been determined eligible for listing in the NRHP and is listed in the CRHR; therefore, the property qualifies as a historical resource as defined by CEQA. Due to proposed demolition and construction activities that would impact contributing features within the eastern component, the proposed project would cause the material impairment of the resource, meaning it would alter in an adverse manner those physical characteristics that convey its historical significance and that justify its inclusion in the NRHP and CRHR. Filling the salt ponds and demolishing the building on the eastern component of the site would also alter the historic landscape, as would constructing a new industrial building.

b) **Mitigation Measures.** Project mitigation measures CUL-1a and CUL-1b, as set forth in Final EIR Section 4.2, *Cultural Resources*, are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program. After implementation of mitigation measures CUL-1a and CUL-1b, the impact will still be considered significant and unavoidable.

c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:

(1) **Mitigation is Feasible.** Mitigation measures CUL-1a and CUL-1b are determined to be the only feasible measures the City can impose to reduce the proposed development's impacts to historic resources. Mitigation measures CUL-1a and CUL-1b require archival documentation of the Oliver Salt Brothers Salt Company plant

structure prior to demolition and construction of an interpretative display to commemorate the history of the Oliver Salt Brothers Salt Company plant structure. Other measures were considered but rejected because they were deemed infeasible on ineffective, including retaining the Oliver Salt Brothers Salt Company plant structure while also permitting the proposed development on the site. However, given the size of the project site, required design and size of the proposed development, and location of the Oliver Salt Brothers Salt Company plant structure within the site, avoidance of the structure while also constructing the proposed development is infeasible. Accordingly, avoidance of the existing Oliver Salt Brothers Salt Company plant structure is infeasible.

(2) **Remaining Impacts.** Development of the eastern component of the project site would permanently remove the Oliver Salt Brothers Salt Company plant and fill associated salt evaporation ponds. Because avoidance of the Oliver Salt Brothers Salt Company plant structure is not feasible, there are no mitigation measures that would meet the objectives of the project while retaining the historic resources. While mitigation measures CUL-1a and CUL-1b are feasible and would be implemented, impacts would remain significant and unavoidable because demolition of the Oliver Salt Brothers Salt Company plant structure is unavoidable.

(3) **Overriding Considerations.** The environmental, economic, social, and other benefits of the project override remaining significant adverse impacts of the project resulting in the demolition or loss of a historic resource, as more fully stated in the Statement of Overriding Considerations in Section VIII, below.

2. Cumulative impacts on loss of historic resources in the City of Hayward.

a) **Potential Impact.** Construction of the proposed project would require demolition of the Oliver Brothers Salt Company processing plant and filling of portions of the associated salt evaporation ponds on the eastern component of the project site. The Oliver Brothers Salt Company has been determined eligible for listing in the NRHP and is listed in the CRHR; the property, therefore, qualifies as a historical resource as defined by CEQA. The proposed project would not impact other historic resources that may occur elsewhere, off-site, within Hayward. However, because the proposed project would result in direct significant impacts to historic resources on the project site, there would be fewer historic resources remaining in the City of Hayward.

b) **Mitigation Measures.** Project mitigation measures CUL-1a and CUL-1b, as set forth in Final EIR Section 4.2, *Cultural Resources*, are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program. After implementation of mitigation

measures CUL-1a and CUL-1b, the impact will still be considered significant and unavoidable.

c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:

(1) **Mitigation is Feasible.** Mitigation measures CUL-1a and CUL-1b are determined to be the only feasible measures the City can impose to reduce the proposed development's impacts to historic resources. Other measures were considered but rejected because they were deemed infeasible on ineffective, as set forth in Finding III.A.1(c)(1) above, incorporated herein by this reference.

(2) **Remaining Impacts.** Development of the eastern component of the project site would permanently remove the Oliver Salt Brothers Salt Company plant and fill associated salt evaporation ponds. Because avoidance of the Oliver Salt Brothers Salt Company plant structure is not feasible, there are no mitigation measures that would meet the objectives of the project while retaining the historic resources. While mitigation measures CUL-1a and CUL-1b are feasible and would be implemented, impacts would remain significant and unavoidable because demolition of the Oliver Salt Brothers Salt Company plant structure is unavoidable.

(3) **Overriding Considerations.** The environmental, economic, social, and other benefits of the project override remaining significant adverse impacts of the project resulting in the demolition or loss of a historic resource, as more fully stated in the Statement of Overriding Considerations in Section VIII, below.

IV. Findings and Recommendations Regarding Significant Impacts Which Are Avoided or Mitigated to a Less Than Significant Level

A. Biological Resources

1. The proposed project would have a substantial adverse effect on species identified as a candidate, sensitive, or special status, such as salt marsh harvest mouse, burrowing owl and other birds, and bats. Impacts would be less than significant with mitigation incorporated. (EIR Impact BIO-1)

a) **Potential Impact.** The proposed project would remove habitat suitable for special-status wildlife species and could directly impact these species if present within the suitable habitat during construction. Additionally, removal of vegetation cover during construction could impact nesting migratory bird species or their nests. Light and noise generated from both project construction and operation could indirectly affect wildlife species in adjacent areas. See Final EIR pages 4.1-15 through 4.1-19, incorporated herein by this reference.

b) **Mitigation Measures.** Project mitigation measures BIO-1a through BIO-1h are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:
   (1) **Effects of Mitigation.** The impacts related to special-status species and nesting migratory birds, including their habitats, will be mitigated to a less than significant level by requiring surveys to conducted by a qualified biologist prior to construction, installing fencing to exclude wildlife from active construction areas, implementing wildlife training for construction personnel, and excluding public access from surrounding habitat.
   (2) **Remaining Impacts.** Remaining impacts related to special-status species, nesting migratory birds, and their habitat would not be significant.

2. The proposed project would require impacts to seasonal wetlands and salt marsh on the eastern component of the project site, which are considered sensitive natural communities. Impacts would be less than significant with mitigation. (EIR Impact BIO-2)

a) **Potential Impact.** Project construction activities on the eastern component of the project site would result in the fill of 0.28 acre of seasonal wetlands and 0.69 acre of salt marsh and associated unvegetated waters in the remnant salt ponds on the eastern component project site. See Final EIR page 4.1-22, incorporated herein by this reference.

b) **Mitigation Measures.** Project mitigation measures BIO-1h and BIO-3 are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) **Findings.** Based on the Final EIR and the entire record before this City Council, this Council finds that:
   (1) **Effects of Mitigation.** The impacts related to sensitive natural communities will be mitigated to a less than significant level by requiring fencing to exclude public access from surrounding habitat and providing wetland mitigation credits.
   (2) **Remaining Impacts.** Remaining impacts related to sensitive natural communities would not be significant.

3. The proposed project would require the permanent fill of approximately 0.28 acre of seasonal wetlands and 0.69 acre of salt marsh and associated unvegetated waters in remnant salt ponds on the eastern component of the project site. Impacts would be less than significant with mitigation. (EIR Impact BIO-3)

a) **Potential Impact.** Project construction activities on the eastern component of the project site would result in the fill of 0.28 acre of seasonal wetlands and 0.69 acre of salt marsh and associated unvegetated waters in the remnant salt ponds on the eastern component project site. See Final EIR page 4.1-23, incorporated herein by this reference.

b) **Mitigation Measures.** Project mitigation measure BIO-3 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:

(1) **Effects of Mitigation.** The impacts related to wetlands will be mitigated to a less than significant level by requiring wetland mitigation credits.

(2) **Remaining Impacts.** Remaining impacts related to wetlands would not be significant.

B. Cultural Resources

1. Construction of the proposed project would involve ground-disturbing activities that have the potential to unearth or adversely impact previously unidentified archaeological resources within the eastern component of the project site. Impacts would be less than significant with mitigation incorporated. (EIR Impact CUL-2)

a) **Potential Impact.** Construction of the proposed project, including the proposed industrial building, surface parking, utilities and landscaping, and relocated segment of the San Francisco Bay Trail, would involve excavation and ground disturbance on the site's eastern component. Ground-disturbing activities would have the potential to unearth previously unidentified archaeological resources. See Final EIR pages 4.2-10 through 4.2-11, incorporated herein by this reference.

b) **Mitigation Measures.** Project mitigation measure CUL-2 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:

(1) **Effects of Mitigation.** The impacts related to archaeological resources will be mitigated to a less than significant level by requiring construction activities to halt near archaeological finds until further evaluated and protected, as applicable, by a qualified archaeologist.

(2) **Remaining Impacts.** Remaining impacts related to archaeological resources would not be significant.

C. Geology and Soils

1. Project construction would be susceptible to failure resulting from soil liquefaction and soil instability. Impacts would be less than significant with mitigation incorporated. (Initial Study Impact)

a) **Potential Impact.** The project site is within a liquefaction zone that could result in foundation damage to the proposed industrial building during a seismic-related ground failure. Additionally, graded slopes could be susceptible to collapse during seismic events if improperly constructed or compacted. Soils on site could become unstable from the overlying weight of the proposed industrial building and surface parking lot. Collapse or failure

of soils could result in substantial risk of loss, injury, or death. See Initial Study page 49, incorporated herein by this reference.

b) **Mitigation Measures.** Project mitigation measure GEO-1 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:

(1) **Effects of Mitigation.** The impacts related to soil liquefaction and instability will be mitigated to a less than significant level by requiring incorporation of measures from a Geotechnical Engineering Report into the project design and construction.

(2) **Remaining Impacts.** Remaining impacts related to soil liquefaction and instability would not be significant.

D. Hazards and Hazardous Materials

1. The project has the potential to create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment due to potential hazardous materials that may be present in the existing on-site structures. This impact would be potentially significant but mitigable. (EIR Impact HAZ-1)

a) **Potential Impact.** Demolition of the Oliver Brothers Salt Company plant would have the potential to release lead and asbestos containing materials, potentially exposing construction workers. See Final EIR pages 4.3-10 through 4.3-11, incorporated herein by this reference.

b) **Mitigation Measures.** Project mitigation measure HAZ-1 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) **Findings.** Based on the Final EIR and the entire record before this City Council, this Council finds that:

(1) **Effects of Mitigation.** The impacts related to lead and asbestos containing materials will be mitigated to a less than significant level by requiring materials inspections and possible sampling to determine if lead or asbestos are present, and if so, safe removal, remediation, and disposal in accordance with all federal, state, and local regulations.

