



## SAN FRANCISCO PLANNING DEPARTMENT

### Agreement to Implement Mitigation Measure(s)

**Case No.:** 2018-007883ENV  
**Project Title:** Balboa Reservoir Project  
**BPA Nos.:** N/A  
**Zoning:** P (Public)  
40-X and 65-A Height and Bulk District  
**Block/Lot:** Assessor's Block 3180/Lot 190  
**Lot Size:** 17.6 acres (approximately 767,000 square feet)  
**Project Sponsor:** Joe Kirchofer, AvalonBay Communities, LLC  
(415) 284-9082 or Joe\_Kirchofer@avalonbay.com  
Kearstin Dischinger, BRIDGE Housing Corporation  
(415) 321-3515 or kdischinger@bridgehousing.com  
~~Leigh Lutenski, San Francisco Office of Economic and Workforce Development~~  
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**Lead Agency:** San Francisco Planning Department  
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#### MITIGATION MEASURES

**Mitigation Measure M-TR-6: Monitor Loading Activity and Implement Loading Strategies as Needed.** The project sponsor shall coordinate with adjacent property owners at Avalon Ocean Avenue/Whole Foods at 1150 Ocean Avenue (Kragen Auto Parts Site) and 1100 Ocean Avenue (City College Terminal Site) to monitor loading activity along Lee Avenue. If warranted, the project sponsor shall coordinate with the Avalon Ocean Avenue/Whole Foods at 1150 Ocean Avenue (Kragen Auto Parts Site) and 1100 Ocean Avenue (City College Terminal Site) property owners to implement relevant improvements identified in the PEIR and conditions of approval identified in Planning Commission Motion No. 17885 for 1150 Ocean Avenue, or other strategies, as needed.

- Restrict truck access to the loading dock to 30-foot trucks or shorter;
- If longer trucks are needed, the project sponsor for the Kragen Auto Parts Site development shall:
- Restrict deliveries to the early morning to avoid peak morning and peak evening commute periods;
- Schedule all deliveries to reduce the potential for trucks waiting to enter the loading dock (which may cause a back-up onto Ocean Avenue):

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**Comment [WW(1):** We will need the agreement to implement mitigation measures document to separate the one or two AQ mitigation measures that the sponsor does not agree to implement. We will also need to explain **in that document** as to why the measures are legally and technologically feasible.

**Comment [PJ(2):** TBD whether the feasibility explanation goes in the AIMM and/or somewhere else in the admin record.

**Comment [PJ(3):** Global: apply updates from the DEIR/IS.

- Traffic volumes along Ocean Avenue are constantly high throughout the day; therefore, deliveries between 7 a.m. and 7 p.m. should be avoided;
- Maintain accurate truck logs to document the time and duration of truck activities;
- Station loading dock personnel at the corner of the Ocean Avenue/Lee Avenue intersection and at the loading dock to assist truck maneuvers and to manage traffic flows;
- Station loading dock personnel on Lee Avenue whenever delivery vehicles accessing the loading dock require traffic lanes to be blocked to assist truck maneuvering and manage traffic flow including minimizing potential conflicts with Muni operations;
- Prohibit loading dock staging from Ocean Avenue and schedule deliveries by 18-wheel trucks such that on-street queuing is unnecessary; and
- Work with SFMTA to enforce on-street parking prohibitions along Lee Avenue.

**Mitigation Measure M-NO-1: Construction Noise Control Measures.** The project sponsor shall implement construction noise controls to reduce construction noise to the degree feasible. Noise reduction strategies that could be implemented include, but are not limited to, the following:

- Conduct demolition of the parking lot at the northern portion of the project site during summer periods when students at Archbishop Riordan High School are on summer break.
- Require the general contractor to ensure that equipment and trucks used for project construction utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically-attenuating shields or shrouds).
- Require the general contractor to locate stationary noise sources (such as the rock/concrete crusher, or compressors) as far from adjacent or nearby sensitive receptors as possible, to muffle such noise sources, and/or to construct barriers around such sources and/or the construction site, which could reduce construction noise by as much as 5 dBA. To further reduce noise, the contractor shall locate stationary equipment in pit areas or excavated areas, to the maximum extent practicable.
- Require the general contractor to use impact tools (e.g., jackhammers and pavement breakers) that are hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used, along with external noise jackets on the tools, which would reduce noise levels by as much as 10 dBA.
- Include noise control requirements for construction equipment and tools, including specifically concrete saws, in specifications provided to construction contractors. Such requirements could include, but are not limited to, erecting

