

EXHIBIT N

Construction of Temporary Bay Trail

Temporary Trail. Developer shall use commercially reasonable efforts to obtain the California Department of Toxic Substances Control's (DTSC) and the San Francisco Bay Conservation and Development Commission's (BCDC) approval for the installation of temporary trail improvements for the Bay Trail within Phases II, III and IV prior to the Remediation of such Phases. A Temporary Trail Plan shall be submitted to the City, DTSC and BCDC which includes plans and specifications following the criteria set forth below, as well as any requested information and construction management provisions for dust control, setbacks, directional signs, proposed routes and projected periods and locations of removal or suspension of use to provide for completion of remediation, construction of the project and public safety during development of the project.

As used in Section 4.16 the term "temporary trail improvements" means (a) the establishment of a level grade, (b) an eight (8) foot wide asphalt trail along a mutually agreed upon alignment and (c) a chain link fence along the landward side of the temporary trail. The temporary trail improvements shall not include any lighting. If approved, the temporary trail improvements shall be installed as follows:

- a. Phases II and III: Concurrently with the installation of the permanent Bay Trail improvements located in Phase I; and
- b. Phase IV: Upon the termination/expiration of the Berkeley Ready Mix lease (if development of permanent improvements for Phase IV have not commenced concurrently therewith), but in no event earlier than June 1, 2016.

The temporary trail improvements shall be installed and removed at Developer's cost.

After consultation with the City Planning Department, Developer shall have the right to remove or suspend the use of the temporary trail improvements as necessary in order to allow for completion of remediation, construction of the Project and to provide for public safety during the development of the Project. Notwithstanding the foregoing to the contrary, in the event that the Developer determines that it is necessary to remove or suspend the use of a portion of the temporary trail improvements, the Developer shall use commercially reasonable efforts to establish an alternate route along sidewalks within or adjacent to the Project to maintain access. The alternate routes and timing associated therewith shall be established in consultation with the City. The parties acknowledge that there may be time when construction within or adjacent to the Project will prevent the Developer from maintaining access (either along the temporary trail improvements or alternate routes) and in such an event, the Developer shall provide the City and public with a minimum of 72 hour's notice regarding the location and closure of the expected duration of such interruptions.

Subject to the foregoing, the temporary trail improvements shall be open to the public (a) after the formation and funding of the CSD/CFD and (b) from dawn to dusk. The CSD/CFD shall be responsible for the maintenance of the temporary trail improvements.

Indemnity obligations of Developer, City and CSD pertaining to the obligations in Exhibit N are set forth in Section 4.16 of the Development Agreement.