(2) **Remaining Impacts.** Remaining impacts related to lead and asbestos exposure would not be significant.

2. The project would involve development on a site that is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5, and due to the potential to encounter residual soil and groundwater contamination on the eastern component of the project site, impacts would be potentially significant but mitigable. (EIR Impact HAZ-2)

a) **Potential Impact.** Project construction activities involving excavation to approximately 5 feet below ground surface, such as construction of the proposed building foundation or buried utility connections, could disturb

soils or groundwater from previous contamination incidents and expose construction workers. Project construction would generate dust. If soils from the contamination areas on-site are stockpiled on site and become airborne dust, either from wind erosion or construction equipment, off-site receptors could be exposed, as well as project construction workers. The proposed building foundation could create a potential pathway for migration of contaminated groundwater plume to aquifers at depths of up to 20 feet below ground surface. During operation of the proposed project, building occupants could be exposed to hazardous vapors from underlying contamination. Likewise, stormwater runoff collected in on-site bioretention areas could cause mobilization of contamination through leaching. See Final EIR pages 4.3-11 through 4.3-16, incorporated herein by this reference.

b) **Mitigation Measures.** Project mitigation measures HAZ-2a and HAZ-2b and HAZ-2c are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) **Findings.** Based on the Final EIR and the entire record before this City Council, this Council finds that:

(1) **Effects of Mitigation.** The impacts related to soil and groundwater contamination will be mitigated to a less than significant level by requiring implementation of the previously approved Risk Management Plan for the project site, consulting with the City on the location and/or design of on-site bioretention areas, and designing the foundation in such as way that it is demonstrated the proposed building would not create a preferential pathway for contamination.

(2) **Remaining Impacts.** Remaining impacts related to soil and groundwater contamination would not be significant.

E. Transportation

1. The proposed project would generate 18.23 vehicle miles traveled (VMT) per employee, which exceeds the VMT threshold of the existing regional average of 18.15 by 0.5 percent. Impacts would be potentially significant, but mitigable. (EIR Impact TR-1)

a) **Potential Impact.** The proposed project would generate 18.23 VMT per employee, which would exceed the existing regional average VMT per employee, which is 18.15. See Final EIR page 4.4-5 through 4.4-7, incorporated herein by this reference.

b) **Mitigation Measures.** Project mitigation measure TR-1 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) **Findings.** Based on the Final EIR and the entire record before this City Council, this Council finds that:

(1) **Effects of Mitigation.** The impacts related to VMT will be mitigated to a less than significant level by requiring implementation of either a voluntary employer commute program or employer carpool program.

(2) **Remaining Impacts.** Remaining impacts related to VMT would not be significant.

F. Tribal Cultural Resources

1. Construction of the proposed project would require excavation and grading, which could damage or destroy tribal cultural resources, if present. (Initial Study Impact)

a) **Potential Impact.** Subsurface excavation and grading required for the project would have the potential to uncover and either damage or destroy unknown or unidentified tribal cultural resources, if present. See Initial Study page 104, incorporated herein by this reference.

b) **Mitigation Measures.** Project mitigation measure TCR-1 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:

(1) **Effects of Mitigation.** The impacts related to tribal cultural resources will be mitigated to a less than significant level by requiring construction work to halt around discovery of a potential tribal cultural resource, and development of a mitigation plan is the resource is determined to be a tribal cultural resource.

(2) **Remaining Impacts.** Remaining impacts related to tribal cultural resources would not be significant.

V. Other Impacts and Considerations

A. Growth-Inducing Impacts of the Proposed Project. CEQA Guidelines Section 15126.2(d) requires that an environmental impact report evaluate the growth-inducing impacts of a proposed action.

a) **Findings.** Based on the Final EIR and the entire record before this City Council, the project would generate further employment growth. However, employment growth would consist of approximately 20 to 25 long-term employees, which would not generate substantial growth in Hayward.

b) **Explanation.** As identified on Final EIR page 5-1, incorporated herein by this reference, the proposed project would generate short-term construction jobs, that given their short-term duration, would be filled by the local Bay Area workforce. Operation of the project would generate 20 to 25 new long-term jobs, which would not be considered substantial unplanned growth in Hayward.

B. Significant Irreversible Environmental Changes Involved if the Project is Implemented. CEQA Sections 21100(b)(2) and 21100.1(a) require that EIRs prepared for the adoption of a project include a discussion of significant irreversible environmental changes of project implementation.

a) **Findings.** Based on the Final EIR and the entire record before the City Council, the project would result in consumption of renewable, nonrenewable, and limited resources including, but are not limited to, oil, gasoline, lumber, sand and gravel, asphalt, water, steel, and similar materials.

However, the proposed building would be constructed pursuant to CalGreen and the City's Reach Code, both of which require energy efficiency.

b) **Explanation.** As identified on Final EIR pages 5-2 and 5-3, incorporated herein by this reference, the proposed project would result in consumption of renewable, nonrenewable, and limited resources including, but are not limited to, oil, gasoline, lumber, sand and gravel, asphalt, water, steel, and similar materials. Additional vehicle trips associated with the proposed project would incrementally increase local traffic and regional air pollutant and GHG emissions. The project would be required to comply with standards set forth in California Building Code (CBC) Title 24, which would minimize the wasteful, inefficient, or unnecessary consumption of energy resources during operation. CALGreen (as codified in CCR Title 24, Part 11) requires implementation of energy-efficient light fixtures and building materials into the design of new construction projects. Furthermore, the 2019 Building Energy Efficiency Standards (CBC Title 24, Part 6) requires newly constructed buildings to meet energy performance standards set by the CEC. The City also has a Reach Code that requires efficiency beyond CalGreen, which would be applicable to the proposed project.

c) **Issues Raised on Appeal.** There are no appeals to certification of the Final EIR.

VI. Project Alternatives

A. Background – Legal Requirements

CEQA requires that environmental impact reports assess feasible alternatives or mitigation measures that may substantially lessen the significant effects of a project prior to approval Public Resources Code Section 21002). Apart from the "no project" alternative, the specific alternatives or types of alternatives that must be assessed are not specified. CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its own facts, which in turn must be reviewed in light of the statutory purpose" (*Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d. 553, 556 1990]). The legislative purpose of CEQA is to protect public health and welfare and the environment from significant impacts associated with all types of development by ensuring that agencies regulate activities so that major consideration is given to preventing environmental damage while providing a decent home and satisfying living environment for every Californian Public Resources Code Section 21000).

In short, the objective of CEQA is to avoid or mitigate environmental damage associated with development. This objective has been largely accomplished in the project through the inclusion of project modifications and mitigation measures that reduce the potentially significant impacts to an acceptable level. The courts have held that a public agency "may approve a developer's choice of a project once its significant adverse environment effects have been reduced to an acceptable level—that is, all avoidable significant damage to the environment has been eliminated and

that which remains is otherwise acceptable" (*Laurel Hills Homeowners Assoc. v. City*, 83 Cal.App.3d 515, 521 [1978]).

B. Identification of Project Alternatives

The CEQA Guidelines state that the "range of potential alternatives to the project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one of more of the significant effects" of the project (CEQA Guidelines Section 15126.6(c)). Thus, consideration of the project objectives is important to determining which alternatives should be assessed in the EIR. The Final EIR identified the following objectives for the proposed project:

- Develop an industrial building to house U-Haul corporate headquarters and warehouse.
- Locate the building at the western edge of Hayward in proximity to a regional highway and other industrial, warehousing and logistics uses to avoid land use conflicts.
- Create new employment and economic growth opportunities by redeveloping a vacant and underutilized property.
- Establish a wetland preserve adjacent to the San Francisco Bay.
- Remove a dilapidated and unsafe structure from a currently underutilized property at the gateway to the City.

VII. Alternatives Analysis in Final EIR

A. Alternatives Considered but Rejected. Alternatives considered but rejected from further consideration include three separate off-site alternatives.

a) **Findings.** Three separate off-site alternatives were considered but rejected from further consideration. The three alternative sites include an approximately one-acre property at 4327 Breakwater Avenue; an approximately 3.9-acre property at 3590 Enterprise Avenue; and an approximately 34.6-acre property on Arden Road. The alternative sites on Breakwater Avenue and Enterprise Avenue were rejected from further consideration because the properties were substantially less than the approximately 6.8 acres necessary to accommodate the proposed project. The alternative site on Arden Road was eliminated because it contains large areas of freshwater ponds which reduce the contiguous area of developable land to less than the approximately 6.8 acres required to accommodate the proposed project.

b) **Explanation.** While each of the three off-site alternatives would eliminate significant impacts to the historic resource of the Oliver Brother Salt Company processing plant, none of the three alternative sites have enough developable land to accommodate the proposed project. Because the three alternative sites are not large enough to accommodate the proposed project,

each alternative would fail to meet the project objective of developing an industrial building to house U-Haul corporate headquarters and warehouse. Additionally, the three alternative sites would also fail to meet project objectives to create new employment and economic growth, establish a wetland preserve adjacent to the San Francisco Bay, and removal of a dilapidated and unsafe structure from a currently underutilized property at the gateway to the City.

B. Alternatives Analyzed in the Final EIR. The CEQA Guidelines state that the "range of potential alternatives to the project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects" of the project. The City evaluated the alternatives listed below.

1. **No Project Alternative.** The No Project Alternative assumes that the industrial building, surface parking, driveway, landscaping, and other project components associated with the proposed industrial building are not constructed. Additionally, the San Francisco Bay Trail would remain in its current location and would not be realigned. Likewise, a wetland preserve would not be established on the western component of the project site. The western component of the project site would not be preserved in perpetuity via recordation of a deed restriction or other appropriate legal mechanism; therefore, the salt ponds and other areas of the western component of the site could be utilized for flood plain and agricultural uses such as chemical extraction from bay water, crop and tree farming, dredging, farming or ranching and limited sales of materials grown on site. The project site would remain in its current unused state, and the existing structures associated with the former Oliver Brothers Salt Company operation would not be demolished.
   a) **Findings.** The No Project Alternative is rejected as a feasible alternative because it would not achieve the project objectives as listed on page 6-1 of the Final EIR.
   b) **Explanation.** The No Project Alternative would avoid the significant and unavoidable impacts of the project because no construction would occur on the project site and demolition of the Oliver Brothers Salt Company plant would not be required. Because no construction would occur on the project site, other significant but mitigable impacts of the project would be avoided under this alternative, such as impacts to special-status species, wetlands, and contaminated soils and groundwater. Additionally, because the proposed building would not be constructed under this alternative, significant but mitigable impacts associated with VMT would also be avoided. While the No Project Alternative would avoid the potentially significant impacts of the proposed project, it would meet none of the project objectives.