temporary plywood noise barriers around a construction site, particularly where a site adjoins noise-sensitive uses;<sup>1</sup> utilizing noise control blankets on a building structure as the building is erected to reduce noise levels emanating from the construction site; performing all work in a manner that minimizes noise; using equipment with effective mufflers; undertaking the most noisy activities during times of least disturbance to surrounding residents and occupants (9 a.m. to 4 p.m.); and selecting haul routes that avoid the North Access Road and the adjacent Archbishop Riordan High School and residential uses along Plymouth Avenue. Moveable sound barrier curtains can provide up to 15 dBA of sound attenuation.<sup>2</sup>

- Prior to the issuance of each building permit, along with the submission of construction documents, submit to the Planning Department and Department of Building Inspection, as appropriate, a plan to track and respond to complaints pertaining to construction noise. The plan shall include the following measures: (1) a procedure and phone numbers for notifying the San Francisco Department of Building Inspection, the Department of Public Health, and the Police Department (during regular construction hours and off-hours); (2) a sign posted onsite describing permitted construction days and hours, noise complaint procedures, and a complaint hotline number that shall be answered at all times during construction; and (3) designation of an onsite construction compliance and enforcement manager for the project.

**Mitigation Measure M-NO-2: Relocate North Access Road.** The project sponsor and its contractor shall relocate the North Access Road 50 feet to the south or more, prior to Phase 0 construction.

**Mitigation Measure M-AQ-2a: Construction Emissions Minimization.** The project sponsor or the project sponsor's contractor shall comply with the following:

*A. Engine Requirements.*

1. All off-road equipment greater than 25 horsepower shall have engines that meet Tier 4 Final off-road emission standards.
2. Since grid power will be available, portable diesel engines shall be prohibited.
3. Renewable diesel shall be used to fuel all diesel engines unless it can be demonstrated to the Environmental Review Officer (ERO) that such fuel is not compatible with on-road or off-road engines and that emissions of ROG and NOx from the transport of fuel to the project site will offset its NOx reduction potential.

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<sup>1</sup> Effective noise barriers typically reduce noise levels by 5 to 10 dBA (FHWA, *Keeping the Noise Down: Highway Traffic Noise Barriers*, February 2001, [https://www.fhwa.dot.gov/environment/noise/noise\\_barriers/design\\_construction/keepdown.pdf](https://www.fhwa.dot.gov/environment/noise/noise_barriers/design_construction/keepdown.pdf), accessed January 24, 2019).

<sup>2</sup> Industrial Noise Control, Cut Sheet for Portable Noise Screen, 2014.

4. Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The contractor shall post legible and visible signs in English, Spanish, and Chinese, in designated queuing areas and at the construction site to remind operators of the two-minute idling limit.
  5. The contractor shall instruct construction workers and equipment operators on the maintenance and tuning of construction equipment, and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications.
- B. *Waivers.* The ERO may waive the equipment requirements of Subsection (A)(1) if: a particular piece of off-road equipment is technically not feasible; the equipment would not produce desired emissions reduction due to expected operating modes; installation of the equipment would create a safety hazard or impaired visibility for the operator; or, there is a compelling emergency need to use other off-road equipment. If the ERO grants the waiver, the contractor must use the next cleanest piece of off-road equipment, according to the table below.

The ERO may waive the equipment requirements of Item A.1 if: a particular piece of off-road equipment with an engine meeting Tier 4 Final emission standards is not regionally available to the satisfaction of the ERO. If seeking a waiver from this requirement, the project sponsor must demonstrate to the satisfaction of the ERO that the health risks from existing sources, project construction and operation, and cumulative sources do not exceed a total of 10  $\mu\text{g}/\text{m}^3$  or 100 excess cancer risks for any onsite or offsite receptor.

The ERO may waive the equipment requirements of Item A.2 if: an application has been submitted to initiate onsite electrical power, portable diesel engines may be temporarily operated for a period of up to three weeks until onsite electrical power can be initiated or, there is a compelling emergency.

