

DRAFT CONDITIONS OF APPROVAL
MORAGA CANYON SPORTS FIELDS PROJECT – BLAIR PARK ELEMENT

1. **Site Lease.** Developer shall enter into a separate lease agreement with the City (“Site Lease”) that defines the arrangement by which Developer shall lease the Project site from the City and have the Project constructed and presented upon completion to the City. Breach of the Site Lease shall also constitute a violation of these Conditions of Approval.
2. **Payment of Project Approval Costs.** Prior to the issuance of City permits, Developer shall pay all Project Approval Costs for the Project as approved by the City, according to a reimbursement process acceptable to the City. “Project Approval Costs” shall include, but are not limited to, reasonable costs for consultants, including the City Attorney and City Engineer during approval process, and shall include any outstanding amounts owed to the City under the Reimbursement and Indemnification Agreement between the City and the Piedmont Recreational Facilities Organization dated as of August 12, 2011. Project Approval Costs do not include costs of construction of the Project (“Project Construction Costs”), which are provided for under the separate Site Lease.
3. **CEQA Mitigation Measures.** The Mitigation Monitoring and Reporting Program (MMRP) related to the Final Environmental Impact Report prepared pursuant to the California Environmental Quality Act for this project (State Clearinghouse #2009112054), as modified by the Addendum to the FEIR dated [REDACTED], 2011, are incorporated herein by reference. Compliance with the MMRP is required. In the event there is a conflict between a condition of approval below and a mitigation measure in the MMRP, compliance with the mitigation measure shall be required, and modification to the condition of approval shall be subject to the provisions of Condition 9 below.
4. **Construction Management Plan.** Prior to the issuance of City Permits, Developer shall develop a comprehensive Construction Management Plan, subject to the review and approval of the City Engineer and Public Works Director. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, staging, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction equipment route. The City Director of Public Works has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.
 - a. Stormwater BMPs for Construction. The Developer shall implement (1) stormwater treatment Best Management Practices (BMPs) and (2) Bay

Area Stormwater Management Agencies Association’s “Start at the Source” criteria for stormwater quality protection. City Staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the Developer’s Construction Management Plan.

- b. Engineer. Prior to issuance of building permits, and at all times through completion of construction, Developer shall engage and retain the services of an engineer acceptable to the City to review the results of the geotechnical report, prepare a sound and vibration mitigation plan, and monitor the vibration and decibel levels at the Project (including being periodically present at the construction site during excavation and foundation work). The geotechnical report, sound and vibration mitigation plan, and monitoring reports shall be submitted to the City Engineer. If, in the City Engineer’s sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Developer’s Construction Management Plan, all work on the Project must immediately stop and may not resume until the City Engineer approves in writing that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration.
- c. Moraga Avenue Traffic. The Construction Management Plan (CMP) shall specifically address traffic on Moraga Avenue and other affected streets, and shall be subject to approval by the Director of Public Works. The CMP shall be developed to avoid conflicts with large vehicles removing or delivering materials to the Project site during commute hours, and shall employ traffic control measures as specified by Caltrans Standards and approved by the City Engineer and Director of Public Works.

5. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Developer shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase. The Construction Completion Schedule shall be submitted to the Director of Public Works prior to the issuance of City Permits,

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks:
 - i. Completion of Temporary and Permanent Traffic Improvements;
 - ii. Completion of all new and relocated underground utilities, including all required C-3 requirements;
 - iii. City Sewer Main and Private Lateral relocation;
 - iv. Completion of Excavation and Shoring;