2) **Enterprise Avenue Alternate Site Alternative.** Under the Enterprise Avenue Alternate Site Alternative, the proposed industrial building would be constructed on an approximately 10.8-acre property located at 3636 Enterprise Avenue in Hayward. The property is identified as APN 439-0099-036-02, and is zoned as General Industrial (IG). The property is mostly vacant with the exception of several radio communication towers scattered across the property. A small structure is located at the base of one tower and is associated with the tower operations. Vegetation is present across nearly the entire property, and based on aerial photography, consists primarily of low grasses, weeds, and shrubs.

   The Enterprise Avenue Alternate Site Alternative assumes that the industrial building and associated surface parking lot would be approximately the same size and design as the proposed project, only located on the Enterprise Avenue property instead of the project site. However, because the Enterprise Avenue property is an upland area, this alternative would not include establishing a wetland preserve on-site or off-site. Likewise, this alternative assumes the existing structures and ponds associated with the former Oliver Brothers Salt Works operation on the project site would remain unchanged from current conditions, because this alternative would involve no activities or development at the project site. Finally, this alternative would not result in redevelopment of and reinvestment in a site that serves as a gateway to the City.

   The San Francisco Bay Trail is not adjacent the Enterprise Avenue property. Therefore, this alternative would not involve relocation of the trail or coordination with the East Bay Regional Parks District. However, this alternative would include relocating the existing radio communication towers and associated building that currently exist on the Enterprise Avenue property.

   a) **Findings.** The Enterprise Avenue Alternate Site Alternative is rejected as a feasible alternative because it would not achieve most of the project objectives, as listed on page 6-1 of the Final EIR. Additionally, the project applicant does not own the Enterprise Avenue site and has no control over development decisions or investments on the Enterprise Avenue property.
   b) **Explanation.** The Enterprise Avenue Alternate Site Alternative would avoid the significant and unavoidable impacts of the project because no construction would occur on the project site and demolition of the Oliver Brothers Salt Company plant would not be required. However, the Enterprise Avenue Alternate Site Alternative would not avoid some of the potentially significant but mitigable impacts of the proposed project. For example, the Enterprise Avenue Site contains open grassland and communication towers which could be used by migratory nesting birds, which would be impact by construction on the site. Similarly, construction on the Enterprise Avenue Site would require

excavation and there would be potential to impact buried but previously unknown cultural resources. Additionally, the Enterprise Avenue Alternate Site Alternative would result in increased VMT impacts compared to the proposed project.

While the Enterprise Avenue Alternate Site Alternative would avoid the potentially significant and unavoidable impacts of the proposed project, it would fail to meet most of the project objectives, such as establishing a wetland preserve or removing a dilapidated structure from the gateway to the City. Additionally, the project applicant does not own the Enterprise Avenue site and has no control over development decisions or investments on the Enterprise Avenue property.

3) **Reduced Project Alternative.** The Reduced Project Alternative assumes that, like the proposed project, the industrial building, surface parking, driveway, landscaping, and other project components associated with the proposed industrial building would be constructed on the eastern component of the project site. Additionally, the San Francisco Bay Trail would be realigned to encompass the eastern component of the site, like the proposed project. Likewise, a wetland preserve would be established on the western component of the project site, consistent with the proposed project. However, the industrial building and surface parking lot would be reduced in size by approximately 50 percent and shifted south within the eastern component of the project site in order to avoid demolition of the former Oliver Brothers Salt Company plant in the northeast part of the site. The existing building would be left in place.
   a) **Findings.** The Reduced Project Alternative is rejected as a feasible alternative because it would not achieve some of the project objectives, as listed on page 6-1 of the Final EIR. The Reduced Project Alternative would also result in more wetland impacts compared to the proposed project, including wetlands that are contributing elements to the historic landscape in the form of salt evaporation ponds. The Reduced Project Alternative would also be economically infeasible because the warehouse size would be reduced making its construction and operation less functional.
   b) **Explanation.** The Reduced Project Alternative would avoid the significant and unavoidable impacts of the project because no construction would occur on the project site and demolition of the Oliver Brothers Salt Company plant would not be required. However, the Reduced Project Alternative would not avoid some of the potentially significant but mitigable impacts of the proposed project. For example, the Reduced Project Alternative would require vegetation removal, which could impact special-status species migratory nesting birds. Because the Reduced Project Alternative would shift the building further south on the eastern component of the project site, more disturbance to wetlands would be required compared with the

proposed project. Finally, the dilapidated structures would remain in place at the gateway entrance to the City.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The environmentally superior alternative is discussed on pages 6-11 and 6-12 of the Final EIR. Under CEQA Guidelines Section 15126.6(e)(2), if the environmentally superior alternative is the No Project Alternative, another environmentally superior alternative must be identified. For the EIR analysis, the Enterprise Avenue Alternate Site Alternative is the environmentally superior alternative.

However, while the Enterprise Avenue Alternate Site Alternative would reduce impacts in the categories of biological resources, cultural resources, and hazards and hazardous materials, it would result in greater impacts regarding transportation. The Enterprise Avenue Alternate Site Alternative, however, would not meet all the objectives of the proposed project, such as establishing a wetland preserve or removing a dilapidated structure from the gateway to the City.

VIII. Statement of Overriding Considerations Related to the 4150 Point Eden Way Industrial Development Project Findings

The City is the lead agency under CEQA, responsible for the preparation, review and certification of the Final EIR for the 4150 Point Eden Way Industrial Development Project. As the lead agency, the City is also responsible for determining the potential environmental impacts of the proposed action and which of those impacts are significant. CEQA also requires the lead agency to balance the benefits of a proposed action against its significant unavoidable adverse environmental impacts in determining whether or not to approve the proposed action. In making this determination the lead agency is guided by the CEQA Guidelines Section 15093, which provides as follows:

a) "CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region -wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region -wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable,"
b) "When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record."
c) "If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination ...."

In addition, Public Resources Code Section 21081(b) requires that where a public agency finds that economic, legal, social, technical, or other reasons make the mitigation measures or alternatives identified in the EIR infeasible and thereby leave significant unavoidable adverse project effects, the public agency must also find that overriding economic, legal, social, technical or other benefits of the project outweigh the significant unavoidable adverse effects of the project.

The Final EIR identified a number of alternatives to the proposed development, and the administrative record of proceedings, including without limitation the Final EIR and these findings, determined the extent to which these alternatives meet the basic project objectives, while avoiding or substantially lessening any significant adverse impacts of the proposed project.

Analysis in the Final EIR for the 4150 Point Eden Way Industrial Development Project has concluded that the proposed development will result in historic resource impacts that cannot be mitigated to a less than significant level. These impacts are set forth in Findings IIIA, above, which is incorporated herein by this reference. All other potential significant adverse project impacts have been mitigated to a level less than significant based on mitigation measures identified in the Final EIR.

In accordance with CEQA Guidelines Section 15093 and other applicable law, the City has, in determining whether or not to approve the project, balanced the economic, social, technological, and other project benefits against its unavoidable environmental risks, and finds that each of the benefits of the project set forth below outweigh the significant adverse environmental effects that are not mitigated to less-than-significant levels. This statement of overriding considerations is based on the City's review of the Final EIR and other information in the administrative record.

Each of the benefits identified below provides a separate and independent basis for overriding the significant environmental effects of the project. The benefits of the project are as follows:

A. Implementation of Goals and Policies Set Forth in the City' s General Plan and Economic Development Strategic Plan

The project implements the construction and development of 4150 Point Eden Way, which will allow for new industrial warehouse and office activities, consistent with General Plan Goals and Policies as detailed in the staff report prepared for the project, as well as and the requirements of CEQA Guidelines Section 15126.6(e)(3)(A). Of particular relevance is that the proposed development would build out gateway and opportunity development sites in the Industrial area. The project site has been underutilized since the Oliver Brothers Salt Company vacated the site decades ago, and is a source of blight, trespassing and safety issues. It has been challenging to develop the site with the industrial uses envisioned in the General Plan and the Economic Development Strategic Plan (EDSP) due to economic downturn around 2008 and the fact that a

developer must work through sensitive biological issues and hazardous contamination from prior uses on-site. The proposed development would involve construction of a new, modern, and aesthetically pleasing warehouse with office space, consistent with the General Plan and EDSP.

B. Employment Opportunities and Economic Development

The proposed project would directly provide temporary construction jobs and approximately 35-75 permanent employment opportunities, according to the project applicant. Further, the proposed project would be consistent with the General Plan and would be within the employment and population projections in the 2040 General Plan EIR. The project would provide the regional headquarters office for a national company, furthering the economic development goals of the City. Finally, redevelopment of the site at a gateway entrance to the City would signal investment in the industrial sector and the City as a whole.

C. Preservation of Wetlands Adjacent to the San Francisco Bay

The proposed project would establish an approximately 32-acre preserve on the western component of the project site. The preserve would be preserved in perpetuity via recordation of a deed restriction or other appropriate legal mechanism, ensuring that the salt ponds are permanently preserved as open space in perpetuity. Because the area would be preserved in perpetuity, habitat for special-status species that occur within the preserve area, such salt harvest mouse and salt marsh wandering shrew, would also be preserved.

D. Conclusion

Based on the objectives identified for the project, review of the project, review of the EIR, and consideration of public and agency comments, the City Council has determined that the project should be approved and that any remaining unmitigated environmental impacts attributable to the project are outweighed by the specific social, environmental, land use, and other overriding considerations.