- C. *Construction Emissions Minimization Plan.* Before starting onsite ground disturbing, demolition, or construction activities, the contractor shall submit a Construction Emissions Minimization Plan to the ERO for review and approval. The plan shall state, in reasonable detail, how the contractor will meet the requirements of Section A, Engine Requirements.
1. The Construction Emissions Minimization Plan shall include estimates of the construction timeline by phase, with a description of each piece of off-road equipment required for every construction phase. The description may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For off-road equipment using alternative fuels, the description shall also specify the type of alternative fuel being used.

2. The project sponsor shall ensure that all applicable requirements of the Construction Emissions Minimization Plan have been incorporated into the contract specifications. The plan shall include a certification statement that the contractor agrees to comply fully with the plan.
  3. The contractor shall make the Construction Emissions Minimization Plan available to the public for review onsite during working hours. The contractor shall post at the construction site a legible and visible sign summarizing the plan. The sign shall also state that the public may ask to inspect the plan for the project at any time during working hours and shall explain how to request to inspect the plan. The contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way.
- D. *Monitoring.* After start of construction activities, the contractor shall submit quarterly reports to the ERO documenting compliance with the Construction Emissions Minimization Plan. After completion of construction activities and prior to receiving a final certificate of occupancy, the project sponsor shall submit to the ERO a final report summarizing construction activities, including the start and end dates and duration of each construction phase, and the specific information required in the plan.

**Mitigation Measure M-AQ-2b: Low-VOC Architectural Coatings.** The project sponsor shall use low- and super-compliant VOC architectural coatings during construction. "Low-VOC" refers to paints that meet the more stringent regulatory limits in South Coast Air Quality Management District rule 1113; however, many manufacturers have reformulated to levels well below these limits. These are referred to as "Super-Compliant" architectural coatings.

**Mitigation Measure M-AQ-2c: Offset Construction and Operational Emissions.** If the construction schedule (and actual construction activities) is accelerated such that construction occurs within 5 years or fewer, the project sponsor shall implement this measure. Prior to issuance of the final certificate of occupancy for the final building associated with Phase 1, the project sponsor, with the oversight of the ERO, shall either:

1. *Directly fund or implement a specific offset project within San Francisco* to achieve the equivalent to a one-time reduction of 5.1 tons per year of ozone precursors for the Developer's Proposed Option or 8.9 tons per year of ozone precursors for the Additional Housing Option. To qualify under this mitigation measure, the specific emissions offset project must result in emission reductions within the San Francisco Bay Area Air Basin that would not otherwise be achieved through compliance with existing regulatory requirements. A preferred offset project would be one implemented locally within the City and County of San Francisco. Prior to implementing the offset project, it must be approved by the ERO. The project sponsor shall notify the ERO within six months of completion of the offset project for verification; or
2. *Pay mitigation offset fees* to the Bay Area Air Quality Management District Bay Area Clean Air Foundation. The mitigation offset fee, currently estimated at approximately \$30,000 per weighted ton, plus an administrative fee of no more than 5 percent of the total offset, shall fund one or more emissions reduction projects within the San Francisco Bay Area Air Basin. The fee will be determined by the planning

department, the project sponsor, and the air district, and be based on the type of projects available at the time of the payment. This fee is intended to fund emissions reduction projects to achieve reductions of 5.1 tons per year of ozone precursors for the Developer's Proposed Option or 8.9 tons per year of ozone precursors for the Additional Housing Option, which is the amount required to reduce emissions below significance levels after implementation of other identified mitigation measures as currently calculated.

The offset fee shall be made prior to issuance of the final certificate of occupancy for the final building associated with Phase 1 of the project in 2024 (or an equivalent of approximately 645 dwelling units and 776,000 square feet of residential, 7,500 square feet of retail, and 143,000 square feet of parking for the Developer's Proposed Option and approximately 850 dwelling units and 908,000 square feet of residential, 7,500 square feet of retail, and 231,000 square feet of parking for the Additional Housing Option) when the combination of construction and operational emissions is predicted to first exceed 54 pounds per day. This offset payment shall total the predicted 5.1 tons per year of ozone precursors for the Developer's Proposed Option or 8.9 tons per year of ozone precursors for the Additional Housing Option above the 10 ton per year threshold after implementation of Mitigation Measures M-AQ-2a, M-AQ-2b, and M-AQ-2d through M-AQ-2f.