- v. Completion of Rough Grading;
 - vi. Completion of Retaining Walls;
 - vii. Completion of Concession/Restroom and other Foundations;
 - viii. Completion of Rough Framing;
 - ix. Completion of Electrical;
 - x. Completion of Plumbing;
 - xi. Completion of Mechanical;
 - xii. Completion of Fire Sprinklers;
 - xiii. Completion of Concession/Restroom Structure;
 - xiv. Completion of Fencing, Railings, Irrigation and other site improvements;
 - xv. Completion of Hardscaping and Landscaping; and
 - xvi. Any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Prior to the issuance of City Permits, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the “Approved Schedule” and be binding on the Developer. Subsequent to approval of the Approved Schedule, Developer may request, and the Public Works Director and City Engineer may grant, reasonable modifications to such Approved Schedule; provided, however, that the Public Works Director and City Engineer shall not, without further action of the City Council, grant modifications that would result in the Project being completed after the Outside Termination Date set forth in Section 13.d. of the Site Lease.
- c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, as defined in the Site Lease, the Director of Public Works has the option at any time thereafter to make a claim against the Developer’s performance security described in the Site Lease, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the City Council for public review.
6. **C&D Compliance.** Compliance with Chapter 9 Article III of the Piedmont Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
7. **Contractor’s Insurance.** Developer shall ensure its general contractor’s compliance with the insurance requirements set forth in the Site Lease.
8. **Defense of legal challenges.** Developer shall defend (with counsel approved by City), indemnify, and hold harmless City, its officials, employees, volunteers and agents from and against any and all loss, liability, expenses, claims, costs (including reasonable attorneys fees), suits and damages of every

kind, nature, and description, directly or indirectly arising from any third party legal challenge to the Project approvals.

9. **Modifications to Conditions.** Any modification to an insurance or security requirement, or any Condition of Approval, is subject to City Council approval.
10. **Approved Plan Set.** The approved project Master Plan and Traffic Alternative are those specifically shown in Figures [REDACTED] of the [REDACTED] 2011 Addendum to the Final Environmental Impact Report (State Clearinghouse 2009112054), including any proposed phasing.
11. **Geotechnical Report and Review.** At the time of plan submittal for City Permits, the Developer shall submit a report prepared by a geotechnical engineer, selected by the Developer with the City's prior approval, that fully assesses the existing site conditions, and addresses all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, and other related items involving the Project.
12. **Foundation/Shoring/Excavation Plan.** At the time of plan submittal for City Permits, the Developer shall submit foundation, excavation, and shoring plans prepared by a structural engineer that fully address issues of site shoring, fencing and hillside security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent), and shall mitigate against any subsidence or other damage to neighboring properties to the satisfaction of the City. Such plans shall incorporate as appropriate the recommendations of the Developer's geotechnical engineer and the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Director of Public Works.
13. **City Sewer Main/Private Lateral Relocation.** At the time of plan submittal for City Permits, the Developer shall submit or cause to be submitted a plan prepared by a licensed engineer for the relocation of any City sewer main and any private laterals of adjacent neighboring properties that currently tie into the City sewer main on the site, in compliance with all applicable regulations. The plan shall be subject to review and approval by the City Engineer and Director of Public Works. All costs associated with the plan and relocation, construction and connections shall be paid for by the Developer.
14. **Storm Drain Relocation.** If there are existing public and private storm drain systems that drain onto or through the site, the Developer shall submit a plan, at the time of plans submittal for City Permits, prepared by a licensed engineer to convey and discharge the storm water in compliance with all applicable

regulations. The plan shall be subject to review and approval of the City Engineer and Director of Public Works. All costs associated with the plan and relocation, construction and connections shall be paid for by the Developer.

15. **Stormwater Design.** In order for the approved development to maintain compliance with the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit, particularly Section C.3.b.ii.(3)'s requirement that impervious surfaces be measured collectively, should amendments to the project affect the extent of impervious surface area measured collectively, implementation of LID source control, site design, and stormwater treatment on-site or at a joint stormwater treatment facility in accordance with Provisions C.3.c and C.3.d of the NPDES Permit shall be required, unless the Provision C.3.e alternate compliance options are invoked. The Stormwater Design shall be submitted for review and approval by the City Engineer at the time of plan submittal for City Permits.
16. **Consultant Cost Recovery.** The Developer shall, at the time of the City Permit Application, make a cash deposit with the City in the amount of \$10,000 to be used to pay for the fees and expenses of City consultants as deemed necessary by the City, or in any way otherwise required to be expended by the City for professional assistance (other than City Staff). If the cash deposit has been reduced to \$5,000 or less at any time, the Director of Public Works may require the Developer to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City for the Developer's Project. Any unexpended amounts shall be refunded to the Developer within 120 days after the Project has an approved Final Inspection and Notice of Completion by the City.
17. **City Attorney and City Engineer Cost Recovery.** The Developer shall, at the time of the City Permit Application, make a cash deposit with the City in the amount of \$10,000 to be used to offset time and expenses of the City Attorney and City Engineer relating to the Project. If such cash deposit has been reduced to \$5,000 or less at any time, the Director of Public Works may require the Developer to deposit additional funds to cover any further estimated additional City Attorney and City Engineer time and expenses. Any unused amounts shall be refunded to the Developer within 120 days after the Project has an approved Final Inspection and Notice of Completion by the City.
18. **Bonds.** Developer shall ensure its general contractor's compliance with the bonding requirements set forth in the Site Lease.
19. **Final Landscape Plan.** Before issuance of a building permit, the Developer shall submit for staff review and approval a Final Landscape Plan that shows all landscape materials proposed (including the species, number, spacing, and size of all proposed plants) and the proposed method of irrigation. The final