The City Council has determined that any environmental detriment caused by the proposed 4150 Point Eden Way Industrial Development Project has been minimized to the extent feasible through the mitigation measures identified herein and, where mitigation is not feasible, has been outweighed and counterbalanced by the significant social, environmental, and land use benefits to be generated to the City. Accordingly, the City hereby adopts this Statement of Overriding Considerations.

BE IT FURTHER RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby reverses the denial of the project, certifies the Environmental Impact Report, adopts a Statement of Overrriding Consideration, approves a mitigation monitoring and reporting program, and approves the Site Plan Review and Historic

Resources Demolition Permit Application No. 201901039, subject to the attached conditions of approval (Exhibit I.a).

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2021

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward

Exhibit I.a

SITE PLAN REVIEW AND HISTORIC DEMOLITION PERMIT APPLICATION NO. 201901039 – Site Plan Review and Historic Resources Permit to Allow Development of a New 116,844 Square Foot Industrial Building and Site Improvements for U-Haul at 4150 Point Eden Way (Assessor Parcel Number 461-0085-020-02). Jerry Owen on Behalf of U-Haul; Amerco Real Estate Co. (Applicant/Property Owner).

GENERAL

PLANNING

1. The developer shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.

2. Site Plan Review Application No. 201901039 is approved subject to the Architectural, Civil and Landscape plans received by the City on May 4, 2021 (plans dated April 24, 2020), and the revised Site Plan received by the City on May 12, 2021 (plans dated January 18, 2021), respectively, except as modified by the conditions listed below. Any proposal for alterations to the conditionally approved site plan or building design that does not require a variance to any zoning ordinance standard shall be subject to review and approval by the Development Services Director or her designee prior to implementation. Alterations requiring a variance shall be subject to review and approval by the Planning Commission, if applicable.

3. The proposed site plan and development is subject to a land swap and relocation of the Bay Trail requiring approval of the East Bay Regional Park District (EBRPD). The applicant shall provide evidence of the land swap approval prior to the issuance of grading permits for the proposed project. If the EBRPD does not approval the land swap and relocation of the Bay Trail, the applicant shall submit a revised Development Permit Application to the Planning Division for consistency review with applicable zoning regulations and the environmental analysis prepared for the project. The Planning Director may review and approve the alteration upon determination that the site plan and development is substantially the same. Alternatively, the Planning Director may refer the revised site plan to the Planning Commission for determination.

4. The Bay Trail shall be designed in accordance with EBRPD trail standards. The Bay Trail design shall be included on improvement and landscape plans and shall be reviewed and approved by the City of Hayward and the EBRPD prior to issuance of grading permits.

5. The realigned Bay Trail shall be constructed and operable prior to the issuance of a Certificate of Occupancy for the development project.

6. The building colors and materials shown on the building permit plans shall match those shown on the architectural plans, color/material exhibit and renderings received by the City on May 4, 2021 (dated April 24, 2020), including sculptural pieces and art. Any revision to the approved colors and materials shall be reviewed and approved by the Planning Division prior to the issuance of a building permit.

7. The permittee, property owner or designated representative shall allow the City's staff to access the property for site inspection(s) to confirm all approved conditions have been completed and are being maintained in compliance with all adopted city, state and federal laws.

8. Lights inside and affixed to the building shall be turned off at night to eliminate light pollution impacts to the adjacent baylands. All lighting fixtures on the site and in the parking lot shall incorporate a shield to allow for downward illumination. No spillover lighting to adjacent properties is permitted and all exterior lighting on walls, patios or balconies shall be recessed/shielded to minimize visual impacts.

9. The proposed 32-acre preserve (western component) shall be preserved and maintained in perpetuity with a deed restriction or other appropriate legal mechanism. The mechanism for preservation and maintenance shall be recorded and provided to the Planning Division prior to the issuance of a Certificate of Occupancy for the development project.

10. All vents, gutters, downspouts, flashings, electrical conduits, etc. shall be painted to match the color of the adjacent material unless specifically designed as an architectural element.

11. All exterior and rooftop mechanical equipment shall be screened or located away from public view. Mechanical and rooftop equipment shall include, but is not limited to, electrical panels, pull boxes, air conditioning units, gas meters, and swimming pool equipment. All rooftop screening and mechanical equipment shall be shown on the project plans and be subject to final review and approval by City staff prior to the issuance of an occupancy permit. All screening shall be compatible with respect to forms and materials used on the building.

12. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened with shrubs or an architectural screen from all perspectives. All equipment shall be designed to be compatible with respect to location, form, design, exterior materials, and noise generation. The applicant shall identify all screens on the building permit and landscape plans prior to the issuance of improvement plans and building permits.

13. No signs are approved with this project. All signage, including the signage required in Condition No. 22 below and placed on-site or off-site shall be reviewed and approved by the Planning Division and a Sign Permit application shall be required, consistent with Hayward Municipal Code Sign Ordinance requirements.

14. Failure to comply with any of the conditions set forth in this approval, or as subsequently amended in writing by the City, may result in failure to obtain a building final and/or a Certificate of Occupancy until full compliance is reached. The City' s requirement for full compliance may require minor corrections and/or complete demolition of a non-compliant improvement regardless of costs incurred where the project does not comply with design requirements and approvals that the applicant agreed to when permits were filed to construct the project.

15. All outstanding fees owed to the City, including permit charges and staff time spent processing or associated with the development review of this application shall be paid in full prior to any consideration of a request for approval extensions or issuance of a building permit.

16. If determined to be necessary for the protection of the public peace, safety and general welfare, the City of Hayward may impose additional conditions or restrictions on this permit. Violations of any approved land use conditions or requirements will result in further enforcement action by the Code Enforcement Division. Enforcement includes, but is not limited to, fines, fees/penalties, special assessment, liens, or any other legal remedy required to achieve compliance including the City of Hayward instituting a revocation hearing before the Planning Commission.

17. A copy of these conditions of approval shall be scanned and included on a separate, full-sized sheet(s) in the building permit plan check set.

18. The Planning Director or designee may revoke this permit for failure to comply with, or complete all, conditions of approval or improvements indicated on the approved plans.

19. The owner shall maintain in good repair all building exteriors, walls, lighting, drainage facilities, landscaping, driveways, and parking areas. The premises shall be kept clean and weed-free.

20. The applicant shall be responsible for graffiti-free maintenance of the property and shall remove any graffiti within 48 hours of occurrence or City notification.

21. The applicant shall apply for and obtain all necessary permits from the City and/or outside agencies prior to any site work.

22. Within 60 days of following the issuance of a building permit and prior to construction, the applicant shall install one non-illuminated "Coming Soon" sign on the project site that includes a project rendering, a project summary, and developer contact information. The sign shall be constructed of wood or recyclable composite material, be placed in a location at least ten (10) feet back from the property line, and shall not impede pedestrian, bicycle, and vehicular visibility or circulation. The sign shall be maintained in accordance with Section 10-7-709 of the Hayward Municipal Code and may be up to thirty-two (32) square feet of sign area and shall not exceed ten (10) feet in height. Sign design, size and location shall be reviewed and approved by the Planning Division prior to placement.

23. Impact Fees. This development is subject to the requirements of the Property Developers – Obligations for Parks and Recreation set forth in HMC Chapter 10, Article 16. Per HMC Section 10-16.10, the applicant shall pay the impact fee rate that is in effect at the time of building permit issuance.

24. In accordance with Hayward Municipal Code (HMC) Section 10- 1. 3055, approval of this Site Plan Review is void 36 months after the effective date of approval unless:
    a. Prior to the expiration of the 36-month period, a building permit application has been submitted and accepted for processing by the Building Official or his/ her designee. If a building permit is issued for construction of improvements authorized by this approval, said approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance on this approval; or
    b. A time extension of the approval has been granted by the Development Services Director or his/her designee, which requires that a request for an extension of this approval must be submitted in writing to the Planning Division at least 15 days prior to the expiration date of this approval.

MITIGATION MEASURES

25. **BIO-1a: SWHM and SMWS Habitat Fencing**. Prior to ground disturbing activities adjacent to potential SMHM and SMWS habitat, temporary exclusion barriers and/or fencing shall be installed to exclude individuals of these species from areas of active construction. The design of the exclusion barriers and fencing shall be approved by a qualified biologist and shall be installed in the presence of a qualified biological monitor. The fence will be made of a material that does not allow SMHM or SMWS to pass through, and the bottom shall be buried to a depth of a minimum of four inches so that these species cannot crawl under the fence. All support for the exclusion fencing shall be placed on the inside of the project footprint. Additionally,

removal of marsh or associated ruderal vegetation shall be completed using only hand tools and in the presence of a biological monitor. The barriers and/or fencing shall remain in place for the duration of construction of the project.

26. **BIO-1b: Qualified Biological Monitor**. A qualified biological monitor shall be present during wildlife exclusion fence installation and removal, and during all vegetation clearing and initial ground disturbance which take place in marsh habitats of the former salt ponds and the vegetation adjacent to marsh habitats. The monitor will have demonstrated experience in biological construction monitoring and knowledge of the biology of the special-status species that may be found in the project site, including SMHM and SMWS. The monitor(s) shall have the authority to halt construction, if necessary, if noncompliance actions occur. If a federal or State listed species is observed at any time during construction, work shall not be initiated or shall be stopped immediately until the animal leaves the vicinity of the work area of its own volition. If the animal in question does not leave the work area, work shall not be reinitiated until the qualified biological monitor has contacted the appropriate agency to discuss on how to proceed with work activities. The biological monitor shall direct the contractor on how to proceed accordingly.

    The biological monitor(s) shall be the contact person for any employee or contractor. who might inadvertently kill or injure a special-status species or anyone who finds dead, injured, or entrapped special-status species. Following fence installation, vegetation removal in potential habitat areas, and initial ground disturbance in potential habitat areas, the biologist shall train an onsite monitor to continue to document compliance. The biologist shall conduct weekly site checks to provide guidance for fence maintenance, provide environmental sensitivity training, and document compliance with permit conditions.