The total emission offset amount was calculated by summing the maximum daily construction and operational emissions of ROG and NOx (pounds/day), multiplying by 260 work days per year for construction and 365 days per year for operation, and converting to tons. The amount represents the total estimated operational and construction-related ROG and NOx emissions offsets required.

**Mitigation Measure M-AQ-2d: Diesel Backup Generator Specifications.** To reduce ROG and NOx associated with operation of the proposed project, the project sponsor shall implement the following measures:

- A. All new diesel backup generators shall:
  - 1. Have engines that meet or exceed California Air Resources Board Tier 4 off-road emission standards which have the lowest NOx emissions of commercially available generators; and
  - 2. Be fueled with renewable diesel, if commercially available,<sup>3</sup> which has been demonstrated to reduce NOx emissions by approximately 10 percent.
- B. All new diesel backup generators shall have an annual maintenance testing limit of 50 hours, subject to any further restrictions as may be imposed by the Bay Area Air Quality Management District in its permitting process.
- C. For each new diesel backup generator permit submitted to Bay Area Air Quality Management District for the project, the project sponsor shall submit the anticipated

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<sup>3</sup> Neste MY renewable Diesel is available in the Bay Area through Western States Oil.



location and engine specifications to the San Francisco Planning Department ERO for review and approval prior to issuance of a permit for the generator from the San Francisco Department of Building Inspection. Once operational, all diesel backup generators shall be maintained in good working order for the life of the equipment and any future replacement of the diesel backup generators shall be required to be consistent with these emissions specifications. The operator of the facility at which the generator is located shall be required to maintain records of the testing schedule for each diesel backup generator for the life of that diesel backup generator and to provide this information for review to the planning department within three months of requesting such information.

**Mitigation Measure M-AQ-2e: Promote Use of Green Consumer Products.** The project sponsor shall provide educational programs and/or materials for residential and commercial tenants concerning green consumer products and paints. Prior to receipt of any certificate of final occupancy and every five years thereafter, the project sponsor shall work with the San Francisco Department of Environment to develop electronic correspondence to be distributed by email annually to residential and/or commercial tenants of each building on the project site that encourages the purchase of consumer products and paints that generate lower than typical volatile organic compound emissions. The correspondence shall encourage environmentally preferable purchasing and shall include contact information and website links to SF Approved ([www.sfapproved.org](http://www.sfapproved.org)). This website also may be used as an informational resource by businesses and residents.

**Mitigation Measure M-AQ-2f: Additional Mobile Source Control Measures.** The following Mobile Source Control Measures from the Bay Area Air Quality Management District's 2010 Clean Air Plan shall be implemented:

- Promote use of clean fuel-efficient vehicles through preferential (designated and proximate to entry) parking, if parking is provided, and/or installation of charging stations beyond the level required by the City's Green Building code, from 8 to 20 percent.
- Promote zero-emission vehicles by requesting that any car share program operator include electric vehicles within its car share program to reduce the need to have a vehicle or second vehicle and to reduce vehicle emissions as a part of the TDM program that would be required of all new developments.

**Mitigation Measure M-CR-2: Accidental Discovery of Archeological Resources (PEIR Mitigation Measure AM-1).** The project sponsor shall distribute the planning department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils-disturbing activities within the project site. Prior to any soils-disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, pile drivers, supervisory personnel, etc. The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.

Should any indication of an archeological resource be encountered during any soils-disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils-disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.

If the ERO determines that an archeological resource may be present within the project area, the project sponsor shall retain the services of an archeological consultant from the pool of qualified archeological consultants maintained by the planning department archeologist. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.

Measures might include: preservation in situ of the archeological resource; an archeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Environmental Planning (EP) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.

The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describing the archeological and historical research methods employed in the archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.

Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archeological Site Survey Northwest Information Center (NWIC) shall receive one copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning division of the Planning Department shall receive one bound copy, one unbound copy and one unlocked, searchable PDF copy on CD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.