landscape plan shall not propose plants near the driveways that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers exiting the driveway.

20. **California's Water Efficient Landscape Ordinance:** The Developer shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect January 1, 2010, by submitting the following required information to the Building Department at the time of plan submittal for City Permits:

(a) Landscape Documentation Package that includes the following 6 items:

- a. Project Information;
- b. Water Efficient Landscape Worksheet;
- c. Soil Management Report;
- d. Landscape Design Plan;
- e. Irrigation Design Plan; and
- f. Grading Design Plan.

The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.

(b) Once City Permits have been issued, the Developer shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.

(c) After completion of work, the Developer shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

(The form for the Landscape Document Package and a Frequently Asked Question document on the CA-WELO requirements is available at the Public Works Counter and on the City website at www.ci.piedmont.ca.us).

21. **City Facilities Repair/Replacement.** Due to the scope of the work and the potential damage to City facilities, the Developer shall submit a plan and specifications to provide for the repair of any damaged street improvements, including curbs, gutters, storm drain facilities, and sidewalks upon the request of and as determined necessary by the City Engineer and Director of Public Works, but only to the extent such damage is caused by the Developer. This plan shall be subject to review and approval by the City Engineer and Director of Public Works, and shall be completed prior to Final Inspection and the Notice of Completion.

22. **Subsidence.** The Developer acknowledges and agrees that all work on the Project may be immediately stopped by the City in the event of any unanticipated landslides, subsidence, creep, erosion or other geologic instability, and may not resume until the City Engineer is fully assured that no

further subsidence or erosion will occur. If in the opinion of the City Engineer, the instability poses a danger to public or private property, and the Developer is not responding in a diligent manner, the Director of Public Works may use proceeds from the performance security required under the Site Lease to address the instability.

23. **Neighboring Property Damage Security.** The Developer shall require its architect, geotechnical consultant, and general contractor to obtain and maintain insurance or provide a bond, letter of credit, bank guarantee or other similar financial vehicle (“Neighboring Property Damage Security”), each in a form approved by the Director of Public Works and City Attorney, to insure against or otherwise provide funds to repair any damage (including, without limitation, subsidence and erosion) to neighboring properties caused by any construction, excavation, and related work in any way related to the Project not immediately and fully rectified by the Applicant to the satisfaction of the Director of Public Works. Such Neighboring Property Damage Security shall be submitted at the time of plan submittal for City Permits.
- a. Such Neighboring Property Damage Security shall specifically indicate that it covers damages to the above properties, shall be in the amount of no less than \$5,000,000 and shall incorporate any other conditions established by the Director of Public Works and City Attorney after consultation with the Developer. No portion of this amount may be satisfied by other insurance or security required under these Conditions of Approval.
 - b. The Neighboring Property Damage Security shall allow for claims to be made for up to two years after the Final Inspection and issuance of the Notice of Completion on the Project.
24. **Turf Replacement Plan.** Prior to the issuance of City Permits, the Developer shall present and secure City approval of a Turf Replacement Plan, which shall include binding commitments from anticipated users of the Project to pay user fees in an amount sufficient to replace the synthetic turf infill and carpet as necessary.
25. **Term of Approval.** As an exception to the one-year approval under Section 17.23, the term of this approval shall be three years from final action by the City, including action by the Planning Commission.
26. **Natural Turf Playfield.** No organized game (or organized scrimmage) may be played on the Natural Turf Playfield at any time. As used herein, an “organized game” shall be characterized by the use of any of the following: 1) referees, umpires or officials, 2) uniforms or jerseys, 3) official scorekeepers, or 4) more than five spectators. The use of this field for practice is restricted to weekdays only. The remainder of the time, the field may be used for unscheduled passive recreational uses.