27. **BIO-1c: Worker Environmental Awareness Program Training**. The biological monitor shall provide an endangered species training program to all personnel involved in project construction. At a minimum, the employee education program shall consist of a brief presentation by persons knowledgeable about the biology of sensitive species with potential to occur in the project footprint, and about their legislative protection to explain concerns to contractors and their employees involved with implementation of the project. The program shall include a description of the species and their habitat needs, any reports of occurrences in the area; an explanation of the status of these species and their protection under State and federal legislation; and a list of measures being taken to reduce impacts to these species during construction.
28. **BIO-1d: Burrowing Owl Pre-Construction Surveys and Avoidance**. A qualified biologist shall conduct pre-construction clearance surveys prior to ground disturbance activities within suitable natural habitats and ruderal areas throughout the eastern component of the project site to confirm the presence/absence of active

burrowing owl burrows. The surveys shall be consistent with the recommended survey methodology provided by CDFW (2012). Clearance surveys shall be conducted within 30 days prior to construction and ground disturbance activities. If no burrowing owls are observed, no further actions are required. If burrowing owls are detected during the pre-construction clearance surveys, the following measures shall apply:

a. Avoidance buffers during the breeding and non-breeding season shall be implemented in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993) minimization mitigation measures.
b. If avoidance of burrowing owls is not feasible, then additional measures such a passive relocation during the nonbreeding season and construction buffers of 200 feet during the breeding season shall be implemented, in consultation with CDFW. In addition, a Burrowing Owl Exclusion Plan and Mitigation and Monitoring Plan shall be developed by a qualified biologist in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993).

29. **BIO-1e: Nesting Bird Avoidance and Pre-Construction Surveys**. Project activities, such as vegetation removal, grading, or initial ground-disturbance, shall be conducted between September 1 and January 31 to the greatest extent feasible. If project activities must be conducted during the nesting season (February 1 to August 31), a pre-construction nesting bird survey shall be conducted by a qualified biologist no more than 14 days prior to vegetation removal or initial ground disturbance. Additional nesting surveys shall be conducted if project construction activities cease for more than 14 days during this period. The survey shall include the project site plus a 200-foot buffer around the eastern component of the project site if feasible, and a 500-foot buffer for California least tern, western snowy plover, and black skimmer, if feasible, to identify the location and status of any nests that could potentially be affected either directly or indirectly by project activities. A survey of the western component of the project site shall be optional and not required because no ground disturbance or construction activities are proposed in the western component of the project site. If active nests are identified during the nesting bird survey, an appropriate avoidance buffer shall be established within which no work activity will be allowed which would impact these nests. The avoidance buffer would be established by the qualified biologist on a case-by-case basis based on the species and site conditions. In no cases shall the buffer be smaller than 50 feet for passerine bird species and 250 feet for raptor species. The buffer for California least tern, western snowy plover, and black skimmer shall be at least 600 feet or otherwise determined by CDFW and USFWS. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. Buffers shall be delineated by orange construction fencing that defines the buffer where it intersects the project site. If a California least tern, western snowy plover, or black skimmer nest is found within 500 feet of the project

site, USFWS and CDFW will be immediately notified. USFWS and CDFW shall be consulted on appropriate avoidance and minimization methods, which would likely include work restrictions within 500 feet of the nest, biological monitoring for activity within the nest' line-of-sight, etc. The buffer area(s) shall be closed to all construction personnel and equipment until juveniles have fledged and the nest is inactive. The qualified biologist shall confirm that breeding/nesting is completed, and young have fledged the nest prior to removal of the buffer.

30. **BIO-1f: Special-Status Bat Avoidance and Pre-Construction Surveys**. To avoid impacts to roosting special-status bats, focused surveys to determine the presence/absence of roosting bats shall be conducted prior to the initiation of demolition of buildings and removal of mature trees large enough to contain crevices and hollows that could support bat roosting. If active maternity roosts are identified, a qualified biologist shall establish avoidance buffers applicable to the species, the roost location and exposure, and the proposed construction activity in the area. If active non-maternity day or night roosts are found on the project site, measures shall be implemented to passively relocate bats from the roosts prior to the onset of construction activities. Such measures may include removal of roosting site during the time of day the roost is unoccupied or the installation of one-way doors, allowing the bats to leave the roost but not to re-enter. These measures shall be presented in a Bat Passive Relocation Plan that shall be submitted to, and approved by, CDFW.

31. **BIO-1g: Trash Removal**. During construction of the project, all food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in solid, closed containers (trash cans) and removed at the end of each workday from the project site to eliminate an attraction to predators of special-status species.

32. **BIO-1h: Public Access Exclusion Fencing**. Access by all project construction personnel into the Eden Landing Ecological Reserve shall be prohibited. Upon completion of the development project a permanent fence shall be installed on the eastern component of the project site to prevent access from the San Francisco Bay Trail relocated segment and the new industrial development into the adjacent salt ponds and associated marsh habitats to the west. In addition, signs shall be posted stating that public access into the salt ponds and associated marsh habitat is strictly prohibited owing to the sensitivity of the habitat and to ensure the continued use of this habitat by special-status species.

33. **BIO-3: Protected Wetlands Mitigation Credits**. To compensate for impacts to approximately 0.97 acre of waters of the U.S., the project applicant shall purchase wetland mitigation credits at a minimum of 1:1 mitigation ratio from an approved mitigation bank with a Service Area that covers the project site. The San Francisco Bay Wetland Mitigation Bank currently has "Tidal Wetland and Other Waters

Creation" credits available for purchase. Either the U.S. Army Corps of Engineers or the CDFW may adjust the mitigation ratio and the applicant shall comply, but in no case shall the mitigation ratio be less than 1:1.

34. **CUL-1a: Building Recordation**. Archival documentation of as-built and as-found condition shall be prepared for the Oliver Brothers Salt Company prior to demolition. Prior to issuance of demolition permits, the City of Hayward shall ensure that documentation of the buildings and structures proposed for demolition is completed that follows the general guidelines of Historic American Building Survey (HABS)-level III documentation. The documentation shall include high resolution digital photographic recordation, a historic narrative report, and compilation of historic research. The documentation shall be completed by a qualified professional who meets the standards for history, architectural history, or architecture as set forth by the Secretary of the Interior's Professional Qualification Standards (36 CFR, Part 61). The original archival-quality documentation shall be offered as donated material to the Hayward Library and/or Hayward Area Historical Society to make it available for current and future generations. Archival copies of the documentation shall be submitted to the City of Hayward where it shall be available to local researchers.

35. **CUL-1b: Interpretive Display**. An interpretive display shall be developed and installed on site to commemorate the history of the Oliver Brothers Salt Company. The display may include historic photographs, drawings, and text to convey the history of the site and the significance of salt processing in Alameda County. The display shall be reviewed and approved by the City prior to installation at a site to be chosen by the City. The installation shall occur prior to issuance of a Certificate of Occupancy.

36. **CUL-2: Unanticipated Discovery of Archeological Resources**. In the event that archaeological resources are unexpectedly encountered during ground-disturbing activities, work in the immediate area shall be halted and an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archeology (National Park Service 1983) shall be contacted immediately to evaluate the find. If the find is prehistoric, then a Native American representative should also be contacted to participate in the evaluation of the find. If necessary, as determined by the archaeologist in consultation with the City, the evaluation may require preparation of a treatment plan and archaeological testing for California Register of Historical Resources (CRHR) eligibility. If the discovery proves to be eligible for the CRHR and cannot be avoided by the modified project, additional work, such as data recovery excavation, may be warranted to mitigate impacts to archaeological resources.

37. **GEO-1: Geotechnical Considerations**. The project applicant shall implement all measures and recommendations set forth in the Geotechnical Engineering Services Report prepared by Professional Services Industries, Inc., an Intertek company, in January 2018 (included as Appendix D and on file with the City of Hayward) or other updated study reviewed and approved by the Hayward Public Works - Engineering Division. This measure shall be implemented for development on the eastern component of the project site. Recommendations include but are not limited to the following topic areas, or others as determined by an updated study:
    a. Engineered fill material required at this site shall not contain rocks greater than 3-inches in diameter or greater than 30 percent retained on the ¾-inch sieve and shall not contain more than 3 percent (by weight) of organic matter or other unsuitable material. The expansion index for the material shall not exceed 50.
    b. Engineered fill shall be compacted to at least 90 percent of the maximum dry density as determined by the modified Proctor (ASTM D1557). The moisture content of engineered fill shall be maintained at approximately 2 percent above or below the material's optimum moisture content as determined by the same index during compaction.
    c. Engineered fill shall be placed in maximum lifts of 8-inches of loose material. Each lift of engineered fill shall be tested by a PSI soils technician, working under the direction of a licensed geotechnical engineer, prior to placement of subsequent lifts.
    d. Properly compacted engineered fill shall extend horizontally outward beyond the exterior perimeter of the foundations a distance equal to the height of fill or 5 feet, whichever is greater, prior to substantial sloping.
    e. Permanent cut or fill slopes shall not exceed 2 Horizontal to 1 Vertical (2H:1V). Excavations extending below a 1H:1V plane extending down from any adjacent footings shall be shored for safety.
    f. Utilities trenches within the building, pavement, and sidewalk areas shall be backfilled with granular engineered fill such as sand, sand and gravel, fragmental rock, or recycled concrete of up to 2 inches maximum size with less than 5 percent passing the No. 200 sieve (washed analysis). Granular backfill shall be placed in lifts and compacted to 95 percent of the maximum dry density as determined by ASTM D 1557. Compaction by jetting or flooding shall not be permitted.
    g. To ensure precipitation is conveyed away from structural foundation, continuous roof gutters shall be installed on the proposed industrial building. The roof drains shall be connected to a tight-line pipe leading to storm drain facilities. Pavement surfaces and open space areas shall be sloped such that surface water runoff is collected and routed to suitable discharge points. Ground surfaces adjacent the building shall be sloped to facilitate positive

drainage away from the building. Landscaped or planted areas shall not be placed within 10 feet of the footings of the proposed building.