**Mitigation Measure M-CR-3: Accidental Discovery of Human Remains.** The treatment of human remains and of associated or unassociated funerary objects discovered during any soils-disturbing activity shall comply with applicable state and federal laws. Federal laws, including immediate notification of the Coroner of the City and County of San Francisco and in the event of the coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission who shall appoint a Most Likely Descendant (Public Resources Code section 5097.98). The Environmental Review Officer (ERO) shall also be immediately notified upon discovery of human remains. The archeological consultant, project sponsor, ERO, and Most Likely Descendant shall have up to but not beyond six



days after the discovery to make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, curation, possession, and final disposition of the human remains and associated or unassociated funerary objects. Nothing in existing state regulations or in this mitigation measure compels the project sponsor and the ERO to accept recommendations of a Most Likely Descendant. The archeological consultant shall retain possession of any Native American human remains and associated or unassociated burial objects until completion of any scientific analyses of the human remains or objects as specified in the treatment agreement if such an agreement has been made or, otherwise, as determined by the archeological consultant and the ERO. If no agreement is reached state regulations shall be followed including the reinternment of the human remains and associated burial objects with appropriate dignity on the property in a location not subject to further subsurface disturbance (Public Resources Code section 5097.98).

**Mitigation Measure M-TC-1: Tribal Cultural Resources Interpretive Program.** If the Environmental Review Officer (ERO) determines that a significant archeological resource is present, and if in consultation with the affiliated Native American tribal representatives, the ERO determines that the resource constitutes a tribal cultural resource and that the resource could be adversely affected by the proposed project, the proposed project shall be redesigned so as to avoid any adverse effect on the significant tribal cultural resource, if feasible.

If the ERO determines that preservation-in-place of the tribal cultural resource is both feasible and effective, then the archeological consultant shall prepare an archeological resource preservation plan (ARPP). Implementation of the approved ARPP by the archeological consultant shall be required when feasible.

If the ERO, in consultation with the affiliated Native American tribal representatives and the project sponsor, determines that preservation-in-place of the tribal cultural resources is not a sufficient or feasible option, the project sponsor shall implement an interpretive program of the tribal cultural resource in consultation with affiliated tribal representatives. An interpretive plan produced in consultation with the ERO and affiliated tribal representatives, at a minimum, and approved by the ERO would be required to guide the interpretive program. The plan shall identify, as appropriate, proposed locations for installations or displays, the proposed content and materials of those displays or installation, the producers or artists of the displays or installation, and a long-term maintenance program. The interpretive program may include artist installations, preferably by local Native American artists, oral histories with local Native Americans, artifacts displays and interpretation, and educational panels or other informational displays.

**Mitigation Measure M-GE-6: Inadvertent Discovery of Paleontological Resources.** Before the start of excavation activities, the project sponsor shall retain a qualified paleontologist, as defined by the Society of Vertebrate Paleontology, who is experienced in on-site construction worker training. The qualified paleontologist shall complete an institutional record and literature search and train all construction personnel who are involved with earthmoving activities, including the site superintendent, regarding the possibility of encountering fossils, the appearance and types of fossils that are likely to be seen during construction, the proper notification procedures should

fossils be encountered, and the laws and regulations protecting paleontological resources. If potential vertebrate fossils are discovered by construction crews, all earthwork or other types of ground disturbance within 25 feet of the find shall stop immediately and the monitor shall notify the Environmental Review Officer. The fossil should be protected by an "exclusion zone" (an area approximately 5 feet around the discovery that is marked with caution tape to prevent damage to the fossil). Work shall not resume until a qualified professional paleontologist can assess the nature and importance of the find. Based on the scientific value or uniqueness of the find, the qualified paleontologist may record the find and allow work to continue, or recommend salvage and recovery of the fossil. The qualified paleontologist may also propose modifications to the stop-work radius and the monitoring level of effort based on the nature of the find, site geology, and the activities occurring on the site, and in consultation with the Environmental Review Officer. If treatment and salvage is required, recommendations shall be consistent with Society of Vertebrate Paleontology's 2010 Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources, and currently accepted scientific practice, and shall be subject to review and approval by the Environmental Review Officer. If required, treatment for fossil remains may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection (e.g., the University of California Museum of Paleontology), and may also include preparation of a report for publication describing the finds. Upon receipt of the fossil collection, a signed repository receipt form shall be obtained and provided to the planning department. The project sponsor shall be responsible for the costs necessary to prepare and identify collected fossils, and for any curation fees charged by the paleontological repository. The planning department shall ensure that information on the nature, location, and depth of all finds is readily available to the scientific community through university curation or other appropriate means.

\_\_\_\_\_ I agree to implement the above mitigation measure(s) as a condition of project approval.

\_\_\_\_\_  
Property Owner or Legal Agent Signature

\_\_\_\_\_  
Date