27. **Planning Commission Review.** Pursuant to Section 17.20.2 of the Piedmont Municipal Code (PMC), the design of the proposed improvements are subject to review and approval by the Planning Commission at a public hearing in accordance with the provisions of Section 17.27 of the PMC. The decision of the Planning Commission, including any conditions of approval in addition to those specified by the City Council, shall be final pursuant to Section 17.20.8 unless such decision is appealed or called up for review pursuant to Sections 17.25 and 17.26.
28. **Materials Required for Planning Commission Review.** Pursuant to Section 17.20.3 of the Piedmont Municipal Code (PMC), an Application for Planning Commission Review shall be submitted along with the following drawing submittals, as required by the Director of Public Works. Whenever there are differences proposed by alternatives for consideration, one of each sheet required shall be provided for each alternative. All proposed materials, including building and retaining wall materials, and landscaping shall be called out. The drawings and other materials shall be submitted in accordance with the Planning Commission Application Submittal Schedule. It is noted that no application fee will be required for this application. Most of the submittal requirements below are similar to plans submitted for the prior submittals:
- A. Site plan for each alternative at a minimum scale of 1/16" = 1' or 1" = 40' (a matchline is acceptable if needed);
 - B. Site plan detail for each alternative at a minimum 1/8" = 1' scale, showing relationship of Moraga Avenue (including the bike lane) to the proposed new sidewalk, stair and walkway connector, landscaped areas, mechanically stabilized earth system, proposed large playfield, and driveway exit at the northwestern corner of the field;
 - C. Floor Plans/Section for the concession/restroom building at minimum scale of 1/8" = 1' (floor plans in the 9/2/09 set, modified if/as necessary);
 - D. Elevation at a minimum scale of 1/16" = 1' looking south across Moraga Avenue showing the changes in grade between Moraga Avenue, the proposed sidewalk, the mechanically stabilized earth system, the top of the field and fencing, and the proposed southernmost "rear" retaining wall and fencing beyond;
 - E. Cut and Fill diagram (cut and fill plan shown in the 9/2/09 plan set, modified if/as necessary);
 - F. Section cuts showing proposed changes (Site Section cuts A through E shown in the 9/2/09 plan set, modified if/as necessary);
 - G. Demolition Plan – Tree Removal showing changes from the prior plans (demo-tree removal plan in the 9/2/09 plan set, modified if/as necessary);
 - H. A conceptual Landscape Plan at a minimum 1" = 50' Landscape Plan shown in the 9/2/09 set, modified if/as necessary);
 - I. A Phasing Plan at a minimum 1" = 50' (Master Plan shown in the 9/2/09 set, modified if/as necessary);
 - J. Project Area Boundary Plan (same plan shown in the 9/2/09 set, modified

- if/as necessary);
- K. Moraga Ave Landscaped Berm and Retaining Wall Elevation/Sections at 1/16" = 1'0" (same plan dated 10/6/09, modified if/as necessary);
 - L. Large and Small Field Retaining Wall Elevation at 1/16" = 1'0" (same plan dated 10/1/09, modified if/as necessary);
 - M. Any other plans, elevations, photo-simulations, computer-generated models, or renderings that you believe convey changes proposed by the current plans;
 - N. Modifications to the story poles as needed to convey changes proposed by the current plans (verification required a minimum of 14 days prior to the hearing), per the Story Pole policy.
29. **ALTA Survey.** Prior to issuance of building permits, Developer shall have prepared and submitted for review and approval by the Public Works Director and City Engineer an ALTA Survey for the "Park Site" described in the Site Lease.
30. **Pedestrian Signal Noise.** Any audible tones or speech messages associated with pedestrian signals installed in connection with the Project shall be programmed in accordance with the California Manual on Uniform Traffic Control Devices (Section 4E.09) such that they are no more than 5 dBA louder than existing ambient sound in the immediate area of the crosswalk.