38. **HAZ-1: Project Demolition Activities**. 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 (LBP). Documentation of the survey shall be provided to the City prior to commencement of demolition activities. During demolition activities, all building materials containing lead-based paint 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 lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed. All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (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. 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 in this mitigation measure. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications. Based on Cal/OSHA rules and regulations, the following conditions shall be implemented to limit impacts to construction workers:
    a. Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
    b. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
    c. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

39. **HAZ-2a: Implementation of the RMP**. The project shall implement the appropriate handling procedures and worker health and safety measures during excavating or dewatering activities, as well as the use of an engineered vapor barrier as described in the site-specific RMP developed for the project in 2014. The RMP is an appendix to the Phase I ESA. The Phase I ESA is included as Appendix D to this EIR. Measures

included in the RMP to control potential hazardous contamination and exposure include, but are not limited to the following:

a. Construction contractors shall implement dust control mitigation measures during construction activities at the project site to minimize the generation of dust. Examples of dust control measures that shall be implemented include limiting construction vehicles speeds to 5 miles per hour when on-site; routinelyapplying water to exposed soils while performing excavation activities; and, covering soil stockpiles with plastic sheets at the end of each workday. Additional dust control measures shall be implemented by the selected contractor, as necessary, especially if windy conditions persist during site grading and excavation. These measures may include moisture, conditioning the soil, using dust suppressants, or covering the exposed soil and stockpiles with weighted plastic sheeting to prevent exposure of the soil.
b. To prevent or minimize construction equipment from tracking polluted spoils off the site onto roadways, construction equipment that contacts soils deeper than 5-feet below ground surface shall be decontaminated prior to leaving the site. Decontamination methods shall include brushing and/or vacuuming to remove loose dirt on vehicle exteriors and wheels. In the event that these dry decontamination methods are inadequate, methods such as steam cleaning, high pressure washing, and cleaning solutions shall be used, as necessary, to thoroughly remove accumulated dirt and other materials. Decontamination activities shall be performed in an on-site decontamination facility established by the contractor.
c. All project construction workers performing construction activities at depths below 5-feet below ground surface in the restricted areas shall adhere to decontamination procedures when exiting the area. Decontamination measures shall include: (a) vacuuming the surface of coveralls, head covers, and footwear to remove accumulated soil particles and changing into other clean clothes if practical; (b) vacuuming or washing small tools, hand tools, or personal equipment to remove accumulated soil particles; and, (c) placing work clothes and personal equipment in sealed plastic bags or other suitable containers for transportation or on-site storage.
d. In the event that disturbed soil appears to contain contaminants of potential concern (COPCs), such as odors, staining, and/or discoloration, work should halt in that area and an environmental professional (EP), such as a geologist, engineer, industrial hygienist, or environmental health specialist with expertise in these matters, shall be called to the site to oversee the work and determine safe construction and soil handling procedures. Additionally, if contaminated soil is encountered, the project applicant shall coordinate with the San Francisco Bay Regional Water Quality Control Board and the Alameda County Water District to determine adequate and proper remediation and handling actions.

e. The EP shall be present on-site during excavations greater than 5-feet below ground surface in the restricted areas to observe field conditions and measure hydrocarbon vapors using a hand held photoionization detector (PID). If PID readings are measured in a specific area showing concentrations in excess of construction worker screening levels published by the Regional Water Quality Control Board (RWQCB), construction activities in that area shall halt until appropriate risk mitigation measures are implemented. If necessary, HAZWOPER trained personnel shall be called to the site to complete the construction activities in that area.
f. Soil excavated from deeper than 5-feet below ground surface in the restricted area shall only be reused on-site as backfill after sampling and analysis soil proves the soil is acceptable to remain on site. Commercial ESLs or concentration limits established in the San Francisco Bay Regional Water Quality Control Board document titled *Characterization and Reuse of Petroleum Hydrocarbon Impacted Soil and Inert Waste* (2006), whichever is lowest shall be used as the threshold to determine if soils may remain on site or require off-site disposal. All appropriate regulatory sampling methods, holding times, and detection limits shall be followed.
g. A health and safety plan shall be developed and implemented for project construction that incorporates measures and procedures to minimize direct contact by construction workers with site groundwater, particularly in the restricted areas. The health and safety plan shall be approved by either the City or the RWQCB, or both as applicable, prior to excavation activities.
h. If groundwater is encountered within the former remediation area during construction of the project, as shown on Figure 4 of the RMP, an EP shall be called to the site to determine safe handling procedures. The groundwater shall be pumped into appropriate containers and samples shall be obtained for chemical analysis of the COPCs in accordance with a site sampling plan and the requirements of the waste disposal facility to which the material is sent. The project applicant shall coordinate with the Regional Water Quality Control Board and the Alameda County Water District if possible contaminated groundwater is encountered. If water sample analytical results indicate the water is free of all detectable concentrations of COPCs, such water can be re-used at the site if deemed appropriate by Alameda County and the RWQCB. If water sample analytical results indicate the water contains concentrations of COPCs above appropriate RWQCB screening levels, such water shall not be re-used at the site. The contractor and the EP shall elect to: (a) treat the groundwater on-site to render it free of detectable concentrations of COPCs (e.g. by activated carbon filtration); or, (b) transport the groundwater to a local treatment or disposal facility for appropriate handling.

i. The proposed industrial building shall be constructed on top of a minimum of a 5-foot bioattenuation zone within the restricted areas. This bioattenuation zone shall consist of a minimum of 5-feet of soil above the anticipated shallowest groundwater elevation, and the soil shall not contain total petroleum hydrocarbons greater than 100 parts per million.

j. An engineered vapor barrier shall be employed to further protect against possible vapor intrusion of COPCs into the proposed industrial building. The vapor barrier shall be designed to meet the needs of building. Vapor barriers are generally constructed using membranes constructed with high-density polyethylene (HDPE) or other polyolefin-based resins. The vapor barrier shall be resistant to VOCs. The vapor barrier shall meet the American Society for Testing and Materials (ASTM) guideline for a vapor barrier and have a permeance rating of 0.1 perms or less. The thickness and strength of the vapor barrier shall be based on the needs for the building, but the architect and contractor shall use a material strong enough to easily withstand the building construction and other building considerations. The selected vapor barrier shall be approved by the RWQCB prior to installation.

40. **HAZ-2b: Bioretention Design Coordination**. The project applicant shall consult with the City on location and/or design of the onsite bioretention basins to ensure protection of the groundwater basin, which may include, but is not limited to, locating the basins outside of the restricted areas or use of a liner in the detention basin. The final design and location of the on-site bioretention basins shall demonstrate that groundwater would be protected from contamination.

41. **HAZ-2c: Displacement Pier Design and Construction**. The project applicant shall retain a geotechnical engineer to design the displacement piers for support of the building foundation. The displacement piers shall be designed in a way to prevent creating a preferential pathway between shallow groundwater at approximately 5 feet below ground surface and deeper groundwater. The displace pier design developed by the geotechnical engineer shall be incorporated into project plans prior to commencement of construction. This mitigation measure shall apply to all displacement piers within the restricted areas or the larger area where benzene concentrations exceed ESLs, as shown in Figure 4.3-2 of the EIR. Additionally, airjetting shall not be used to create the holes for the displacement piers within the restricted areas to avoid bringing subsurface soils to the ground surface.

42. **TR-1: Travel Demand Management**. The project applicant shall implement at least one of the measures described below:

a. Voluntary Employer Commute Program: The project applicant shall encourage alternative modes of transportation through a program that may include elements such as: a carpool or vanpool program, subsidized or

discounted transit passes, bike amenities, commute trip-reduction marketing, and preferential parking permit program.

b. Employer Carpool Program: The project applicant shall encourage carpooling by providing ride matching assistance to employees, providing priority parking for carshare vehicles, and providing incentives for carpooling. The applicant shall provide to the City documentation that at least one of the above measures is implemented. Documentation shall be provided annually.

43. **TCR-1: Unanticipated Discovery of Tribal Cultural Resources**. In the event that cultural resources of Native American origin are identified during construction, all earth disturbing work within the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City 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 Native American groups. 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 archeologist and the appropriate Native American tribal representative.

ENGINEERING

44. San Francisco Bay Trail: Applicant shall submit written documents confirming East Bay Regional Park District consent for relocation of the San Francisco Bay Trail to the west of the proposed development and the required property exchange. The written documents shall include the proposed trail improvement details.

45. Site Grading and Improvement Plans: Permits for the site grading and improvements and the trail improvements shall be secured before issuance of a building permit. Such permits will require plans and design documents prepared by the state licensed and qualified professions and approved by the City Engineer. Portions of the project site is within the Federal Emergency Management Agency (FEMA) designated Flood Zone AE and hence subject to the following conditions:

a. The lowest floor elevation of the proposed buildings shall be elevated to at least one foot above the base flood elevation (BFE).

b. Building support utility systems within the flood zone such as 1-IVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the BFE or protected from flood damage.

c. An Elevation Certificate (FEMA Form 086-0-33) for the proposed structures within the flood zone, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate based on

finished construction is required for the built structure prior to issuance of any certificates of occupancy.

46. Stormwater Pollution Prevention: Stormwater Treatment Basins shall be located on property owned by the Applicant. The applicant must acquire the Bay Trail property if a stormwater treatment basin is located thereon. Stormwater pollution prevention measures shall comply with the Alameda County Clean Water Program (ACCWP) C.3 Technical Guidance Manual.

47. Drainage plans should include all proposed underground pipes, building drains, area drains and inlets. All building sites shall be graded to slope away from the building foundations per California Building Code, Chapter 18, Section 1804.3 Site Grading or as required by the Soils Engineer. On-site collector storm drains shall be sized to minimize potential for blockages. Storm drains shall be designed to prevent standing water.

48. The on-site storm conveyance and treatment systems shall be owned and maintained by the property owner.

49. The project's Stormwater Control Plan and updated Stormwater Requirements Checklist shall be submitted and shall show, at a minimum, drainage management areas, location and details of all treatment control measures and site design measures, and numeric sizing calculations in conformance with Alameda County Clean Water Program C3 design guidelines.

50. This project involves a land disturbance of one or more acres, the developer is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Engineer prior to issuance of a grading permit. The SWPPP shall utilize the California Storm Water Best Management Practices Handbook for Construction Activities, the ABAG Manual of Standards for Erosion & Sediment Control Measures, the City's Grading and Erosion Control ordinances and other generally accepted engineering practices for erosion control.

51. Construction Stormwater Management: Developer shall be responsible for the preventing the discharge of pollutants and sediments into the street and/or the public storm drain system from the project site during construction in accordance with the Hayward Municipal Code. Projects proposed for construction between October 1st and April 30th, must have an erosion and sedimentation control program approved, and implemented to the maximum extent possible, prior to the start of any land disturbing activity. Trash and debris must be adequately contained at all times. Such measures shall be maintained during the project's construction

period. Violations or other noncompliance with stormwater management measures may result in the project being shut down, including any building permit activity, until full compliance with stormwater management requirements is achieved.

52. Construction Damage: The Developer shall remove and replace curb, gutter, sidewalks, driveways, signs, pavement, pavement markings, etc. damaged during construction of the proposed project prior to issuance of the Final Construction Report by the City Engineer. Damaged pavement surfaces shall be repaired or resurfaced as required by the City Engineer. Unused driveways or unused portions thereof shall be removed and replaced with curb, gutter and sidewalk per City standards.

53. Effective measures for adjacent property protection, storm water pollution prevention, noise and dust control must be in-place before starting any construction activity.

54. Stormwater pollution prevention measures shall be maintained and kept effective until disturbed ground is protected with ground cover.

55. Damaged street curb, gutter, sidewalk and driveway fronting the property shall be replaced with the City standard improvements. Driveway shall comply with ADA standards.

56. All utility services to the property shall be installed underground.

57. Multiple trenches less than 20-feet apart in a street pavement shall be repaired with a single patch.

TRANSPORTATION

58. Applicant shall implement a Transportation Demand Management (TDM) Program as a mitigation measure for Transportation-related significant impacts as identified in the Project's Traffic Impact Analysis (Kittelson, Feb 2021). Applicant shall select and implement one of the following programs to satisfy the mitigation requirement:
    a. 1A, Voluntary Employer Commuter Program
    b. 1B, Mandatory Employer Commute Program
    c. 1C, Employer Carpool Program
    d. 1D, Employer Transit Pass Subsidy
    e. 1E, Employer Vanpool Program
    f. 1F, Employer Telework Program

59. Applicant shall submit to the City of Hayward Planning Division a TDM Statement of Intent stating which TDM Program Applicant intends to implement for this Project. Statement of Intent shall be reviewed and approved by the Transportation Division prior to issuance of Building Permits.

60. Applicant shall submit the following items as part of Improvement Plans to Public Works-Transportation for review prior to issuance of Building Permits:
    a. An on-site and off-site (fronting City right-of-way) Signing and Striping Plan in accordance with Caltrans' latest Standard Plans (refer to Caltrans Standard Plans Sheet A90A for more information on marking complaint disabled stalls).
    b. A Photometric Plan, refer to Hayward's Standard Plans Sheet SD-120 for roadway lighting criteria, link: https://www.hayward-ca.gov/documents/hayward-standard-detail
    c. Turning Analysis using the largest vehicle expected on-site (typically a delivery vehicle) using AutoTurn software. Turning Analysis shall not depict vehicles backing into public streets/right-of-way.

61. Upon review of Improvement Plan(s) and required item(s) listed above by Public Works-Transportation, Applicant shall modify Improvement Plan(s) to address any deficiency(ies) or item(s) identified by Public Works-Transportation staff, to the satisfaction of Public Works-Transportation staff or the City Engineer, prior to issuance of Building Permit(s).

SOLID WASTE

62. The owner or property manager shall be responsible for litter-free maintenance of the property and shall remove any litter on or within 50 feet of the property daily to ensure that the property and its street frontage remain clear of any abandoned debris or trash per Municipal Code Section 11-5.22.

LANDSCAPING

63. Prior to issuance of building permits, detailed landscape and irrigation improvement plans prepared by a licensed landscape architect on an accurately surveyed base plan shall be submitted to, reviewed and approved by the City's Landscape Architect. The plans shall comply with the City's Bay-Friendly Water Efficient Landscape Ordinance (California Building Code Title 23) and all relevant Municipal Codes. Once approved, a digital file of the approved and the project landscape architect signed improvement plans shall be submitted to the City for the City's approval signatures. Copies of the signed improvement plans shall be submitted as a part of the building permit submittal.

64. The landscape plans shall be prepared on an accurately surveyed topographic plan that matches the architectural, site or civil plan. Base information shall include all existing trees shown on the survey plan, and designation of existing trees whether to be preserved or removed as well as all known existing and proposed above and underground utilities.

65. If any existing trees meet the definition of "Protected Tree" in accordance with the City's Tree Preservation Ordinance, an arborist report by a certified arborist shall be submitted for approval.

66. Notes shall be provided on the planting plan that all proposed plant material has been evaluated by an environmental biologist or arborist to be suitable for planting near Bayland with potential high groundwater table and salinity. Height of proposed trees also shall be evaluated for proving nesting and harboring birds that may endanger wildlife in the Bayland.

67. Pursuant to HMC Section 10-12.07 (2)(C): Plant spacing shall not be closer the minimum spread provided in the reference books in the ordinance to allow mature plant growth without subjecting plants to routine cutbacks and shearing. Reference plant books in the landscape ordinance and additional reference books of "Landscape Plants for California Gardens" by Robert Perry and "California Native Plants for the Garden" by Carol Bornstein, David Fross and Bart O'Brien shall be used, and the list of reference book shall be provided in the plant legend.

68. All above ground utilities shall be screened with a minimum five-gallon evergreen shrub to provide continuous screening.

69. All plants in bioretention basin shall conform to the plant list in the latest C.3 Stormwater Technical Guidance Appendix B.

70. Tree shall be located a minimum of five-feet from lateral service lines and driveways, a minimum of 15 feet from a light pole, and a minimum of 30 feet from the face of a traffic signal, or as otherwise specified by the City.

71. A note shall be provided that all final tree locations shall be field verified by the project landscape architect prior to planting.

72. In accordance with City Street Tree Detail SD-122, trees at minimum 15-gallon and 24-inch-box size or equal shall be planted in conjunction with the proposed development. Tre sizes shall be indicated on the landscape plans and reviewed and approved by the City's Landscape Architect. A separate tree planting detail for larger size trees shall be provided.

73. Root barriers shall be installed linearly against the paving edge in all instances where a tree is planted within seven feet of pavement or buildings, and as recommended by the manufacturer.

74. Minimum three inches deep organic recycled chipped wood mulch in dark brown color shall be provided in all planting areas including biotreatment area. The size of the mulch shall not exceed one and on-half-inch in diameter.

75. Commercial and industrial development with equal or greater than 1,000 square feet of irrigated landscape area shall require a dedicated irrigation water meter. The meter shall be clearly located and sized in the irrigation plan.

76. Pursuant to HMC Section 10-12.07 (b), an irrigation Hydrozone map shall be provided prior to issuance ofpermits.

77. The City requires the backflow prevention device to be located after water meter. Backflow prevention device shall conform to the City Standard Detail SD-202 and the detail shall be incorporated into irrigation detail plan.

78. Pursuant to HMC Section 10-12 Appendix B Water Efficient Landscape Worksheet for water budget calculation for Maximum Applied Water Allowance and Estimated Total Water Allowance shall be provided on the plan. The water budget calculation shall use Eto of 44.2 for City of Hayward, and the calculation shall provide the calculation methodology used. For commercial and industrial developments, ET adjustment factor of 0.45 shall be used.

79. Bio-treatment area, when wider than ten feet, shall be irrigated with matched precipitation rotator type, or as efficient overhead spray irrigation system that allows “cycle and soaking” program function. When the treatment area width is less than ten feet, efficient irrigation system that meets the current ordinance requirements shall be provided. The irrigation for bio-retention area shall be provided on a separate valve.

80. A tree removal permit shall be obtained prior to the removal of any tree in conjunction with grading and/or demolition permits.

81. Prior to the issuance of Certificate of Occupancy, all landscape and irrigation shall be completed in accordance to the approved plan and accepted by the City Landscape Architect. Before requesting an inspection from the City Landscape Architect, the project landscape architect shall inspect and accept landscape improvements and shall complete Appendix C. Certificate of Completion in the City’s Bay-Friendly Water Efficient Landscape Ordinance. The completed Certificate of Completion Part

1 through Part 7 or applicable parts shall be e-mailed/turn in prior to requesting an inspection from the City Landscape Architect.

82. Landscape Maintenance:
    a. Landscaping shall be maintained in a healthy, weed-free condition at all times and shall maintain irrigation system to function as designed to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which contribute pollution to the Bay.
    b. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection.
    c. Three inches deep mulch should be maintained in all planting areas. Mulch shall be organic recycled chipped wood in the shades of Dark Brown Color and the size shall not exceed 1-1/2-inch diameter. The depth shall be maintained at three inches deep.
    d. All nursery stakes shall be removed during tree installation and staking poles shall be removed when the tree is established or when the trunk diameter of the tree is equal or larger to the diameter of the staking pole.
    e. All trees planted as a part of the development as shown on the approved landscape plans shall be "Protected" and shall be subjected to Tree Preservation Ordinance. Tree removal and pruning shall require a tree pruning or removal permit prior to removal by City Landscape Architect.
    f. Any damaged or removed trees without a permit shall be replaced in accordance with Tree Preservation Ordinance or as determined by City Landscape Architect within the timeframe established by the City and pursuant to the Municipal Code.
    g. Irrigation system shall be tested periodically to maintain uniform distribution of irrigation water; irrigation controller shall be programed seasonally; irrigation system should be shut-off during winter season; and the whole irrigation system should be flushed and cleaned when the system gets turn on in the spring.

FIRE PREVENTION

83. The new building shall comply with all requirements of the 2019 California Building, California Fire Code(s) and local Ordinances respectfully.

84. Any portion of the building or facility shall be within 400 feet of a fire hydrant. Fire hydrants shall be placed at least 50 feet from the building to be protected. Where it is not feasible to place them at that distance, they may be in closer proximity in approved locations. A separate fire permit is required for hydrant installation.

85. Blue reflective pavement markers shall be installed at fire hydrant locations. If fire hydrants are located to be subjected to vehicle impacts as determined by the Hayward Fire Department, crash posts shall be installed around the fire hydrant(s).

86. When buildings exceed 30 feet in height, fire apparatus access roads shall have an unobstructed width of not less than 26 feet an unobstructed vertical clearance of not less than 13 feet-six inches. Fire apparatus access roads shall be designed and maintained to support the imposed load of fire apparatus 75,000 lbs. and shall be surfaced to provide all-weather driving capability.

87. Portable fire extinguishers shall be installed throughout the storage area at every 75 feet of travel or in areas required by the Fire Department. Portable fire extinguishers shall have a minimum rating of 2A:10BC, of which the maximum protection area is 3,000 square feet. Signage shall be provided for each portable fire extinguisher and shall be acceptable to the Fire Department.

88. The new building is not currently approved for high piled storage. A building permit is required for the installation of storage (pallet) racks greater than six feet in height. A Fire Department Annual Operational Permit is required for any combustible storage (floor and/or rack) which exceeds 12 feet in height (Class I-IV type commodities), AND/OR any high hazard storage which includes commodities such as hazardous materials, flammable liquids, plastics, foam and rubber products, or any other classified commodity as dictated by the California Fire Code and NFPA 13 Standards, which exceeds 6 feet in height. (Deferred submittal, if applicable)

89. At least one interior audible alarm device shall be installed within each tenant space within the building and shall be placed in a location to be heard throughout the constantly attended areas in accordance with NFPA 72. The device shall activate upon any fire sprinkler system water flow activity. (If applicable)

90. Minimum building address shall be 12-inches high with one and one-half inch stroke. When building is located greater than 50 feet from street frontage, address shall be minimum 16-inches high with one and one-half inch stroke. If applicable, tenant space numbers shall be six inches high with 0.75" stroke on a contrasting background to be visible from the street.

91. An Automatic Fire Sprinkler System is required and shall be installed in accordance with NFPA 13 and all local Ordinances. Be advised that per HFD Ordinance 10-14: When an automatic sprinkler system is required in a building of undetermined used, it shall be designed and installed to have a sprinkler density of 0.33/3750 with a maximum coverage of 100 square feet per head. (Deferred Submittal)

92. Maximum 80 PSI water pressure should be used when water data indicates a higher static pressure. Residual pressure should be adjusted accordingly.

93. A Fire Alarm System shall be installed in accordance with the California Fire Code (CFC) and all NFPA 72 Standards. Fire alarm system will be determined based on the occupancy and demand of the proposed building. Sprinkler system monitoring is required when there are 20 sprinklers or more than in accordance with the 2019 California Fire Code.

94. Underground fire service line serving the NFPA 13 sprinkler system and new fire hydrants shall be installed in accordance with NFPA 24 and the Hayward Public Work Department SD-204. Water meter shall be minimum or four-inch for a (NFPA 13) commercial grade system.

95. Per the 2019 California Fire Code (CFC) table BB105.1, a minimum fire flow of 7,250 for 4 hours is required for this site. A reduction of 50% is allowed if the building is protected with an automatic fire sprinkler system in accordance with NFPA 13.

HAZARDOUS MATERIALS DIVISION

96. **Environmental and Health Based Site Clearance** – A "Phase I Environmental Site Assessment Update, 4150 Point Eden Way, Hayward, California" prepared by Cornerstone Earth Group, dated March 10, 2017, was submitted to the Hayward Fire Department. Based on the review of information in that document, historic Hayward Fire Department records and records found in the State Water Resources Control Board's Geotracker website, residual contamination exists on the project site from the former Oliver Salt operations, including from two underground storage tanks that held diesel and gasoline and were removed in 1998.

The San Francisco Bay Regional Water Quality Control Board (RWQCB) has been and continues to be the oversight agency for this contamination case. Extensive remedial activities have occurred since 1998. A deed restriction was singed on December 19, 2014, which addresses actions/mitigations required, which includes property development and the involvement of the RWQCB. The deed restriction also references a Risk Management Plan (RMP) approved by the RWQCB associated the residual contamination on the site. The applicant shall continue to work with the RWQCB on this case and associated clearance.

Proof shall be provided to the Hazardous Division that the site meets development investigation and cleanup standards for this industrial property, along with any stipulations of any clearances such as a deed restriction, the need for any groundwater/soil management plan and other mitigations such as vapor barriers/soil vapor mitigations. A clearance document shall be submitted to the Hayward Fire Department's Hazardous Material Office, Planning Division and Public

Works Division prior to issuance of any grading or building permits. Allowance may be granted if acceptable to the RWQCB and the Hazardous Materials Office of the Hayward Fire Department.

An initial coordination meeting prior to the start of grading activities on site shall be conducted with the developer, the developers' environmental consultant, RWQCB, the Hayward Fire Department Hazardous Materials Office and other City Agencies to ensure consistency/coordination between agencies and the developer.

97. **Electronic Submittal of Environmental Documentation** – Environmental Documentation associated with the evaluation, investigation and/or clearance of this site shall be provided in an electronic format to the City of Hayward Fire Department and Planning Division prior to the issuance of the Building or Grading Permit

98. **Proposed Uses of Hazardous Materials** – The project proposed office and material storage. There will be no storage/use of hazardous materials associated in the material storage rental used by the general public or with any other area associated with the expansion of the project. A final letter shall be submitted with the building permit that confirms this.

99. **Grading and Demolition** – A condition of approval, prior to grading: If structures and their contents are present, then they shall be removed or demolished under permit in an environmentally sensitive manner. Proper evaluation, analysis and disposal of materials shall be done by appropriate professional(s) to ensure hazards posed to development construction workers, the environment, future uses, and other persons are mitigated.

100. **Wells, Septic Tank Systems or Subsurface Structures** – Any wells, septic tank systems and others subsurface structures shall be removed properly in order not to pose a threat to the development construction workers, future residents, or the environment. These structures shall be documented and removed under permit from appropriate regulatory agency when required.

101. **Hazardous Materials/Waste and their Vessels discovered during Grading/Construction** – If hazardous materials/waste or their containers are discovered during grading/construction the Hayward Fire Department shall be immediately notified at (510) 583-4910.

102. **Underground Storage Tanks, Oil Water Separators, Hydraulics Lifts** – If found on the property, the underground vessels/structures shall be removed under a plan filed with Hayward Fire Department and appropriate samples shall be taken under the direction of a qualified consultant to ensure that contamination has not occurred

to the soil or groundwater. A follow up report shall be required to be submitted that documents the activities and any conclusions. Below are specific requirements on each:

a. Underground storage tank and associate piping (plan, sampling and Hayward Fire Department permit and follow up report is required)
b. Oil Water Separators (plan, sampling required and follow up report is required)
c. Hydraulic Lifts (plan, sampling and follow up report is required).

103. **Hazardous Materials/Waste During Construction** - During grading and construction hazardous materials and hazardous waste shall be properly stored, managed, and disposed.

UTILITIES

Water Services:

104. All connections to existing water mains shall be performed by City Water Distribution personnel at the Applicant/Developer's expense.

105. Any modifications to existing water services such as but not limited to upsizing, downsizing, relocating, and abandoning shall be performed by City Water Distribution personnel at the Applicant/Developer's expense.

106. Only City of Hayward Water Distribution personnel shall perform operation of valves on the City of Hayward Water System.

107. This parcel does not have existing water services. The Applicant/Developer is responsible for applicable water connection and facilities fees, at the rates in effect at the time of application for water service, prior to water connection. Payment shall be made at issuance of building permit.

108. If applicable, each commercial tenant space shall be served by separate water meters.

109. The development requires a separate irrigation water service for the property's landscaping. The Applicant or Developer shall install an above ground Reduced Pressure Backflow Prevention Assembly (RPBA) on each irrigation water meter, per City of Hayward Standard Detail 202 (SD-202). Backflow preventions assemblies shall be at least the size of the water meter or the water supply line on the property side of the meter, whichever is larger.

110. A separate fire permit is required for the fire sprinkler system installation. The fire service size will be determined by the Fire Department's requirements. All fire

services must have an above-ground double check valve assembly (DCVA), per City Standard Detail 204 (SD-204) and 201 (SD-201). New fire services must be installed by the City's Water Distribution personnel at the Applicant's or Developer's expense.

111. Water meters and services are to be located a minimum of two feet from top of driveway flare as per City Standard Detail 213 (SD-213) through 218 (SD-218). Water meters shall not be located in the driveway.

Sewer Services:

112. The property has an existing industrial sewer connection with a "grandfathered" sewer capacity of 1,015 gallons per day of domestic strength discharge. Additional sewer capacity to accommodate additional wastewater discharge over the "grandfathered" sewer capacity may need to be purchased. Payment shall be made at issuance of building permit.

113. All sewer mains and appurtenances shall be constructed in accordance with the City's "Specifications for the Construction of Sewer Mains and Appurtenances," latest revision at the time of permit approval. Available on the City's website: https://www.hayward-ca.gov/your-government/departments/engineering-division

114. Sewer cleanouts shall be installed on each sewer lateral at the connection with the building drain, at any change in alignment, and at uniform intervals not to exceed 100 feet. Manholes shall be installed in the sewer main at any change in direction or grade, at intervals not to exceed 400 feet, and at the upstream end of the pipeline. Where sanitary sewer lines and/or laterals are the same size as the sanitary sewer line, the connection must be made with a manhole.

115. Industrial waste monitoring structures shall be installed on sewer connections per City Standard Detail SD-309.

DUE PRIOR TO THE ISSUANCE OF CERTIFICATE OF OCCUPANCY

116. Construction of Improvements: All public and private improvements, including punch list items, must be complete prior to the issuance of a certificate of occupancy.

117. "As-Built" Records: Provide "as-built" record plans in electronic formats to the City Engineer. Electronic plans shall be in "AutoCad" and pdf formats acceptable to the City Engineer.

118. Stormwater Treatment Measures Maintenance: The property owner(s) shall enter into an "Stormwater Treatment Measures Maintenance Agreement" with the city.

The executed Agreement shall be recorded with the Alameda County Recorder's Office.

119. An Elevation Certificate (FEMA Form 086-0-33) based on finished construction is required for the built structure prior to issuance of any certificates of occupancy.

120. SWPPP Final Report: The project QSP shall prepare and file a Final SWPPP Report with the City and Water Board.

121. Final Engineer's Report: Prior to the issuance of any Certificate of Occupancy, The Engineer of Record shall submit a confirming letter that all grading, drainage, and engineering components of the project have been performed in conformance with the approved plans and specifications.